

GOYKE, TILLISCH & FISCHER, LLP

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GEORGE B. GOYKE (1988-2023)
CAL R. TILLISCH
CORINNA T. FISCHER

February 29, 2024

Via Email janet.duellman@sheboyganwi.gov

City of Sheboygan
Attn: Janet Duellman
Community Development Planner

RE: Assignment and Assumption of Ground Lease for 422 S. Pier Drive, Sheboygan, WI

Dear Janet:

Enclosed is our draft of the proposed Assignment and Assumption of Ground Lease.

Cordially,

GOYKE, TILLISCH & FISCHER, LLP

/s/ Cal R. Tillisch

Cal R. Tillisch
CRT/jlr
cc: Jesse and Sarah Frank

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE
("Assignment")

This Assignment and Assumption of Ground Lease ("Assignment") is entered into on _____, 2024. The parties to this Assignment are Redevelopment Authority of the City of Sheboygan, Wisconsin, a public body corporate of the State of Wisconsin, whose address is 807 Center Avenue, Sheboygan, Wisconsin 53081 ("Landlord"); Lino Ristorante Italiano, LLC, a Wisconsin limited liability company, whose address is _____ ("Assignor") and _____, whose address is _____ ("Assignee") (collectively the "Parties").

INTRODUCTORY STATEMENTS

- A. The Landlord, as lessor, and the Assignor, as tenant, entered into a Ground Lease dated _____ (copy of which is attached to this Assignment as Exhibit A (the "Lease") with respect to certain Property located at 422 S. Pier Drive, Sheboygan, Wisconsin (the "Property"), which Property is more particularly described on Exhibit B and upon which sits a building and associated improvements used as a restaurant and related.
- B. The Parties desire that Assignor assigns its rights and interest in the Lease to Assignee under the terms and conditions set forth in this Agreement.

In consideration of the above Introductory Statements, and the promises and provisions set forth in this Assignment, all being good and valuable consideration the Parties agree as follows:

1. Assignment. As of the Effective Date of this Assignment, as defined in Paragraph 5, Assignor assigns to Assignee all of Assignor's right, title and interest in and to the Lease. Assignor further assigns to Assignee any security deposit that is held by the Landlord. As a result of this Assignment, all rights of the Assignor to the security deposit shall belong to the Assignee, and the Landlord shall have no further liability or responsibility to the Assignor with respect to the security deposit.

2. Acceptance by Assignee; Indemnity. Assignor accepts the Assignment and all the rights accruing to it under the Lease and assumes and agrees to make all payments and keep and perform all covenants and obligations of the Assignor under the Lease from and after this Assignment's Effective Date. Assignee agrees to accept the Property in its "As Is" condition. Assignee further hereby indemnifies and agrees to defend and hold harmless Assignor from and against any and all liability, loss, damage and expense, including without limitation, reasonable attorneys' fees, that Assignor may incur under the Lease by reason of any failure or alleged failure of Assignee to comply with or to perform, on or after the Effective Date all of the obligations of the tenant under the Lease that arise on and after the Effective Date and are to be performed on or after the Effective Date.
3. Release of Assignor's Liability. By executing this Assignment, Landlord agrees that the Assignor is released from any and all obligations under the terms of the Lease from and after this Lese Assignment's Effective Dated, provided Assignor is current in the payment of rent and not otherwise in default under the Lease's terms and conditions prior to the Effective Date, Landlord represents and warrants to both Assignor and Assignee that (a) a true and accurate copy of the Lease including all amendments, modifications, and extensions thereof, is attached as Exhibit A, and (b) Assignor is current in the payment of rent and not otherwise in default under the Lease's terms or conditions, and there has not occurred any event, act, or omission that with notice and/or lapse of time would be a default under the Lease, and (c) the Lease is in full force and effect.
4. Acceptance and Consent of Landlord. Landlord accepts and consents to this Assignment and acknowledges that all of Assignor's rights under the Lease shall inure to the benefit of Assignee from and after the Effective Date, including Assignor's rights with regard to any security deposit under the Lease.
5. Effective Date. This Assignment shall not be effective unless and until Assignor and Assignee have consummated a pending sale by Assignor to Assignee of all Assignor's interest in the Ground Lease ("Lease") and confirmed the sale and closing from Assignor to Assignee of all building, fixtures, equipment and improvements located on the Ground Lease Property and this Assignment by the Landlord is completed in writing signed by all Parties (collectively "the Closing"). The closing date of the sale and transfer shall be the Effective Date of this Assignment. If the sale's consummation does not occur by _____, this Assignment shall then be terminated *ab initio*.
6. Amendment to Lease. This Assignment shall constitute an amendment to the Lease. If there is any conflict between this Assignment and the Lease, the Assignment shall govern.

7. Counterparts. This Assignment may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

The parties have executed this Assignment as of the date listed below each party's signature.

ASSIGNEE

Dated: _____

Sarah Frank, authorized representative

Jesse Frank, authorized representative

STATE OF WISCONSIN)
)ss.
_____ County)

Personally came before me this ____ day of _____, 2024 the above named Sarah Frank and Jesse Frank to me known to be the persons who executed the foregoing instrument and acknowledge the same.

*

Notary Public

My commission (expires: _____
or is permanent)

SIGNATURES CONTINUED ON THE NEXT PAGE

ASSIGNOR
Lino Ristorante Italiano, LLC,
a Wisconsin limited liability company

Dated: _____

Lino Autiero, Manager and authorized
representative

STATE OF WISCONSIN)
)ss.
_____ County)

Personally came before me this ____ day of _____, 2024 the above named Lino Autiero, Manager and authorized representative of Lino Ristorante Italiano, LLC, a Wisconsin limited liability company to me known to be the person who executed the foregoing instrument and acknowledge the same.

* _____
Notary Public
My commission (expires: _____
or is permanent)

SIGNATURES CONTINUED ON THE NEXT PAGE

LANDLORD:
Redevelopment Authority of the City of
Sheboygan, Wisconsin

Dated: _____

Its: _____ and authorized
representative

Attest: _____

Its: _____ and authorized
representative

STATE OF WISCONSIN)
)ss.
_____ County)

Personally came before me this ____ day of _____, 2024 the above named _____

_____ to me known to be the person who executed the foregoing instrument and acknowledge the same.

* _____
Notary Public
My commission (expires: _____
or is permanent)