

9

2008 047066

2008 JUN 30 9:28  
RECORDED

RETURN TO: GLENN R. PATTERSON, ESQ.  
Lucas, Holcomb & Medrea LLP  
300 East 90<sup>th</sup> Drive  
Merrillville, Indiana 46410

**LEASE TERMINATION AGREEMENT**

*CHIC 070016223*

**THIS AGREEMENT** ("Agreement") is made and entered into by and between RILEY PLAZA SHOPPING CENTER LLC, an Illinois limited liability company, and B.T. RILEY (EAST CHICAGO), L.L.C., an Indiana limited liability company (collectively, herein "Landlord") and STERKS SUPER FOODS, INC., an Indiana corporation, ("Tenant").

**RECITALS**

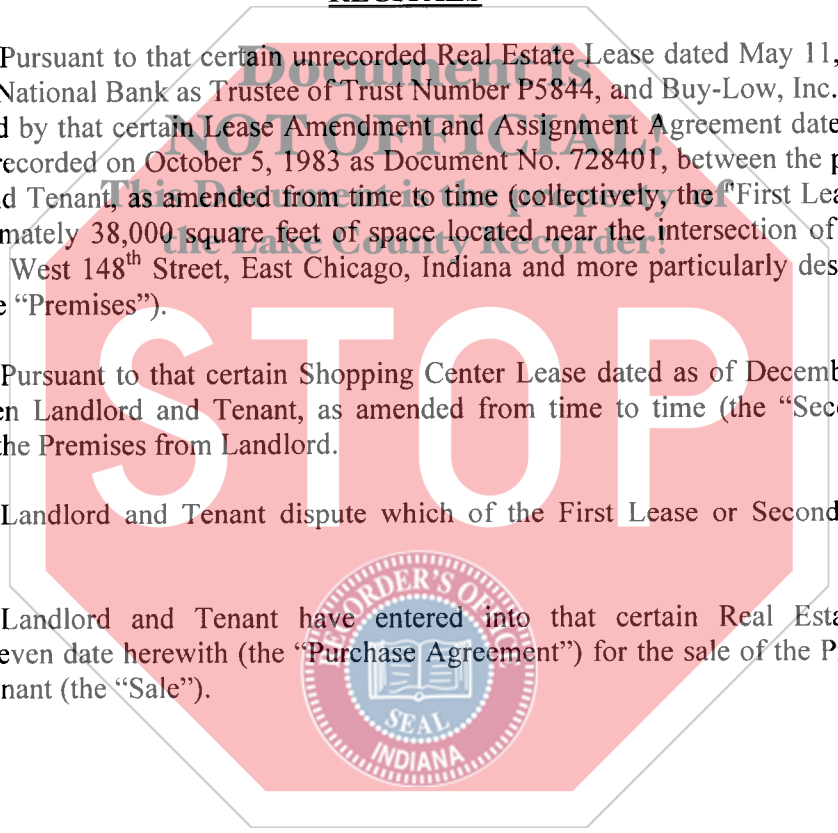
A. Pursuant to that certain unrecorded Real Estate Lease dated May 11, 1978, by an between Gary National Bank as Trustee of Trust Number P5844, and Buy-Low, Inc., as amended and as assigned by that certain Lease Amendment and Assignment Agreement dated September 29, 1983, and recorded on October 5, 1983 as Document No. 728401, between the predecessors' of Landlord and Tenant, as amended from time to time (collectively the "First Lease"), Tenant leased approximately 38,000 square feet of space located near the intersection of Indianapolis Boulevard and West 148<sup>th</sup> Street, East Chicago, Indiana and more particularly described in the First Lease (the "Premises").

B. Pursuant to that certain Shopping Center Lease dated as of December 10, 2004, by and between Landlord and Tenant, as amended from time to time (the "Second Lease"), Tenant leased the Premises from Landlord.

C. Landlord and Tenant dispute which of the First Lease or Second Lease is in effect;

D. Landlord and Tenant have entered into that certain Real Estate Purchase Agreement of even date herewith (the "Purchase Agreement") for the sale of the Premises from Landlord to Tenant (the "Sale").

CHICAGO TITLE INSURANCE COMPANY



**FILED**

JUN 30 2008

PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

*28 CT  
fj*

**010447**

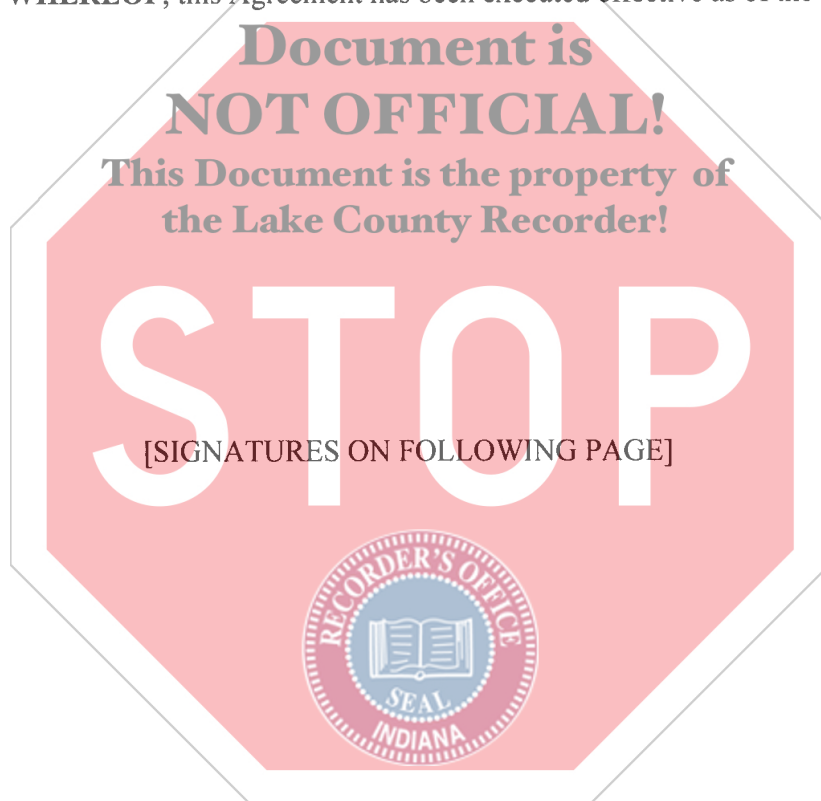
E. Effective as of the closing date of the Sale (the "Termination Date"), Landlord and Tenant have agreed to terminate both the First Lease and Second Lease (collectively, the First Lease and Second Lease are herein called the "Lease").

**NOW, THEREFORE,** in consideration of the foregoing and of the mutual covenants and agreements contained in this Agreement, the parties hereto agree as follows:

1. **Termination.** The Lease is terminated as of the Termination Date. Tenant shall retain possession of the Premises upon the consummation of the Sale in its current "AS-IS, WHERE IS" condition. Except as otherwise provided for herein, after the Termination Date, neither party shall have any further unaccrued obligation or liability of any nature to the other party under the Lease. Tenant shall not be obligated to pay base rent, additional rent or other amounts accruing under the Lease after the Termination Date.
2. **Rent Prorations and Other Payments.** Rent at the rate of \$10,416.67 per month shall be paid by Tenant and prorated through the date of the Sale. Tenant shall pay to Landlord on the date of the Sale, the sum of \$291,625.80 plus \$362.08 per day after May 31, 2008 in satisfaction of all other obligations of Tenant under the Lease.
3. **Commissions.** Each party represents that it has not dealt with a broker in connection with this Agreement and that no broker is owed a commission on this transaction. Each party agrees to indemnify, defend and hold the other harmless from any loss, injury or damage, including, without limitation, reasonable attorneys' fees and costs resulting from any party claiming a commission of fee by or through the indemnifying party.
4. **Release by Tenant.** Tenant on behalf of itself, its successors, assigns, heirs, executors and administrators hereby (a) waives any and all claims which it might have against Landlord, its officers, directors, agents, employees, successors, assigns and contractors, whether known or unknown, which arose or might arise from Tenant's operations at the Premises and (b) further, Tenant waives and releases Landlord, its officers, directors, agents, employees, successors, assigns and contractors from any and all claims which Tenant might have as a result of the termination of the Lease. Notwithstanding the foregoing, Landlord agrees to indemnify, defend and hold Tenant harmless from and against any claim brought by any third party arising out of Landlord's operations at the Premises.
5. **Release by Landlord.** Landlord, on behalf of itself, its successors and assigns, hereby waives any and all claims which it might have, whether known or unknown, which arose or might arise as a result of Tenant's operations at the Premises. Further, Landlord waives and hereby releases Tenant from any and all claims which it might have as a result of Tenant's operations at the Premises. Notwithstanding the foregoing, Tenant agrees to indemnify, defend and hold Landlord harmless from and against any loss, damage or injury arising out of Tenant's operation of at the Premises.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter covered herein. This Agreement supersedes all prior agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all parties.
7. **Successors and Assigns.** This Agreement shall be binding upon and the benefits hereof shall inure to, the parties hereto, their respective heirs, successors and assigns.
8. **Counterparts.** This Agreement may be entered into in counterparts, each of which shall constitute one and the same instrument.
9. **Governing Law.** This Agreement and the rights of the parties shall be governed by the laws of the State of Indiana.
10. **Severability.** Any term or provision of this Agreement which is found to be invalid, void or illegal, shall in no way impair, affect or invalidate any other term or provision herein and such remaining terms and provisions shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Agreement has been executed effective as of the date of the Sale.



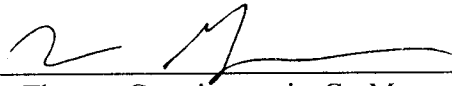
**TENANT:**

**STERKS SUPER FOODS, INC.**, an Indiana corporation

By:   
Joseph Kolavo, President

**LANDLORD:**

**RILEY PLAZA SHOPPING CENTER LLC**, an Illinois limited liability company

By:   
Thomas Gamsjaeger, its Co-Manager

By: *see attached*  
Bruce Teitelbaum, its Co-Manager



**TENANT:**

**STERKS SUPER FOODS, INC.**, an Indiana corporation

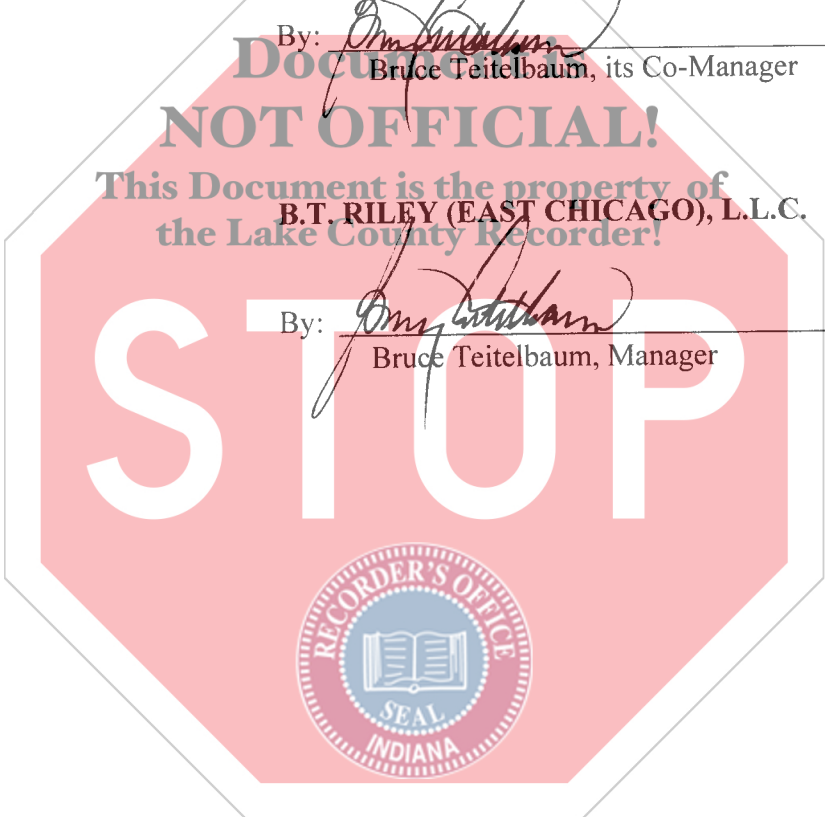
By: see attached  
Joseph Kolavo, President

**LANDLORD:**

**RILEY PLAZA SHOPPING CENTER LLC**, an Illinois limited liability company

By: see attached  
Thomas Gamsjaeger, its Co-Manager

By: [Signature]  
Bruce Teitelbaum, its Co-Manager



By: [Signature]  
Bruce Teitelbaum, Manager

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

The undersigned, a Notary Public, do hereby certify that THOMAS GAMSJAEGER, personally known to me to be a Co-Manager of RILEY PLAZA SHOPPING CENTER, LLC, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that, as such Co-Manager, he signed and delivered said instrument, as his free and voluntary act and as the free and voluntary act and deed of said company, for the purposes therein set forth.

Given under my hand and notarial seal this 23<sup>rd</sup> day of June, 2008.

My commission expires:

7/19/2011

Brianne M. Garritano  
Notary Public



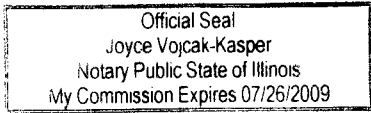
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public, do hereby certify that BRUCE TEITELBAUM, personally known to me to be a Co-Manager of RILEY PLAZA SHOPPING CENTER, LLC, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that, as such Co-Manager, he signed and delivered said instrument, as his free and voluntary act and as the free and voluntary act and deed of said company, for the purposes therein set forth.

Given under my hand and notarial seal this 20th day of June, 2008.

My commission expires:

Joyce Wojcik-Kasper  
Notary Public



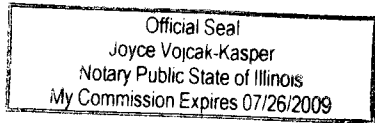
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

The undersigned, a Notary Public, do hereby certify that BRUCE TEITELBAUM, personally known to me to be the Manager of B.T. RILEY (EAST CHICAGO), L.L.C., and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that, as such Manager, he signed and delivered said instrument, as his free and voluntary act and as the free and voluntary act and deed of said company, for the purposes therein set forth.

Given under my hand and notarial seal this 20th day of June, 2008.

My commission expires:

Joyce Wojcik-Kasper  
Notary Public






STATE OF INDIANA )  
 ) SS  
COUNTY OF LAKE )

The undersigned, a Notary Public, do hereby certify do hereby certify that JOSEPH KOLAVO, personally known to me to be a personally known to me to be the President of STERKS SUPER FOODS, INC., an Indiana corporation, and personally known to me to be the persons whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that, as such President he signed and delivered said instrument, pursuant to authority given by the Board of Directors of said corporation, as his free and voluntary act and as the free and voluntary act and deed of said corporation, for the purposes therein set forth.

Given under my hand and notarial seal this 27th day of JUNE, 2008.

My commission expires 11/25/2016

  
Glenn R. Patterson, Notary Public

County of Residence: Lake

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Glenn R. Patterson

This Instrument prepared by Glenn R. Patterson, Esq., Lucas, Holcomb & Medrea, LLP, 300 East 90th Drive, Merrillville, Indiana 46410

C:\Documents and Settings\All Users\Desktop\GRP\SVT\East Chicago\Closing Documents\Lease-Termination-Agreement-Draft#4.doc