

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 7326

A BY-LAW to authorize the granting of a lease  
of certain municipally-owned lands to  
MCDONALD'S RESTAURANTS OF WESTERN  
CANADA LTD.

The Council of The Corporation of the District of Burnaby  
ENACTS as follows:

1. This By-law may be cited as "BURNABY LEASE AUTHORIZATION BY-LAW NO. 2, 1979".
2. The Council is hereby authorized and empowered to demise and lease unto McDonald's Restaurants of Western Canada Ltd. upon the terms, covenants and conditions more particularly set forth in the form of lease hereunto attached and marked Schedule "A", those municipally-owned lands and premises more particularly described as ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Municipality of Burnaby, in the Province of British Columbia, and more particularly known and described as Lots Twenty (20) and Twenty-One (21), Block Nine (9), District Lot One Hundred Twenty-Two (122), Group One (1), Plan 1308, New Westminster District.
3. The Mayor and Clerk are hereby authorized and empowered to execute the said lease, signing the same and affixing the corporate seal thereto.

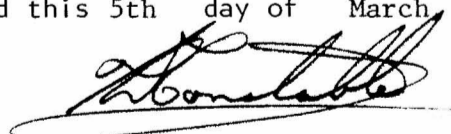
Read a first time this 26th day of February, 1979.

Read a second time this 26th day of February, 1979.

Read a third time this 26th day of February, 1979.

Reconsidered and adopted this 5th day of March, 1979.



  
MAYOR

  
CLERK

THIS INDENTURE made and entered into this 13th day of  
February, 1979.

IN PURSUANCE OF THE SHORT FORM OF LEASES ACT

BETWEEN:

THE CORPORATION OF THE DISTRICT OF BURNABY,  
(hereinafter called the "Lessor")

OF THE FIRST PART

AND:

MCDONALD'S RESTAURANTS OF WESTERN CANADA LTD.,  
8467 Lougheed Highway, in the Municipality of  
Burnaby, Province of British Columbia,

(hereinafter called the "Lessee")

OF THE SECOND PART

WITNESSETH:

1. In consideration of the rents, terms, covenants and conditions hereinafter contained on the part of the Lessee to be paid, observed and performed, the Lessor has demised and by these presents doth demise unto the Lessee ALL AND SINGULAR those certain parcels or tracts of land and premises (hereinafter referred to as "the said demised premises") situate, lying and being in the Municipality of Burnaby, in the Province of British Columbia, and more particularly described as Lots Twenty (20) and Twenty-One (21), Block Nine (9), District Lot One Hundred Twenty-Two (122), Group One (1), Plan 1308, New Westminster District.
2. TO HAVE AND TO HOLD the said demised premises unto the Lessee for a period of five years commencing on the 1st day of May, 1978. Provided that either party hereto may terminate this Indenture upon giving to the other twelve (12) months notice in writing.
3. YIELDING AND PAYING THEREFOR unto the Lessor, during the said term hereby granted, in advance on the 1st day of May in each year, the annual rental of \$8,055.00, the first of such payments of rent to be made on the 1st day of May, 1978.

4. The Lessee covenants with the Lessor to pay rent and to pay taxes, and to pay water rates and local improvements hereafter to be charged upon the said demised premises; and to repair; and to keep up fences; and that the Lessor may enter and view the state of repair; and that the Lessee will repair according to notice; and that the Lessee will not assign or sublet without the consent in writing of the Lessor first had and obtained; and that the Lessee shall leave the said demised premises in good repair to the satisfaction of the Lessor.

5. PROVISIO FOR RE-ENTRY by the Lessor on non-payment of rent or non-performance of covenants.

6. The Lessor covenants with the Lessee for quiet enjoyment.

7. The Lessee covenants that the said demised premises shall be used as a parking lot in connection with its Restaurant business carried on at 4572 East Hasting Street, in the Municipality of Burnaby, Province aforesaid and for no other purpose and that the Lessee will observe and abide by all by-laws of the Lessor which may be applicable to the said demised premises and that the Lessee will not carry on any business or activity, or suffer to be carried on any business or activity on the said demised premises which shall be deemed by the Lessor to constitute a nuisance.

8. The Lessee covenants and agrees not to construct, erect, install, place or maintain any construction, installation, improvement, equipment, structure or other property of any kind whatsoever on the said demised premises without the consent in writing of the Lessor first had and obtained.

9. The Lessee covenants that it shall not have any claim or demand against the Lessor for detriment, damage or injury of any nature and howsoever caused to the said demised premises or to any structures, improvements, vehicles, materials, supplies, animals, goods, articles, effects or things at any time erected, brought, placed, made, kept or being upon the said demised premises.

10. PROVIDED ALWAYS and it is hereby agreed by and between the parties hereto, that if the Lessee shall hold over after the expiration of the term hereby granted, and the Lessor shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as same may be applicable to a tenancy from month to month, and shall be determined by one month's notice in writing.

11. The Lessee covenants and agrees that it shall at all times be responsible for and shall indemnify and save harmless the Lessor from and against all claims and demands, loss, costs, damages, actions, suits, liens of any kind whatsoever, or other proceedings by whomsoever suffered, made, brought or prosecuted and howsoever caused, in any manner based upon, occasioned by or attributable to the execution or performance of these presents, or any action taken or thing done or maintained by virtue or in consequence hereof, or omitted to be so taken, done or maintained, or the exercise or purported exercise in any manner of rights arising hereunder.

12. The Lessor covenants and agrees, so far as it legally can but not otherwise, that if the Lessee shall duly and regularly pay the said rent reserved hereunder and perform each and every of the terms, covenants and conditions herein contained on the part of the Lessee to be performed and observed, the Lessor, shall at the expiration of the term hereby granted, and upon written request of the Lessor delivered not later than six months before the expiration of the said term, grant unto the Lessee a renewal lease of the said demised premises for a further term of three years upon the same terms, covenants and conditions as herein contained save and except as to this covenant for renewal and as to rent which shall be in an amount mutually agreed upon by the parties at the time of such renewal lease (if any) is granted.

13. The Lessee covenants that it shall at its own cost and expense obtain and maintain in force during the term of this lease or any renewal or extension thereof or any tenancy thereafter, in an Insurance Company authorized and licenced to carry on business and having an office in the Province of British Columbia, and in a policy of insurance acceptable to and approved in writing by the Lessor the following insurance with limits on an occurrence

basis not less than those shown in respective items following:

- (A) Comprehensive Public Liability Insurance and Property Damage Insurance providing coverage up to \$500,000.00 inclusive against liability for bodily injury or death and/or damage to property on an all risk occurrence basis.
- (B) Automobile insurance for public liability and property damage providing coverage up to \$500,000.00 inclusive on owned, non-owned or hired vehicles.

The Lessor shall be named as an additional insured in the Comprehensive Public Liability Policy. Such insurance shall contain a Cross Liability Endorsement stating that in event of bodily injury, sickness or disease including death at any time resulting therefrom, or damage or destruction of property belonging to any one of the insured for which another insured is or may be held liable, then this policy shall cover such insured against whom claim is made or may be made the same as if separate policies had been issued for each insured, but nothing herein shall operate to increase the company's liability as set forth elsewhere in the policy beyond the amount or amounts for which the company would be liable if there had been only one named insured. Each such policy shall provide that no cancellation, expiration or material change in the policy shall become effective until after thirty (30) days' notice of such cancellation, expiration or change shall have been given to the Lessor by return registered mail, and the Lessee will file with the Lessor certified copies of all such policy or policies of insurance and the receipts for payment of premiums thereon, and should the Lessee neglect so to obtain and/or maintain in force any such insurance as aforesaid or deliver such policy or policies and receipts to the Lessor, then it shall be lawful for the Lessor to obtain and/or maintain such insurance and the Lessee hereby appoints the Lessor its true and lawful attorney to do all things necessary for this purpose. All monies expended by the Lessor for insurance premiums under the provisions of this clause shall be charged to the Lessee.

14. AND IT IS ALSO AGREED by and between the parties hereto that if the term hereby granted shall at any time be seized or taken in execution or in attachment by any creditor of the Lessee, or if the Lessee shall make any assignment for the benefit of creditors, or becoming bankrupt or insolvent shall take the benefit of any act that may be in force for bankrupt or insolvent debtors, the then current rent shall immediately become due and payable and the said term shall immediately become forfeited and void.

15. That it is further agreed that the Lessor may at any time give the Lessee twelve (12) months notice in writing of its intention to terminate this lease, and the Lessee may at any time give the Lessor twelve (12) months notice in writing of its intention to terminate this lease, and the Lessee hereby agrees to vacate the said demised premises at the end of the period mentioned in such notice and the rent shall be apportioned and adjustments made to that date. Upon such notice having been given, the lease shall terminate at the end of the period mentioned in the notice notwithstanding that it may not be the end of the current year of the tenancy.

16. AND IT IS ALSO AGREED by and between the parties hereto that all construction, installations, improvements, equipment, structures and other property constructed, erected, installed, placed or maintained on the said demised premises by the Lessee or acquired by the Lessee at any time during the term of the lease or any renewal or extension thereof or any tenancy thereafter shall become the property of the Lessor.

17. Provided always and it is expressly agreed that in the event of termination of this lease for any reason whatsoever, the Lessee shall, within 30 days after receipt of a written notice from the Lessor requesting it to do so, at the sole risk and expense of the Lessee, remove all construction, installations, improvements, equipment and other property constructed, installed, maintained or placed on the said demised premises, so far as it is practicable so to do, to the state and condition in which it was at May 1st, 1968. If the Lessee shall fail so to do within the said 30 days, then the Lessor may remove anything so constructed, installed, maintained or placed on the said demised premises at the risk of the Lessee,

and all costs and expense of such removal and the restoration of the said demised premises as aforesaid shall be paid to the Lessor by the Lessee upon demand.

18. Any notice required to be given hereunder may be effectively given by sending the same by registered post to the Lessor at 4949 Canada Way, Burnaby, B. C. V5G 1M2 and the Lessee at 8467 Lougheed Highway, Burnaby, B. C., and such notice shall be deemed to have been served on the day following such posting.

These presents shall enure to the benefit of and be binding upon the parties hereto, the respective successors and assigns of the Lessor and the successors and permitted assigns of the Lessee.

IN WITNESS WHEREOF the Lessor has caused these presents to be sealed with its corporate seal and signed by the Mayor and Clerk and the Lessee has caused its seal to be affixed hereto under the hands of its proper officers duly authorized in that behalf as of the day and year first above written.

THE CORPORATE SEAL OF THE CORPORATION OF THE DISTRICT OF BURNABY WAS HEREUNTO AFFIXED IN THE PRESENCE OF:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

THE CORPORATE SEAL OF MCDONALD'S RESTAURANTS OF WESTERN CANADA LTD. WAS HEREUNTO AFFIXED IN THE PRESENCE OF:

\_\_\_\_\_  
\_\_\_\_\_

THE CORPORATION OF THE DISTRICT  
OF BURNABY

AND

MCDONALD'S RESTAURANTS OF  
WESTERN CANADA LTD.

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L E A S E

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DATED: February 13th, 1979