

THE CORPORATION OF THE DISTRICT OF BURNABY

BYLAW NO. 9025

A BYLAW to authorize the granting of a lease of certain municipally owned property to McDonald's Restaurants of Canada Limited.

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

1. This Bylaw may be cited as BURNABY LEASE AUTHORIZATION BYLAW NO. 3, 1988.

2. The Council is hereby authorized and empowered to lease unto McDonald's Restaurants of Canada Limited upon the terms, covenants and conditions more particularly set forth in the form of lease hereunto annexed (hereinafter called the "said lease") those municipally owned lands and premises legally described as Lots 20 and 21, Block 9, District Lot 122, Group 1, New Westminster District, Plan 1308.



2. The Municipal Clerk is hereby authorized and empowered to execute the said lease, signing the same and affixing the corporate seal thereto.

Read a first time this 24th day of OCTOBER 1988

Read a second time this 24th day of OCTOBER 1988

Read a third time this 24th day of OCTOBER 1988

RECONSIDERED AND ADOPTED THIS 1st DAY OF NOVEMBER 1988


MAYOR

CLERK

THIS INDENTURE made and entered into this day of
1988.

BETWEEN:

THE CORPORATION OF THE DISTRICT OF BURNABY
4949 Canada Way, Burnaby, B.C. V5G 1M2

(hereinafter called the "Lessor")

OF THE FIRST PART

AND:

McDONALD'S RESTAURANTS OF CANADA LIMITED
4400 Still Creek Drive, Burnaby, B.C. V5C 6C6

(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 20 and 21, Block 9, District Lot 122, Group 1,
New Westminster District, Plan 1308.

2. TO HAVE AND TO HOLD the said demised premises unto the Lessee for the term of five (5) years commencing on the 1st day of March, 1988 and ending on the 28th day of February, 1993.

3. YIELDING AND PAYING THEREFOR unto the Lessor, during the said term, rent in advance as follows:

March 1, 1988	\$13,500.00
March 1, 1989	\$13,500.00
March 1, 1990	\$13,500.00
March 1, 1991	\$13,500.00
March 1, 1992	\$13,500.00

3th

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 sub-let 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. The Lessee, if not in default hereunder, shall have the option of renewing this Agreement for a further five (5) years provided that the rent and all other provisions of this Agreement shall be subject to negotiation between the Lessor and the Lessee and there shall be no further right of renewal.

6. Notwithstanding the term granted herein and the option to renew, the Lessor and the Lessee acknowledge and agree that this Agreement and any renewal thereof may be terminated upon one month's notice by either party in the event that the Lessee discontinues its restaurant operation upon adjacent property municipally described as 4560 Hastings Street, Burnaby, B.C.

7. Proviso for re-entry by the Lessor on non-payment of rent or non-performance of covenants.

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

9. 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~~ ⁴⁵⁶⁰ East Hastings Street, in the Municipality of Burnaby, Province aforesaid, and for no other purpose and that the Lessee will observe and abide by all bylaws

BM

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.

10. 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.

11. 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.

12. Provided always and it is hereby agreed by and between the parties hereto, that ~~the~~ 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.

13. 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

[Handwritten signature]

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.

14. 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 Two Million (\$2,000,000) Dollars 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 One Million (\$1,000,000) Dollars inclusive on owned, non-owned or hired vehicles.

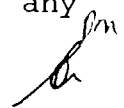
The Lessor shall be named as an additional insured in the comprehensive public liability policy. Such insurance shall contain a cross liability endorsement stating that in event of bodily injury, sickness or disease including death at any time resulting therefrom, or damage or destruction of property 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

Dr. Pan

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 moneys expended by the Lessor for insurance premiums under the provisions of this clause shall be charged to the Lessee.

15. 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.

16. And it is also agreed by and between the parties hereto that all construction, installations, improvements, including landscaping, 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. 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 4400 Still Creek Drive, Burnaby, B.C. V5C 6C6 and such notice shall be deemed to have been served on the ^{to} ~~the~~ ^{fourth} day following such posting.

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

IN WITNESS WHEREOF the parties have executed these presents as of the day and year first above written. *P. J. M.*

The Corporate Seal of THE CORPORATION OF THE DISTRICT OF BURNABY was hereunto affixed in the presence of:

Municipal Clerk-Authorized Signatory

The Corporate Seal of McDONALD'S RESTAURANTS OF CANADA LIMITED was hereunto affixed in the presence of:

Ronald L. Marcoux

Authorized Signatory
RONALD L. MARCOUX
EXECUTIVE VICE-PRESIDENT

Authorized Signatory

LAND TITLE ACT
FORM 2
(Sections 43 (a) and 44 (a))

AFFIDAVIT OF WITNESS

I, of
..... in
British Columbia, make oath and say:

1. I was present and saw this instrument duly signed and executed by
....., the party(ies) to it, for the purposes named in it.
2. The instrument was executed at
3. I know the party(ies), who is(are) 19 years old or more.
4. I am the subscribing witness to the instrument and am 16 years old or more.

Sworn before me at
in British Columbia, this day
of, 19

*
A Commissioner for taking affidavits
*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.
NOTE—This affidavit must be sworn by a witness who is not a party to the instrument.

LAND TITLE ACT
FORM 3
(Sections 43 (b) and 44 (b))

CERTIFICATE OF ACKNOWLEDGMENT OF TRANSFEROR

I certify that on the day of, 19, at in the of

*(Whose identity has been proved by the evidence on oath of
....., who is) personally known to me,
(State full name, address, and occupation)

appeared before me and acknowledged to me that he/she/they is(are) the person(s) mentioned in this instrument as a transferor (or attorney of a transferor) that his/her/their name(s) is(are) subscribed to it, that he/she/they know(s) the contents of the instrument and executed it voluntarily, and is(are) of the age of 19 years or more.

In testimony of which I set my hand and seal of office at
this day of, 19
†

*Where the person making the acknowledgment is personally known to the officer taking it, strike out the words in brackets.
†Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

LAND TITLE ACT
FORM 6
(Section 46)

PROOF OF EXECUTION BY CORPORATION

I certify that on the day of, 19, at
in British Columbia,

(*whose identity has been proved by the evidence on oath of
..... who is) personally known to me, appeared
(State full name, address, and occupation)

before me and acknowledged to me that he/she is the authorized signatory of
..... and that he/she is the person who subscribed his/her name and affixed the seal of the corporation to the instrument, that he/she was authorized to subscribe his/her name and affix the seal to it, †(and that the corporation existed at the date the instrument was executed by the corporation.)

In testimony of which I set my hand and seal of office at
this day of, 19

† A Commissioner for taking affidavits
for British Columbia

*Where the person making the acknowledgment is personally known to the officer taking it, strike out these words in brackets.
†These words in brackets may be added, if the applicant wishes the registrar to exercise his discretion under section 162 (5) not to call for further evidence of the existence of the corporation.
*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

LAND TITLE ACT

FORM 2

(Sections 43 (a) and 44 (a))

AFFIDAVIT OF WITNESS

I, of in British Columbia, make oath and say:

- 1. I was present and saw this instrument duly signed and executed by the party(ies) to it, for the purposes named in it.
2. The instrument was executed at
3. I know the party(ies), who is(are) 19 years old or more.
4. I am the subscribing witness to the instrument and am 16 years old or more.

Sworn before me at in British Columbia, this day of 19

*
*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.
NOTE—This affidavit must be sworn by a witness who is not a party to the instrument.

LAND TITLE ACT

FORM 3

(Sections 43 (b) and 44 (b))

CERTIFICATE OF ACKNOWLEDGMENT OF TRANSFEROR

I certify that on the day of 19 at in the of

*(Whose identity has been proved by the evidence on oath of who is) personally known to me, (State full name, address, and occupation)

appeared before me and acknowledged to me that he/she/they is(are) the person(s) mentioned in this instrument as a transferor (or attorney of a transferor) that his/her/their name(s) is(are) subscribed to it, that he/she/they know(s) the contents of the instrument and executed it voluntarily, and is(are) of the age of 19 years or more.

In testimony of which I set my hand and seal of office at this day of 19

†

*Where the person making the acknowledgment is personally known to the officer taking it, strike out the words in brackets.
†Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

LAND TITLE ACT

FORM 6

(Section 46)

PROOF OF EXECUTION BY CORPORATION

I certify that on the day of 19 at Burnaby in British Columbia,

*(Whose identity has been proved by the evidence on oath of who is) personally known to me, appeared (State full name, address, and occupation)

before me and acknowledged to me that he/she is the authorized signatory of THE CORPORATION OF THE DISTRICT OF BURNABY, and that he/she is the person who subscribed his/her name and affixed the seal of the corporation to the instrument, that he/she was authorized to subscribe his/her name and affix the seal to it, (and that the corporation existed at the date the instrument was executed by the corporation.)

In testimony of which I set my hand and seal of office at Burnaby, B.C. this day of 19

‡

*Where the person making the acknowledgment is personally known to the officer taking it, strike out these words in brackets.
‡ These words in brackets may be added, if the applicant wishes the registrar to exercise his discretion under section 169 (5) call for further evidence of the corporation.

DATED: _____

THE CORPORATION OF THE
DISTRICT OF BURNABY

AND

MCDONALD'S RESTAURANTS OF
CANADA LIMITED

A G R E E M E N T

Legal Department
The Corporation of the
District of Burnaby
4949 Canada Way
Burnaby, B.C. V5G 1M2