



# **Tenant Estoppels & SNDAs**

Presented by  
LEGAL EDUCATION DEPARTMENT  
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# Tenant Estoppels & SNDAs

## Subordination Non-Disturbance Attornment

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### Overview

- Begins with a lease
- Tenant estoppel
- Subordination non-disturbance attornment agreement (SNDA)
- Leasehold endorsement of title insurance



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# Begins with a Lease

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## Bundles of Sticks - Traditionally

- Right of possession
- Right of exclusion
- Right of disposition
- Right of control
- Right of enjoyment



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## Leases

- Right of possession stick is given to the tenant in a lease
- Landowner now landlord
  - No longer has fee simple absolute as
  - Land is subject to lease
  - Tenant has right of possession



## Leases

- Right of possession stick is given to the tenant in a lease
- In a sale, subject to
  - Lease &
  - Tenant's right of possess
  - Buyer
    - Does not receive full bundle of sticks, however
    - Receives benefit of lease by way of rent payments



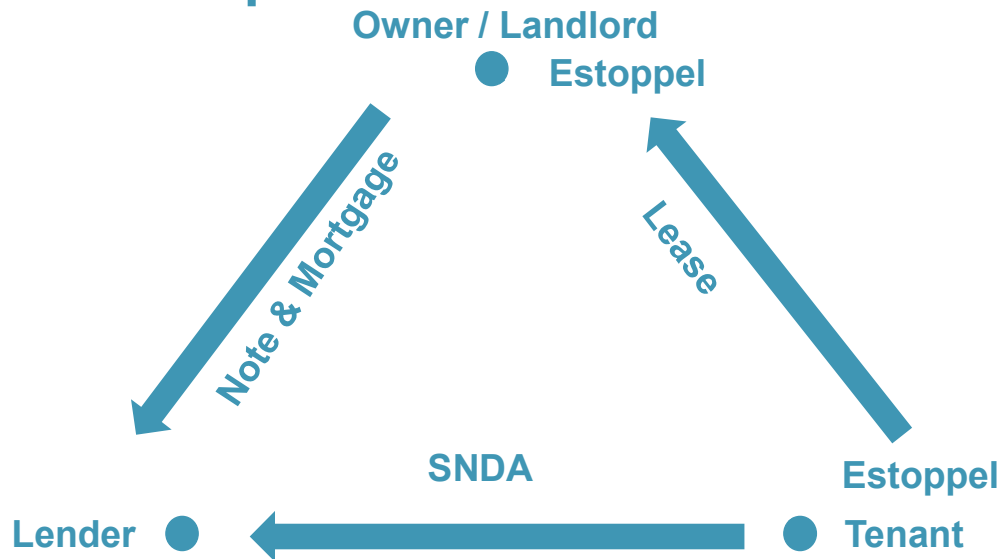
## Leases

- Commercial lease provisions
  - Estoppel & SNDA
    - Request method – verbal or written
    - Response time
    - Requirements
    - Consequences of failure to comply
- Estoppels verifies status of lease between landlord & tenant
- SNDA
  - Sets priority order of mortgage & lease
  - Protects tenant's lease
  - Formal recognition of position as landlord or tenant



# Tenant Estoppels

## Relationships



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## Estoppel Certificate

- Snapshot
  - Current status between landlord & tenant
  - Tenant is up to date on rents
  - Landlord has met obligations of lease
  - Terms of lease
  - Status
  - Attachments
  - Tenant should review carefully



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## Estoppel Certificate – Attachments

- Copy of current lease with copy of
  - Any amendments
  - Any modifications
  - Other agreed to provisions
- Rent roll
  - Shows gross income derived from rent
  - Gross rental income by tenant
  - Sample on next slide



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## Rent Roll Prepared by Landlord

Unit	Sq. Ft.	Tenant	Lease			Deposit	Current Rent per Sq. Foot	Price per Sq. Ft.	Monthly Rent	Yearly			Type of Lease	Comments			
			Start Date	End Date	Term					Price per Sq. Foot	Rental	Rent Increase					
1	1000	ABC Co.	1/1/2021	12/31/2026	60	\$10,000.00	\$1.00	\$1.00	\$1,000.00	\$12.00	\$12,000.00		Year 1	Gross No option to renew			
								\$1.05	\$1,050.00	\$12.60	\$12,600.00	5.00%	Year 2				
								\$1.10	\$1,100.00	\$13.20	\$13,200.00	5.00%	Year 3				
								\$1.16	\$1,160.00	\$13.92	\$13,920.00	5.00%	Year 4				
								\$1.22	\$1,220.00	\$14.64	\$14,640.00	5.00%	Year 5				
2	2000	Great Tenant	4/15/2005	4/14/2010	60	\$10,000.00	\$1.23	\$0.50	\$1,000.00	\$6.00	\$12,000.00		Year 1	Gross This tenant always pays ontime and would be willing to sign a longer lease.			
								\$0.53	\$1,060.00	\$6.36	\$12,720.00	5.00%	Year 2				
								\$0.56	\$1,120.00	\$6.72	\$13,440.00	5.00%	Year 3				
								\$0.59	\$1,180.00	\$7.08	\$14,160.00	5.00%	Year 4				
								\$0.62	\$1,240.00	\$7.44	\$14,880.00	5.00%	Year 5				
			4/15/2010	4/14/2015	60						\$0.65	\$1,300.00	\$7.80		\$15,600.00	5.00%	Year 1
											\$0.68	\$1,360.00	\$8.16		\$16,320.00	5.00%	Year 2
											\$0.71	\$1,420.00	\$8.52		\$17,040.00	5.00%	Year 3
											\$0.75	\$1,500.00	\$9.00		\$18,000.00	5.00%	Year 4
											\$0.79	\$1,580.00	\$9.48		\$18,960.00	5.00%	Year 5
			4/15/2015	4/14/2020	60						\$0.79	\$1,580.00	\$9.48		\$18,960.00	0.00%	Year 1
											\$0.79	\$1,580.00	\$9.48		\$18,960.00	0.00%	Year 2
											\$0.79	\$1,580.00	\$9.48		\$18,960.00	0.00%	Year 3
											\$0.79	\$1,580.00	\$9.48		\$18,960.00	0.00%	Year 4
											\$0.79	\$1,580.00	\$9.48		\$18,960.00	0.00%	Year 5
4/15/2020	4/14/2025	60						\$0.83	\$1,660.00	\$9.96	\$19,920.00	5.00%	Year 1				
								\$0.87	\$1,740.00	\$10.44	\$20,880.00	5.00%	Year 2				
								\$0.91	\$1,820.00	\$10.92	\$21,840.00	5.00%	Year 3				
								\$0.96	\$1,920.00	\$11.52	\$23,040.00	5.00%	Year 4				

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## Estoppel Certificate

- Landlord is required by lender or buyer to obtain estoppels
  - Specific percentage of tenants
  - Specific percentage of square footage
  - 100% is unreasonable
  - Identify in contract any critical tenant whose estoppel MUST be received
  - Send to lender or buyer
  - Timing
    - During due diligence period
    - Just before closing



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## Estoppel Certificates

- Contents can vary
  - Size of tenant
    - Large tenants may dictate form
  - Size of loan
  - Economic conditions
  - Specific tenant
  - Lender
    - May require a specific form

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## Estoppel Certificates – Contents

- Containing
  - Lease details
  - Confirmations
  - Attachments
  - Rent roll (usually)
- Simple forms help compliance

## Estoppel Certificates – Contents

- Reason for estoppel request
  - Sale of property
  - Refinance
- Statement that estoppel will be relied upon
- Signing parties bound by estoppel
- Identification of lease (refer to attached copies)

## Estoppel Certificates – Contents – Lease Details

- Commencement date
- Expiration date
- Rent
  - Include kind of lease
    - Gross
    - Percentage
    - Net
    - Double net or
    - Triple net lease
  - Advanced rents paid
- Date rent was last paid
- Security deposit
  - Location of security deposit



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## Estoppel Certificates - Contents



- Amendments or modifications
- Options
  - Renew
  - Purchase
  - Increase/decrease square footage
- Any other reasonable landlord request
- Tenant may consider adding personal property list

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## Estoppel Certificates – Confirmations

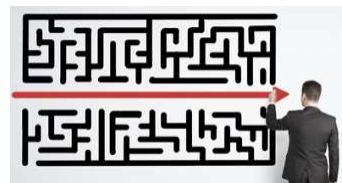
- Lease still in effect
- Conditions precedent of lease have been met
- No party in default
- Landlord has no outstanding
  - Construction and/or
  - Repair obligations
- Tenant has
  - No claims or offsets against landlord
  - Has not sublet or encumbered leasehold
  - Always used property in accordance with lease
  - Not created an environmental issue(s)



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## Practice tip for Quick Response from Tenant

- Short form
- Simple form ( \_\_\_ Yes \_\_\_ No)
- List all lease documents
- Pre-fill-in with all details of lease
- Use “to the best of tenant’s knowledge” where applicable
- Do not request a legal conclusion
- Clean estoppel – no cross-outs, instead re-type
- Tenant should know if they are part of bankruptcy proceeding
- Good for the goose – good for the gander – have landlord sign an estoppel as well



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## Sample Forms

- May use same form for separate landlord estoppel certificate
  - Just change title
- May have landlord sign tenant estoppel
  - Both parties agreeing to all statements contained within the estoppel

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Estoppel Certificate  
(Sample office lease for tenant to sign)

Date: \_\_\_\_\_  
 Buyer/Lender: \_\_\_\_\_  
 Landlord: \_\_\_\_\_  
 Tenant: \_\_\_\_\_  
 Property Address: \_\_\_\_\_

1. General Information

- Date of lease: \_\_\_\_\_
- Date of extensions, amendments, modifications or assignments: \_\_\_\_\_
- Term of lease: \_\_\_\_\_ years: \_\_\_\_\_ months: \_\_\_\_\_
  - Start date: \_\_\_\_\_
  - End date: \_\_\_\_\_
- Is there an option to renew?  
 YES \_\_\_\_; NO \_\_\_\_
- Amount of rent: \$ \_\_\_\_\_ payable
  - MONTHLY \_\_\_\_ ANNUALLY \_\_\_\_ OTHER \_\_\_\_
- Date rent was last paid: \_\_\_\_\_
- Is the rent current?  
 YES \_\_\_\_; NO \_\_\_\_
  - If rent is delinquent, what are the months of delinquency? \_\_\_\_\_

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## Lender Estoppel Requirement



- A form of proof of income stream from subject property
  - This income will help landlord pay new loan
    - In other words – insuring steady income stream
    - To pay debt service (rents)
- Does this property support this loan?

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## Lender Estoppel Requirement



- Review obligations of landlord
  - Lease
    - Easy compliance by landlord
    - No burdensome obligations by landlord
    - Protection from prior landlord's liability
  - Obligation too onerous
    - Lender may decline the loan
- In foreclosure
  - Lender may be successor landlord

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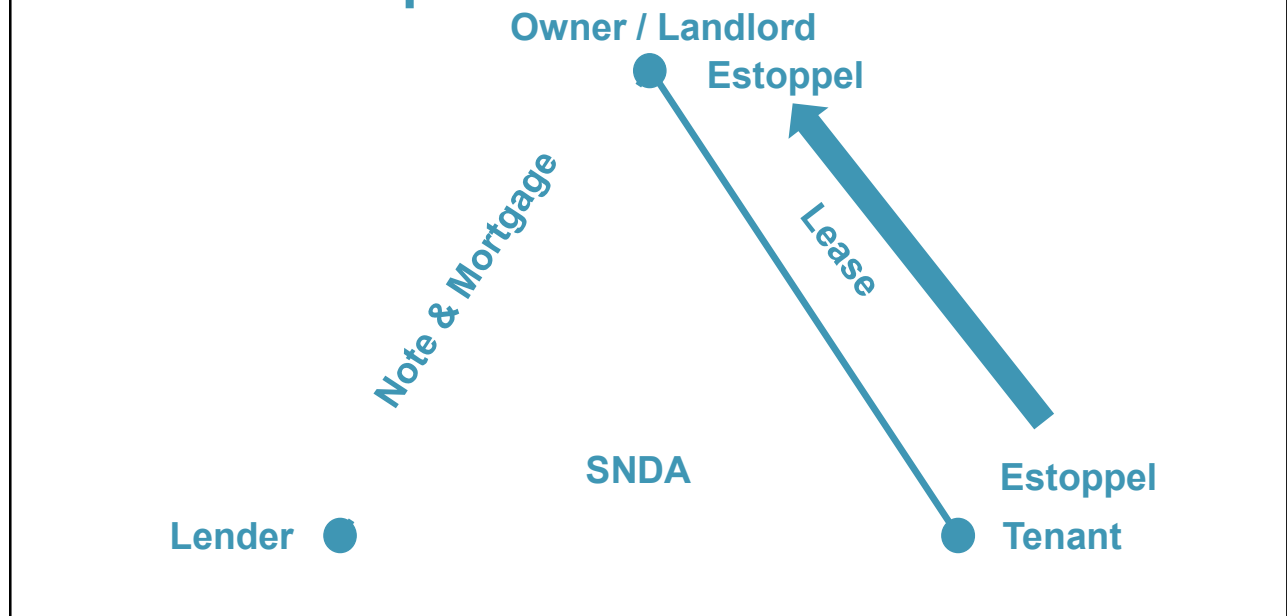
## Buyer Estoppel Requirement

- Helps determine if property has desired cash flow
- Gives insight to landlord – tenant relationship
  - Troublesome tenants
  - Unfinished landlord obligations
- Lease
  - Easy compliance by landlord
  - No burdensome obligations by landlord
  - Protection from prior landlord's liability
  - Determine when & if rents can be raised
- Does this property support this purchase price?



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## Relationships



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**SNDA**

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## SNDA

- S – Subordination
- ND – Non-Disturbance
- A - Attornment
- Agreement between tenant & lender
  - Establishes a relationship between lender & tenant
    - Ideally landlord should be a party to SNDA as well
  - Automatic SNDA do not have lender's signature
    - May still be effective against tenant
    - May have underwriting issues
    - Contact underwriting if unable to obtain new SNDA
      - [Underwriting@TheFund.com](mailto:Underwriting@TheFund.com)



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## SNDA

- Controls the ranking of interest
  - Lender first
  - Tenant second
- If lease is guaranteed all guarantors should sign SNDA
- Tenant should be aware of required notices under SNDA



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## Subordination

- Lender wants
  - To be in first place
    - First in time first in right – normally
  - All leases inferior to its mortgage
    - SNDA will jump lender's rights ahead of tenant's rights
  - Future advances included
- Subordination clause
  - Reverses ranking of prior recorded lease & later recorded mortgage or
  - Confirms prior recorded mortgage priority over later – recorded lease
  - Tenant agrees to subordinate its interest in leased premise to landlord's lender



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## Subordination – Tips

- Senior instrument control
  - Casualty – use of insurance proceeds &
  - Condemnation proceeds
- SNDA contract around public recording laws (first in time, first in right)
  - Only a contract between parties
    - Lease recorded first & tenant will allow lender all privileges of being recorded prior to lease
  - Only signatories are affected by an SNDA agreement
    - Just as a lender is not part of a lease agreement

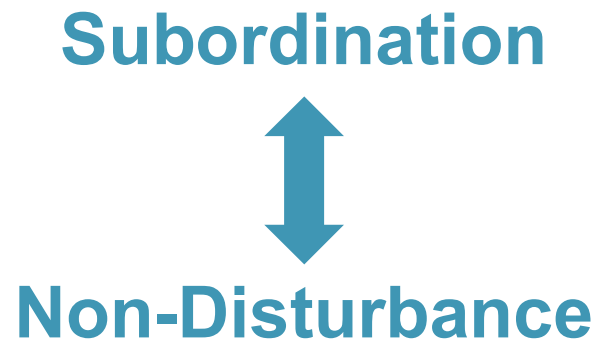


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## Tit for Tat



## Non-Disturbance

- Important for Tenant
  - Heavily invested in space
    - Costly to move
  - Economic conditions
    - Better to move?
- Landlord defaults on loan or sells subject real property
  - Tenant wants tenancy to remain as is

**DO  
NOT  
DISTURB**

## Non-Disturbance

- If lease is in first place (ahead of mortgage)
  - Foreclosure
    - Results in new landlord
    - Lease continues undisturbed
- If mortgage is in first place
  - Foreclosing lender may terminate lease
  - Unless there is a non-disturbance

**DO  
NOT  
DISTURB**

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## Non-Disturbance

- Subordination places mortgage in first place therefore
- Tenant then wants a non-disturbance
  - Continue business under current lease
  - Not be forced to move
  - Not be forced to pay additional rents
  - Wants lease & all terms to be honored

**DO  
NOT  
DISTURB**

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## Non-Disturbance

- Non-Disturbance provides
  - If Lender becomes landlord via foreclosure or deed in lieu of foreclosure or other
    - Lender cannot arbitrarily terminate tenant's lease
    - Lender recognizes & agrees to all aspects of lease
      - Subject to any modification in SNDA
    - Lender may still terminate lease, if
      - Notice & cure period for tenant have expired or
      - Default is serious enough for normal lease termination

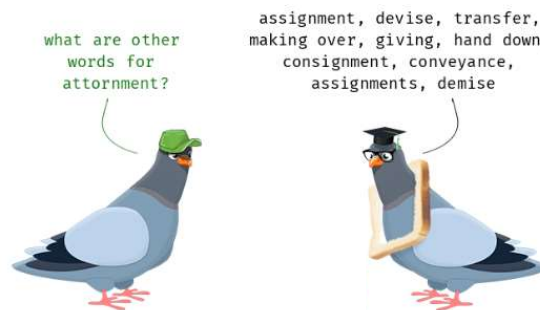
**DO  
NOT  
DISTURB**

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## Attornment

- Attorn
  - Formal making or acknowledgment of a transfer of something
- Lender acknowledges tenant's possessory rights under lease
- Tenant acknowledges lender or successor as new landlord



Thesaurus.plus

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## Attornment

- Lender/subsequent purchaser will attorn
  - They are now new landlord
  - Acknowledge tenant's possessory rights under lease
  - Bound by terms of lease

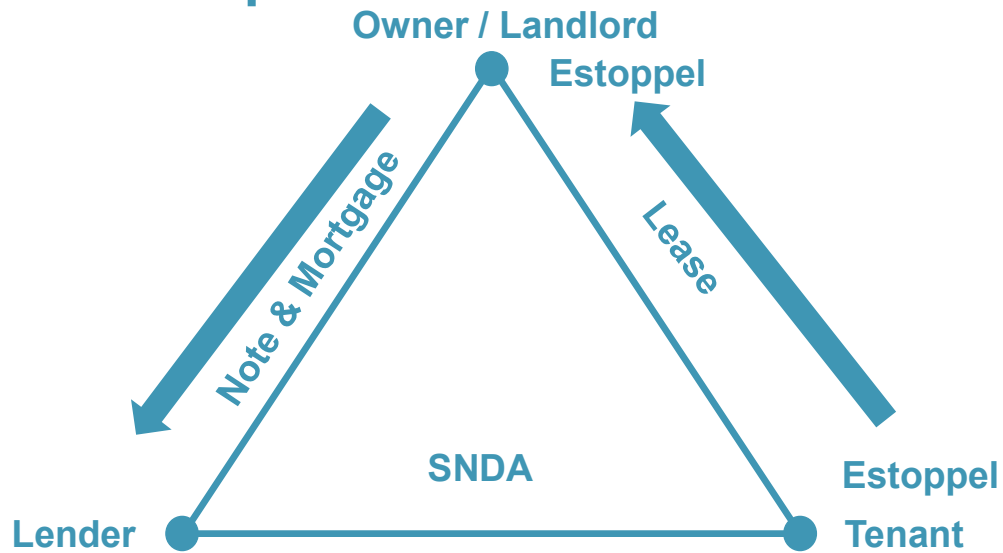


## Attornment

- Tenant will attorn
  - Lender as new landlord or
  - Subsequent landlord in a sale situation
  - Purchaser at foreclosure sale
- Tenant bound by terms of lease
  - Otherwise in common law
    - Tenant may be able to walk away from lease in a foreclosure



## Relationships



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# Other SNDA Considerations

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## Liability

- Lender/buyer does not want to be liable for
  - Prior landlord's
    - Actions
    - Inactions or
      - Lease provisions
    - Representations
      - Environmental statements
  - Pre-payments
  - Security deposits



## Liability Limits

- Landlord actions
  - Landlord's defaults in lease
  - Not obligated to complete or perform buildout for tenant
  - Lease modifications or amendments without lender approval
- Tenant may not offset or seek damages against lender or new landlord for
  - Lockouts
  - Taking of space
  - Taking of parking



## Liability Limits

- Prior landlord inactions
  - Perform buildout for tenant
  - Allow tenant improvement allowances
- Prior landlord's representations & warranties
  - Environmental representations
  - Statement regarding tenant status
  - Code violations
  - Unpermitted work



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## Liability Limits – Pre-Payments

- New landlord will not want liability for
  - Pre-payments
    - Rent
      - Normal 30 days in advance – no issue
      - More than 30 days in advance problematic
    - Property taxes
    - CAM (common area maintenance) or
    - Pass-through operation expenses



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## Liability Limits – Security Deposits

- In foreclosure
  - Lender wants no liability for security deposits
  - Tenant could lose security deposit
- In sale
  - Security deposits are addressed in estoppel certificates
  - Transfer of security deposit completed at closing
- Tenant may
  - Require landlord to set up escrow account for security deposit
  - Issue a letter of credit instead of cash deposit



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## Liability Limits

- Off-sets
  - Tenant may have made repairs with agreement the cost of same to be deducted (offset) by rents
- Modifications or amendments to lease
  - Lender wants to approve
    - To ensure the landlord's ability to re-pay loan is not compromised
- Tenant should try to seek limitations on lender approval
  - Material amendments or modifications
  - Reduces terms of lease
  - Affects the economic terms of lease

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## Lender Protections

- Estoppels from tenants
- SNDA
  - Priority
  - Attornment
  - Approval of lease
    - Modifications
    - Amendments
    - Lender approval required
  - Notice requirements
- Insurance



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## Tenant Protections

- Estoppel from tenant
  - Landlord action or inaction should be noted
  - Offset its costs against rent
  - Pre-paid rents
  - Security deposits
  - Claim for damages
- SNDA
  - Non-disturbance of possession & lease
  - Limit lenders approval of amendments or modifications
  - Lender attorns to tenant's possessory rights



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## All Party Protection

- SNDA should include
  - Addresses & method for notices for
    - Lender
    - Landlord
    - Tenant
  - Insurance
    - Casualty insurance payments usually made directly to lender
      - Contractors paid as work is completed by lender
      - Tenant may pay for repairs & lender needs to be required to pay tenant
      - Balance of insurance proceeds
        - Landlord
        - Tenant – single tenant



# Timing & Issues

## Timing – Before Signing the Lease

- Best leverage for tenant
  - Large/powerful tenant request existing lender to sign SNDA
    - Confirms priority
    - Adds
      - Attornment
      - Non-disturbance
      - Protects tenant interest in case of foreclosure



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## Timing – Before Signing the Lease

- Landlord wants
  - Lease signed – market rate
  - To close the loan
  - To have a better debt to service coverage ratio
- Make requirement for tenant to sign SNDA when needed
  - Automatic SNDA may work
    - Agreement between tenant & lender



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## Timing – After Signing the Lease

- Best leverage for lender
  - Often tenant's lease requires an SNDA to be signed within a specific time period
  - Tenant is already under obligation of a lease
  - Landlord may need funds
    - Upkeep of property
    - Comply with lease requirements
- Tenant should carefully review estoppel to ensure truthfulness



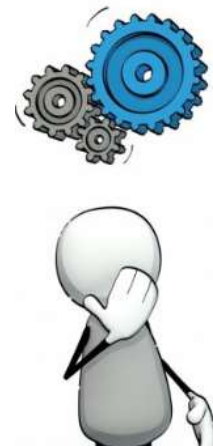
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## Issues

- Subordinate to what?
  - All provisions of the loan including future advances?
  - Future amendments?
  - Assignments?
- Liability of new landlord
  - Extend lease to subsequent landlords
    - Purchasers
    - Lenders
      - Current
      - Assigned
      - New



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## Issues – Tenant's Personal Property

- Personal Property
  - May want to include listing of personal property
    - Fixtures go with the building
    - Personal property goes with the tenant



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## PACE Financing

- PACE financing
  - Super priority lien
    - Same as property taxes
  - No foreclosure
  - Tax sale
- Landlord enters into a PACE agreement
  - Lease is automatically behind PACE agreement
  - No SNDA

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The Good, the Bad & the Ugly, of PACE Financing

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Legal Education Attorney

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# Florida Law

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## Recording SNDA

- Not required for SNDA validity
- Puts third parties on notice
- Lender will likely require some sort of recording
- Provides measure of protection for tenant's investment
- Notarized pursuant to Sec. 695.03, F.S.

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# Leasehold Endorsement

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## Title Insurance & Leases

- Lease is a purchase of an interest in real estate
- Leasehold endorsement coverage for all leases, attached to
  - Owner's policy
    - Fee Simple owner
    - Tenant
  - Lender's policy
    - Tenant's lender only

ALTA ENDORSEMENT 13-06 LEASEHOLD - OWNER'S POLICY



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## Title Insurance & Leases

- Most commonly seen with “big box” tenants
- Tenant
  - Holds a leasehold interest
  - May purchase an owner’s policy with leasehold endorsement
- Tenant’s lender
  - Would hold a lien on the leasehold interest
  - May purchase a lender’s policy with leasehold endorsement



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## Title Insurance & Leases

- Coverage
  - Title to interest described in policy (leasehold)
  - Any defect, lien or encumbrance on title
  - Unmarketability of title
  - Lack of access right
  - For tenant’s lender
    - Lack of priority
    - Lack of enforceability of mortgage



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## Title Insurance & Leases

- Tenant required to move due to title issue, coverage is provided
- TN 19.03.01 – 19.03.02 – cooperatives
- TN 19.03.03 – 19.03.05 – other
- For help contact underwriting – [Underwriting@TheFund.com](mailto:Underwriting@TheFund.com)



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## Title Insurance & Leases

- How much coverage?
  - Purchase coverage is purchase price
  - Leasehold is different – factors to consider
    - Estimate future damages to determine coverage amount
      - Value of leasehold
      - Cost to locate comparable space
      - Remaining term of lease
      - Cost to move
      - Cost to build out
- Contact underwriting for assistance
  - [Underwriting@TheFund.com](mailto:Underwriting@TheFund.com)



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## Title Insurance & Leases

- Discounts - Rule 69O-186.003 F.A.C. (5)(c)
- **Simultaneous Owner's Fee & Leasehold**
  - Landlord & tenant purchasing policies
  - Original rates applied to owner's policy on fee interest
  - 30% of original rates applied to owner's policy on leasehold up to amount of fee policy

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## Title Insurance & Leases

- Discounts - Rule 69O-186.003 F.A.C. (6)
- **Former Insured Contract Vendee or Lessee Acquires Fee Ownership**
  - For example, tenant purchase of property under a purchase option
  - If policy insuring vendee or lessee is surrendered, a reduced rate is charged as follows:
    - Up to \$100,000, 25% of original rates &
    - Over \$100,000, 20% of original rates with a minimum rate of \$100
      - Calculate premium, if less than \$100, then charge \$100



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Estoppel Certificate  
(Sample office lease for tenant to sign)

Date: \_\_\_\_\_

Buyer/Lender: \_\_\_\_\_

Landlord: \_\_\_\_\_

Tenant: \_\_\_\_\_

Property Address: \_\_\_\_\_

1. General Information

a. Date of lease: \_\_\_\_\_

b. Date of extensions, amendments, modifications or assignments: \_\_\_\_\_  
\_\_\_\_\_

c. Term of lease: \_\_\_\_\_ years: \_\_\_\_\_ months: \_\_\_\_\_

i. Start date: \_\_\_\_\_

ii. End date: \_\_\_\_\_

d. Is there an option to renew?

YES \_\_\_\_\_; NO \_\_\_\_\_

e. Amount of rent: \$\_\_\_\_\_ payable

i. MONTHLY \_\_\_\_\_ ANNUALLY \_\_\_\_\_ OTHER \_\_\_\_\_

f. Date rent was last paid: \_\_\_\_\_

g. Is the rent current?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If rent is delinquent, what are the months of delinquency? \_\_\_\_\_  
\_\_\_\_\_

h. Amount of security deposit: \$\_\_\_\_\_

i. Amount of last month's rent: \$\_\_\_\_\_

j. Has landlord been authorized to make any deductions from the security deposit?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If yes, how much of the security deposit was authorized to be deductions?

\$\_\_\_\_\_

k. Has tenant made any payments to landlord for future rent payments?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If yes, what is the amount of the future rent payments?

\$\_\_\_\_\_ and

ii. What months are the future rent payments to be applied? \_\_\_\_\_

\_\_\_\_\_

## 2. Enforceability

a. The lease is valid and enforceable according to its terms against the tenant

YES \_\_\_\_\_; NO \_\_\_\_\_

b. Lease has not been modified either orally or in writing except as specified in paragraph 1. b. above.

YES \_\_\_\_\_; NO \_\_\_\_\_

c. To the best of the tenant's knowledge, landlord is **not** in default of its obligations under the lease.

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If YES, Explain: \_\_\_\_\_

d. To the best of the tenant's knowledge, there are no set-offs or defenses against landlord

YES \_\_\_\_\_; NO \_\_\_\_\_

e. All conditions under the lease to be satisfied by landlord by the date hereof have been satisfied.

YES \_\_\_\_\_; NO \_\_\_\_\_

f. All contributions, if any, required to be paid by landlord under the lease to date for improvements to the premises have been paid.

YES \_\_\_\_\_; NO \_\_\_\_\_

## 3. Possession

a. Tenant is in possession of the entire premises

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If No, explain: \_\_\_\_\_

b. Are there any eviction actions, voluntary or involuntary, pending against the tenant regarding this property?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If yes, when were the actions started? \_\_\_\_\_

4. Bankruptcy

a. Is the tenant subject to any bankruptcy proceeding now or within the past 7 years?

YES \_\_\_\_\_; NO \_\_\_\_\_

Copy of lease, any amendments and other agreed to provisions are attached. Additional comments to anything not addressed by questionnaire may be attached as an Exhibit.

Tenant understands that the landlord, purchaser and lender are relying on the information contained within this estoppel.

Executed as a sealed instrument as of the date first above written.

\_\_\_\_\_  
(Tenant)  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this   (date)   by   (name of person acknowledging)  , who is personally known to me or who has produced   (type of identification)   as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Estoppel Certificate  
(Sample office lease for landlord to sign)

Date: \_\_\_\_\_

Buyer/Lender: \_\_\_\_\_

Landlord: \_\_\_\_\_

Tenant: \_\_\_\_\_

Property Address: \_\_\_\_\_

1. General Information

a. Date of lease: \_\_\_\_\_

b. Date of extensions, amendments, modifications or assignments: \_\_\_\_\_

c. Term of Lease: \_\_\_\_\_ years: \_\_\_\_\_ months: \_\_\_\_\_

i. Start date: \_\_\_\_\_

ii. End date: \_\_\_\_\_

d. Is there an option to renew?

YES \_\_\_\_\_; NO \_\_\_\_\_

e. Amount of rent: \$\_\_\_\_\_ payable

i. MONTHLY \_\_\_\_\_ ANNUALLY \_\_\_\_\_ OTHER \_\_\_\_\_

f. Date rent was last paid: \_\_\_\_\_

g. Is the rent current?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If rent is delinquent, what are the months of delinquency? \_\_\_\_\_

h. Are there other additions sums to rent required to be paid?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If, YES, explain: \_\_\_\_\_

i. Amount of security deposit: \$\_\_\_\_\_

j. Amount of last month's rent: \$\_\_\_\_\_

k. Has landlord been authorized to make any deductions from the security deposit?

YES \_\_\_\_\_; NO \_\_\_\_\_



i. If yes, how much of the security deposit was authorized to be deductions?  
\$ \_\_\_\_\_

I. Has tenant made any payments to landlord for future rent payments?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If yes, what is the amount of the future rent payments?

\$ \_\_\_\_\_ and

ii. What months are the future rent payments to be applied? \_\_\_\_\_

\_\_\_\_\_

## 2. Enforceability

a. The lease is valid and enforceable according to its terms against the tenant

YES \_\_\_\_\_; NO \_\_\_\_\_

b. Lease has not been modified either orally or in writing except as specified in paragraph 1. b. above.

YES \_\_\_\_\_; NO \_\_\_\_\_

c. Tenant is **not** in default of its obligations under the lease.

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If YES, Explain: \_\_\_\_\_

d. There are no set-offs or defenses against landlord

YES \_\_\_\_\_; NO \_\_\_\_\_

e. All conditions under the lease to be satisfied by tenant by the date hereof have been satisfied.

YES \_\_\_\_\_; NO \_\_\_\_\_

f. All contributions, if any, required to be paid by tenant under the lease to date for improvements to the premises have been paid.

YES \_\_\_\_\_; NO \_\_\_\_\_

## 3. Possession

a. Tenant is in possession of the entire premises

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If No, explain: \_\_\_\_\_

b. Are there any eviction actions, voluntary or involuntary, pending against the tenant regarding this property?

YES \_\_\_\_\_; NO \_\_\_\_\_

i. If yes, when were the actions started? \_\_\_\_\_

4. Bankruptcy

a. Is the landlord subject to any bankruptcy proceeding now or within the past 7 years?

YES \_\_\_\_\_; NO \_\_\_\_\_

Additional comments to anything not addressed by questionnaire may be attached as an Exhibit.

Landlord understands that purchaser and lender are relying on the information contained within this estoppel.

Executed as a sealed instrument as of the date first above written.

\_\_\_\_\_  
Print Name: \_\_\_\_\_ (Landlord)

Title: \_\_\_\_\_

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this   (date)   by   (name of person acknowledging)  , who is personally known to me or who has produced   (type of identification)   as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

This instrument was prepared by, and after recording should be returned to:

[Reserved for Recording Office]

**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

**BIG BANK**  
(Mortgagee)

- and -

**HAPPY TENANT, INC.**  
(Tenant)

- and -

**GOOD LANDLORD**  
(Landlord)

Dated: \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_

Location: \_\_\_\_\_

Section: \_\_\_\_\_

Block: \_\_\_\_\_

Lot: \_\_\_\_\_

County: \_\_\_\_\_

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of the \_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among BIG BANK, a national banking association, as Administrative Agent for itself and various other lending institutions (defined below)("Mortgagee"), HAPPY TENANT, INC. , a Florida not-for-profit corporation ("Tenant"), and GOOD LANDLORD, a Florida limited liability company, and its successors and assigns ("Landlord").

**RECITALS:**

- A. Landlord owns, leases or controls (or will be acquiring) the land ("Land") described in Exhibit A attached hereto and the building and related improvements located thereon (the "Building"; the Land and Building are collectively referred to as the "Property").
- B. Under the terms of a certain lease (the "Lease") dated \_\_\_\_\_, 20\_\_\_\_, between Tenant and Landlord, or Landlord's predecessor in title, Tenant has leased the Property, as more particularly described in the Lease (the "Demised Premises").

- C. Landlord has executed, or will be executing, a mortgage or deed of trust in favor of Mortgagee (the "Mortgage") pursuant to which Landlord has encumbered or will encumber Landlord's interest in the Land, Building and Lease to secure, among other things, the payment of certain indebtedness owing by Landlord to one or more lenders (the "Lenders") as described therein and in all other documents evidencing, securing or guaranteeing such indebtedness (the "Loan Documents").
- D. The parties hereto desire to have the Lease be subordinate to the Mortgage and the lien thereof, to establish certain rights of non-disturbance for the benefit of Tenant under the Lease, and further to define the terms, covenants and conditions precedent for such rights.

#### AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the parties hereto mutually agree as follows:

1. Subordination. The Lease, as the same may hereafter be modified, amended or extended, and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Mortgage and the other Loan Documents, including without limitation, all renewals, increases, modifications, consolidations, extensions and amendments thereof with the same force and effect as if the Mortgage and the other Loan Documents had been executed, delivered and (in the case of the Mortgage) recorded prior to the execution and delivery of the Lease.
2. Non-Disturbance. In the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, which foreclosure or conveyance occurs prior to the expiration of the term of the Lease, including any extensions and renewals of such term now provided thereunder, and so long as Tenant is not in default under any of the terms, covenants and conditions of the Lease beyond any applicable notice and cure periods, Mortgagee agrees on behalf of itself, its successors and assigns, including any purchaser at such foreclosure (each being referred to herein as an "Acquiring Party"), that Tenant shall not be named as a party therein unless such joinder shall be required by law, provided, however, such joinder shall not result in the termination of the Lease or disturb Tenant's possession, quiet enjoyment or use of the Demised Premises, and the sale of the Property in any such action or proceeding and the exercise by Mortgagee of any of its other rights under the Mortgage shall be made subject to all rights of Tenant under the Lease (subject to the terms of this Agreement); provided, further, however, that Mortgagee and Tenant agree that the following provisions of the Lease (if any) shall not be binding on Mortgagee or Acquiring Party: any option to purchase or any right of first refusal to purchase with respect to the Property, and any provision regarding the use of insurance proceeds or condemnation proceeds with respect to the Property which is inconsistent with the terms of the Mortgage.
3. Attornment. In the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, which foreclosure or conveyance occurs prior to the expiration date of the term of the Lease, including any extensions and renewals of such term now provided thereunder, Tenant shall, at the election of the Acquiring Party, either: (i) attorn to and recognize the Acquiring Party as the new landlord under the Lease, which Lease shall thereupon become a direct lease between Tenant and the Acquiring Party for the remainder of the term of the Lease

(including all extension periods which have been or are hereafter exercised) upon the same terms and conditions as are set forth in the Lease (subject to the terms of this Agreement); or (ii) if any Landlord default under the Lease is not susceptible to cure and results in the termination of the Lease, or the Lease is terminated for any other reason, including, without limitation, as a result of rejection in a bankruptcy or similar proceeding, then upon receiving the written request of the Acquiring Party, Tenant shall enter into a new lease of the Demised Premises with the Acquiring Party (a "New Lease"), which New Lease shall be upon substantially the same terms, covenants and conditions as are set forth in the Lease (subject to the terms of this Agreement) for the remainder of the term of the Lease (including all extension periods which have been or are hereafter exercised). In either such event described in the preceding clauses (i) or (ii) of this Section 3, Tenant hereby agrees to pay and perform all of the obligations of Tenant pursuant to the Lease (or the New Lease, as applicable) for the benefit of the Acquiring Party. For all purposes of this Agreement, the word "Lease" shall be deemed to mean the Lease or any such New Lease, as applicable.

4. Limitation of Liability. Notwithstanding anything to the contrary contained herein or in the Lease, in the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, which foreclosure or conveyance occurs prior to the expiration date of the term of the Lease, including any extensions and renewals of such term now provided thereunder, the liability of Mortgagee, its successors and assigns, or Acquiring Party, as the case may be, shall be limited to its interest in the Property; provided, however, that Mortgagee or Acquiring Party, as the case may be, and their respective successors and assigns, shall in no event and to no extent:
- a. be liable to Tenant for any past act, omission or default on the part of any prior landlord (including Landlord) except that Lender shall not be relieved from the obligation to cure any defaults that are non-monetary and continuing in nature, and such that Lender's failure to cure would constitute a continuing default under the Lease; and Tenant shall have no right to assert the same or any damages arising therefrom as an offset, defense or deficiency against Mortgagee, Acquiring Party or the successors or assigns of either of them;
  - b. be liable for or subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord);
  - c. be liable for any payment of rent or additional rent which Tenant might have paid for more than one month in advance of the due date thereof or any deposit, rental security or any other sums deposited with any prior landlord (including Landlord), except to the extent such monies are actually received by Mortgagee or Acquiring Party, as applicable;
  - d. be bound by any amendment, modification or termination of the Lease or by any waiver or forbearance on the part of any prior landlord (including Landlord), in either case to the extent the same is made or given without the prior written consent of Mortgagee;
  - e. be bound by any warranty, representation or indemnity of any nature whatsoever made by any prior landlord (including Landlord) under the Lease including any warranties, representations or indemnities regarding any work required to be performed under the Lease, use, compliance with zoning, hazardous wastes or environmental laws, habitability, fitness for purpose, title or possession; or

- f. be liable to Tenant for construction or restoration, or delays in construction or restoration, of the Building or the Demised Premises, or for the obligations of any prior landlord (including Landlord) to reimburse Tenant for or indemnify Tenant against any costs, expenses or damages arising from such construction or any delay in Tenant's occupancy of the Demised Premises; or
5. Rent. Tenant hereby agrees to and with Mortgagee that, during the term of the Loan, Tenant will pay all rents, additional rents and other sums then or thereafter due under the Lease directly to BIG BANK, a national banking association in accordance with the terms of that certain Tenant Estoppel and Lease Amendment between Landlord and Tenant of even date herewith, or, upon Mortgagee's delivery of written notice to Tenant, directly to Mortgagee or such other party to a specific account or location designated by Mortgagee in such written notice to Tenant. Landlord hereby authorizes Tenant to pay all rents, additional rents and other sums then or thereafter due under the Lease in accordance with the terms of this Section 5. In addition, Landlord hereby indemnifies and holds Tenant harmless from and against any and all claims, causes of actions, demands, liabilities and losses of any kind or nature, including but not limited, to attorney's fees and expenses, sustained by Tenant as a result of any and all claims by third parties claiming through Landlord all or any portion of the rent, additional rents, and other sums due under the Lease which are paid by Tenant in accordance with the terms and conditions hereof.
6. Insurance and Indemnity. During the term of the Loan, Tenant shall cause Mortgagee to be added as an additional insured of the insurance required to be maintained by Tenant pursuant to the Lease (excluding workers' compensation insurance) and to indemnify, defend and hold Mortgagee harmless to the same extent that Tenant is required to indemnify, defend and hold Landlord harmless pursuant to the terms of the Lease.
7. Tenant's Representations and Warranties in the Lease. Tenant hereby represents and warrants to Mortgagee that (i) all of Tenant's representations and warranties in the Lease were true and correct as of the date that they were made, and (ii) the only exceptions or exclusions to Tenant's representations and warranties in the Lease are those set forth on Schedule I attached hereto.
8. No Amendment. Landlord and Tenant each agree not to amend, modify or terminate the Lease in any manner without the prior written consent of Mortgagee.
9. Further Documents. The foregoing provisions shall be self-operative and effective without the execution of any further instruments on the part of any party hereto. Tenant agrees, however, to execute and deliver to Mortgagee or Acquiring Party, as the case may be, or such other person to whom Tenant herein agrees to attorn such other instruments as such party shall reasonably request in order to effectuate said provisions.
10. Notice and Cure. During the term of the Loan, Tenant agrees:
  - a. A copy of each notice given to Landlord pursuant to the Lease shall also be given simultaneously to Mortgagee, and no such notice shall be effective for any purpose under the Lease unless so given to Mortgagee; and
  - b. If Landlord shall fail to cure any default within the time prescribed by the Lease, Tenant shall give further notice of such fact to Mortgagee. Mortgagee shall have the right (but

not the obligation) to remedy any Landlord default under the Lease, or to cause any default of Landlord under the Lease to be remedied and shall be allowed such additional time as may be reasonably necessary to cure such default or institute and complete foreclosure proceedings (or otherwise acquire title to the Building), and so long as Mortgagee shall be proceeding diligently to cure the defaults that are reasonably susceptible of cure or proceeding diligently to foreclosure the Mortgage, no such default shall operate or permit Tenant to terminate the Lease.

11. Notices. All notices, demands, approvals and requests given or required to be given hereunder shall be in writing and shall be deemed to have been properly given upon receipt when personally served or sent by overnight delivery service or upon the third (3rd) business day after mailing if sent by U. S. registered or certified mail, postage prepaid, addressed as follows:

Mortgagee: BIG BANK  
133 Wall Street  
NY, NY 10002

With a copy to:  
BIG BANK Attorney

Landlord: GOOD LANDLORD  
654 Main Drive, Suite 898  
Miami, Florida 33143  
Attention: Manager

Tenant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

With a copy to:  
Tenant Attorney

or to such other address in the United States as such party may from time to time designate by written notice to the other parties.

12. Binding Effect. The terms, covenants and conditions hereof shall be binding upon and inure to the benefit of Mortgagee (for the benefit of the Lenders), Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns.

13. No Oral Modifications. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by all the parties hereto or their respective successors in interest.

14. Governing Law. This Agreement shall be governed, construed, applied and enforced in accordance with the laws of the State where the Property is located.

15. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one document.
16. Inapplicable Provisions. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect.
17. Authority. Each of the undersigned parties further represents and warrants to the other parties hereto that the person executing this Agreement on behalf of each such party hereto has been duly authorized to so execute this Agreement and to cause this Agreement to be binding upon such party and its successors and assigns.
18. Tenant's Personal Property. It is expressly agreed to between Mortgagee, Landlord and Tenant that in no event shall the Mortgage cover or encumber (and shall not be construed as subjecting in any manner to the lien thereof) any of Tenant's moveable trade fixtures, business equipment, furniture, signs or other personal property at any time placed in, on or about the Property.
19. Subsequent Transfer. If any Acquiring Party, by succeeding to the interest of Landlord under the Lease, should become obligated to perform the covenants of Landlord thereunder, then, upon any transfer of Landlord's interest by such Acquiring Party, all obligations shall terminate as to such Acquiring Party.
20. Assignment of Lease. The Tenant acknowledges that the Landlord may execute and deliver to the Mortgagee an assignment of the Lease as security for the loan which the Mortgage secures, and the Tenant hereby expressly consents to any such assignment.
21. Estoppel. The Landlord and the Tenant hereby certify to the Mortgagee that the Lease is in full force and effect; that the Lease and any modifications and amendments specified herein or therein are a complete statement of the agreement between the Landlord and the Tenant with respect to the leasing of the Premises, and the Lease has not been modified or amended except as specified herein; that to the knowledge of the Landlord and the Tenant, no party to the Lease is in default thereunder; that no rent under the Lease has been paid more than thirty (30) days in advance of its due date; and that the Tenant, as of this date, has no charge, lien or claim of offset under the Lease, or otherwise, against the rents or other charges due or to become due thereunder.
22. Attorneys' Fees. In the event of any legal or equitable action, including any appeals or bankruptcy proceedings, which may arise hereunder between or among the parties hereto, the prevailing party shall be entitled to recover its costs and its reasonable attorneys' fees and paralegals' fees.
23. Waiver of Jury Trial. LANDLORD, TENANT AND MORTGAGEE HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT.



24. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

**MORTGAGEE:**

**BIG BANK**, as Administrative Agent

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TENANT:**

**HAPPY TENANT, INC.** , a Florida not-for-profit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LANDLORD:**

**GOOD LANDLORD**, a Florida limited liability company

By: \_\_\_\_\_

Name:

Title: Manager

**ACKNOWLEDGMENTS**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed or stamped  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed or stamped  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Name typed, printed or stamped  
My Commission Expires: \_\_\_\_\_

**SCHEDULE I**

**EXCEPTIONS TO TENANT'S REPRESENTATIONS AND WARRANTIES IN THE LEASE**

**EXHIBIT A**

**LEGAL DESCRIPTION**

**690-186.003 Title Insurance Rates.**

The following are risk rate premiums to be charged by title insurers in this state for the respective types of title insurance contracts. To compute any insurance premium on a fractional thousand of insurance (except as to minimum premiums), multiply such fractional thousand by the rate per thousand applicable, considering any fraction of \$100.00 as a full \$100.00.

(1) Original Title Insurance Rates.

(a) For owner and leasehold title insurance:

1.a. The Premium for the original owner’s or for leasehold insurance shall be:

	Per Thousand	Minimum Insurer Retention
From \$0 to \$100,000 of liability written	\$5.75	30%
From \$100,000 to \$1 million, add	\$5.00	30%
Over \$1 million to and up to \$5 million, add	\$2.50	35%
Over \$5 million and up to \$10 million, add	\$2.25	40%
Over \$10 million, add	\$2.00	40%

b. The minimum premium for all conveyances except multiple conveyances shall be \$100.

c. The minimum premium for multiple conveyances on the same property shall be \$60.

2. In all cases the owner’s policy shall be issued for the full insurable value of the premises.

(b) For mortgage title insurance:

1.a. The premium for the original mortgage title insurance shall be:

	Per Thousand	Minimum Insurer Retention
From \$0 to \$100,000 of liability written	\$5.75	30%
From \$100,000 to \$1 million, add	\$5.00	30%
Over \$1 million and up to \$5 million, add	\$2.50	35%
Over \$5 million and up to \$10 million, add	\$2.25	40%
Over \$10 million, add	\$2.00	40%

b. The minimum premium for all conveyances except multiple conveyances shall be \$100.

c. The minimum premium for multiple conveyances on the same property shall be \$60.

2. A mortgage title insurance policy shall not be issued for an amount less than the full principal debt. A policy may, however, be issued for an amount up to 25 percent in excess of the principal debt to cover interest and foreclosure costs.

(2) Reissue Rates.

(a)1. The reissue premium charge for owner’s, mortgage, and leasehold title insurance policies shall be:

	Per Thousand
Up to \$100,000 of liability written	\$3.30
Over \$100,000 and up to \$1 million, add	\$3.00
Over \$1 million and up to \$10 million, add	\$2.00
Over \$10 million, add	\$1.50

2. The minimum premium shall be \$100.00.

(b) Provided a previous owner’s policy was issued insuring the seller or the mortgagor in the current transaction and that both the reissuing agent and the reissuing underwriter retain for their respective files copies of the prior owner’s policy, the reissue premium rates in paragraph (a) shall apply to:

1. Policies on real property which is unimproved except for roads, bridges, drainage facilities, and utilities if the current owner’s title has been insured prior to the application for a new policy;

2. Policies issued with an effective date of less than 3 years after the effective date of the policy insuring the seller or mortgagor in the current transaction; or

3. Mortgage policies issued on refinancing of property insured by an original owner’s policy which insured the title of the current mortgagor.

(c) Any amount of new insurance, in the aggregate, in excess of the amount under the previous policy shall be computed at the original owner’s or leasehold rates, as provided in subsection (1).

(3) New Home Purchase Discount.

(a) Provided the seller has not leased or occupied the premises, the original premium of a policy on the first sale of residential property with a one to four family improvement that is granted a certificate of occupancy shall be discounted by the amount of premium paid for any prior loan policies insuring the lien of a mortgage executed by the seller on the premises.

(b) In the case of prior loan policies insuring the lien of a mortgage on multiple units or parcels, the discount shall be prorated by dividing the amount of the premium paid for the prior loan policies by the total number of units or parcels without regard to varying unit or parcel value.

(c) The minimum new home purchase premium shall be \$200. The new home purchase discount may not be combined with any other reduction from original premium rates provided for in this section.

(d) The insurer shall reserve for unearned premiums only on the excess amount of the policy over the amount of the actual or prorated amount of the prior loan policy.

(4) Substitution Loan Rates. The following risk premium for substitution loans shall apply:

(a) When the same borrower and the same lender make a substitution loan on the same property, the title to which was insured by an insurer in connection with the original loan.

Age of Original Loan	Premium Rates
3 years or under	30% of original rates
From 3 to 4 years	40% of original rates
From 4 to 5 years	50% of original rates
From 5 to 10 years	60% of original rates
Over 10 years	100% of original rates
Minimum premium	\$100.00

(b) At the time a substitution loan is made, the unpaid principal balance of the previous loan will be considered the amount of insurance in force on which the foregoing rates shall be calculated. To these rates shall be added the regular rates in the applicable schedules for any new insurance, that is, the difference between the unpaid principal balance of the original loan and the amount of the new loan.

(c) In the case of a substitution loan of \$250,000 or more, when the same borrower and any lender make a substitution loan on the same property, the title to which was insured by an insurer in connection with the previous loan, the premium for such substitution loans shall be the rates as set forth in paragraphs (a) and (b).

(5) Simultaneous Issue Rates. The risk premium for simultaneous issues shall be as follows:

(a) When an owner's and a mortgagee's policy or policies covering identical land are to be issued simultaneously the risk premiums applicable for the owner's policy shall be the regular owner's rate as provided for herein. The rate for the mortgage policy or policies so simultaneously issued will be a minimum \$25.00 for an amount of insurance not in excess of the owner's policy. The risk premium on the amount of the mortgage policy or policies in excess of the owner's policy shall be figured at the regular original title insurance rates for mortgage policies.

(b) The title must be examined to a date which includes the filing for record of both the deed to the mortgagor and the mortgage itself. Both policies must bear identical dates and the owner's policy must show the mortgage as an exception under Schedule "B" thereof. It is not essential that the property be acquired simultaneously with the giving of the mortgage, but this rate, where applicable, has reference to the simultaneous issuance of an owner's and mortgagee's policy or policies.

(c) When an owner's and leasehold policy covering identical land are to be issued simultaneously, the risk premium applicable for the owner's policy shall be the regular owner's rate as provided for herein. The rate for the leasehold policy will be 30% of the rate for the owner's policy with which it is being issued simultaneously up to the amount of said owner's policy. The risk premium on the amount of a leasehold policy in excess of the owner's policy will be figured at the regular rate for owner's policies in the applicable schedule.

(6) Contract Purchaser – Lessee Rates. If a contract purchaser, who has obtained a policy from an insurer insuring his contract and thereafter obtains a deed given in pursuance of the contract makes application for an owner's policy and surrenders the policy, insuring his contract; or a lessee who has obtained a leasehold policy of an insurer, insuring his lease and thereafter purchases the property, makes application for an owner's policy and surrenders such policy, the re-issue risk rate shall be:

Up to \$100,000 of liability written	25% of the rates set forth in subsection (1)
--------------------------------------	--

Over \$100,000 add	20% of the rates set forth in subsection (1)
Minimum premium shall be	\$100.00

(7) Binders and Commitments. A binder of title insurance, or a commitment to insure a title or risk, imposes certain obligations and liabilities upon a title insurer and agents with consequent benefits for an insured. Since such binders and commitments are being increasingly utilized in transactions involving title insurance, it is deemed necessary that in accordance with section 627.7831, F.S., a portion of the risk premium must be charged for such binder or commitment when it is issued, except for transactions involving residential properties. The risk premium charge for binders and commitments shall be credited to the risk premium due on the policy to be issued.

(8) Construction Loans Secured by Revolving Notes and Mortgages. When a mortgage policy is issued to insure a mortgage securing periodic advances of the loan proceeds to finance improvements on real property, an additional risk rate premium shall be charged for the value of each new parcel of real property added to the policy's coverage after its original issuance.

(9) Minimum Retention of Premium by Insurer.

(a) A title insurer shall receive and retain at least 30% of the risk premium for policies sold by agents in accordance with Minimum Insurance Retention Schedule, including risk premium for endorsements, and it shall not be decreased, directly or indirectly, by an insurer providing services to any agent for less than actual cost.

(b) Any retention of premium by an insurer in excess of 30% shall not be decreased, directly or indirectly, by providing services to an agent for less than actual cost.

(c) The required retention of funds must be remitted to the insurer by the agent at least monthly, and until remitted these funds are "collected funds" subject to the accountability provisions of rule 69O-186.009, F.A.C.

(10) Effect of Amendments to Risk Premium. Any change in the risk premium due to an amendment to this rule shall not affect policies for which a binder or commitment to issue a policy has been issued prior to the effective date of the amendment.

(11) Unlawful Rebates or Abatement of Charges.

(a) No title insurer, title insurance agent or agency, including attorney agent, shall decrease the risk premium by an illegal rebate or abatement of charges for abstracting, examinations, or closing charges. At least actual cost must be charged for related title services in addition to the adopted risk premium.

(b) Charges for related title services (title search, examination, and closing) shall be shown separately on the closing statement, and shall, at a minimum, show title search charges, examination fees, and closing charges. The risk premium as defined by section 627.7711(2), F.S., and as provided in section 627.780(1), F.S., shall be shown separately on the closing statement.

(c) Any ongoing or standing offer of gifts, compensation or special services to the same person or customer on a continuing basis as an inducement to referring title insurance transactions is prohibited.

(12) Subsections (1) through (4) of this rule shall become effective July 1, 2002. The remainder of the rule shall become effective 20 days after adoption.

*Rulemaking Authority 624.308(1), 626.9611, 627.782, 627.7825 FS. Law Implemented 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845 FS. History—New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.003, Amended 2-13-95, 1-27-02, Formerly 4-186.003.*

## CERTIFICATE OF ATTENDANCE

Certified Paralegals are required to record evidence of 50 hours of continuing legal education hours to renew the CP credential every 5 years. CLE hours are recorded in CPs' accounts through the [NALA online portal](https://www.nala.org/certification/certtest2view). Of the 50 hours, 5 hours must be in legal ethics, and no more than 10 hours may be recorded in non-substantive areas. If attending a non-NALA sponsored educational event, this certificate may be used to obtain verification of attendance. Please be sure to obtain the required signatures for verification of attendance. The requirements to maintain the CP credential are available from NALA's web site at <https://www.nala.org/certification/certtest2view>. Please keep this certificate in the event of a CLE audit or further information is needed.

**PLEASE COMPLETE THE SPACES BELOW AND ATTACH A PROGRAM**

Session Length In Hours	Session Topics (Description and Speakers)	Validation of Attendance
1.0	Tenant Estoppels and SNDAs / Linda Monaco	<i>Linda Monaco</i>

Name of CP (Please Print)			NALA Account Number (On Mailing Label)		
			149113		
Signature of CP			Name of Seminar/Program Sponsor		
			Tenant Estoppels and SNDAs / ATFS, LLC		
Address			Authorized Signature of Sponsor Representative		
			<i>Linda Monaco</i>		
			Date of Educational Event:		
City:		State (XX):			
Preferred e-mail address			Location:		
			Recorded Webinar		

For Office Use Only	
Substantive hours	
Non-substantive hours	
Ethics	





**FL BAR Reference Number: 2412197N**

**Title: Tenant Estoppels and SNDAs**

**Level: Intermediate**

**Approval Period: 03/01/2025 - 09/30/2026**

**CLE Credits**

General 1.0

**Certification Credits**

Real Estate 1.0