

As used in this Section 11.16, "Completion of the Improvements" shall mean (a) lien-free completion of the Improvements pursuant to and in accordance with the "Plans and Specifications" (as "Plans and Specifications" is defined in the Loan Agreement), (b) the issuance of all required certificates of occupancy and governmental permits and (c) no "Event of Default" (as that term is defined in the Loan Agreement) shall have occurred under the Loan Agreement and be continuing and no circumstance or condition shall exist which with the giving of notice or the passage of time, or both, would constitute an "Event of Default" (as that term is defined in the Loan Agreement) under the Loan Agreement.

(b) Following Completion of the Improvements, Mortgagor shall not lease in its entirety, sell, assign, transfer or otherwise dispose of the Mortgaged Property or any portion thereof or any interest therein, unless each of the following conditions precedent has been satisfied, and any such lease, sale, assignment, transfer or other disposition occurring without each of such conditions precedent having been satisfied shall be null and void and of no force or effect:

(1) Mortgagor has obtained the prior written consent of Mortgagee to the assignment or transfer, which consent shall not be unreasonably withheld provided the Mortgagor provides Mortgagee with a written application for such consent on or before thirty (30) days prior to the proposed transaction date, which application shall contain all of the following:

- (A) An appraisal of the Land and Improvements dated on or after the 90th day preceding the proposed transaction date, prepared by an MAI appraiser satisfactory to Mortgagee, indicating a fair market value of not less than \$4,625,000.00.
- (B) Evidence reasonably satisfactory to Mortgagee that the Improvements have achieved, for a period of one hundred twenty (120) consecutive calendar days prior to the date of such application, net operating revenues in an amount, when annualized, that is equal to not less than 104% of the then current annual debt service due in connection with the Indebtedness, plus the amount of any secured debt to be given in connection with the proposed transaction. For purposes of this paragraph, net operating revenues shall be defined as the difference between (i) the actual amount of gross operating revenues collected for the Improvements for the subject time period; less (ii) the actual amount of costs and expenses paid or incurred for the Improvements for the subject time period (including, but not limited to, fully assessed, as completed, ad valorem taxes on the Land and Improvements, but specifically excluding depreciation), which shall in no event be less than 22.4% of the amount of gross operating revenues of the Improvements for such time period.
- (C) An executed counterpart of a valid and enforceable agreement for the management of the Improvements, under terms and conditions reasonably satisfactory to Mortgagee, with a management company meeting at least the following criteria: