

then have to purchase all or substantially all of any such building (herein called a "damaged restaurant"), the Company, by written notice to the Mortgagee, may, at its option, substitute a tract or parcel of land located in any state of the United States together with the structures and improvements thereon not then subject to the lien of the Indenture (herein called a "substitute property") for the damaged restaurant, and the Mortgagee shall release such damaged restaurant from the lien of the Indenture (the date of such release by the Mortgagee being herein called a "release date") upon receipt by the Mortgagee of (i) a Certificate of the Company stating that the character and occupancy of the substitute property are the same as those of the damaged restaurant, (ii) a supplemental indenture conveying the substitute property to the Mortgagee to be held as part of the Mortgaged Property, (iii) a certificate of an Independent appraiser satisfactory to the Mortgagee certifying (x) the fair value of the substitute property and that such fair value is not less than the fair value of the damaged restaurant (immediately prior to the event resulting in its becoming a damaged restaurant), (y) the total cost of the substitute property and that such total cost is not less than the unamortized portion of the original principal amount of the Notes attributable to the damaged restaurant immediately prior to the release date, as set forth in Schedule B and (z) the ratio of the total cost (determined in accordance with the definition of total cost in respect of any building) of the tract or parcel of land included in the substitute property to the total cost (determined as aforesaid) of all structures and improvements thereon is not less than the same ratio calculated with respect to the damaged restaurant, (iv) a title policy in favor of the Mortgagee in standard ALTA form in substance and issued by a title insurance company satisfactory to the Mortgagee with respect to the substitute property insuring the interest of the Mortgagee in the substitute property in an amount at least equal to the greater of the total cost or the fair value of the substitute property as set forth in the certificate delivered pursuant to clause (iii) of this 5.04, free and clear of all liens, charges and encumbrances and (v) copies of the certificate of occupancy or similar certificates relating to the improvements located on the substitute property, if any such certificate or certificates are required for the use or occupancy thereof; and *provided*, that each substitute property is satisfactory to the Mortgagee in its reasonable discretion. In the event that the Company shall satisfy the foregoing conditions, all insurance proceeds, condemnation awards or purchase