

NOTICE OF MORTGAGEE'S SALE OF REAL ESTATE IN SPRINGFIELD

By virtue and in execution of the Power of Sale contained in a certain Mortgage, Security Agreement, Financing Statement and Assignment of Rents and Leases dated December 27, 2000 given by XCL Enterprises, LLC, a Massachusetts limited liability company to Fleet Business Credit, LLC dated December 27, 2000, recorded in the Hampden County Registry of Deeds at Book 11461, Page 471 (the "Mortgage"), which Mortgage was assigned to GECPAC Investment II, Inc. by Assignment dated August 30, 2004, recorded in said Registry at Book 14944, Page 528, and reassigned to Wendy's International, Inc. by Assignment recorded in said Registry at Book 17100, Page 364

for breach of the conditions of said Mortgage and for the purpose of foreclosing the same, the premises described in said Mortgage, all and singular, will be sold at Public Auction on Tuesday, February 26, 2008 at 11:00 a.m. at the mortgaged premises known as 757 Boston Road, Springfield, MA, more particularly bounded and described as follows:

Beginning at an iron pipe in the westerly sideline of a public way known as Wilkes Street, said point also marks the southeasterly corner of land now or formerly of Western Auto Supply Company;

Thence running S03-04-35E along the westerly sideline of said Wilkes Street a distance of 52.45 feet to a point, said point also marks the northeasterly corner of remaining land of Triple Seven Realty Trust;

Thence running the following two (2) courses along the northerly line of remaining land of said Triple Seven Realty Trust;

S79-23-01W a distance of 107.81 feet to a point; and

S59-34-07W a distance of 182.75 feet to a point in the easterly line of land now or formerly of Richard D. LeMire, said point also marks the northwesterly corner of remaining land of said Triple Seven Realty Trust;

Thence running N03-04-35W along the easterly line of said LeMire a distance of 377.30 feet to a point in the southerly sideline of a public way known as Boston Road, said point also marks the northeasterly corner of land of said LeMire;

Thence running N78-20-30E along the southerly sideline of Boston Road a distance of 131.86 feet to a point, said point also marks the northwesterly corner of said Western Auto Supply Company;

Thence running the following two (2) courses along land of said Western Auto Supply Company;

S03-04-35E a distance of 264.66 feet to an iron pipe; and

N79-25-50E a distance of 140.00 feet to the point of beginning.

Said parcel being shown as "Lot I, Area= 1.23 Acres on a plan entitled 'Plan of Land prepared for Wendy's International, 757 Boston Road, Springfield, MA" which plan is dated 6-16-00 drawn by Foresight Land Surveyors and recorded in the Hampden County Registry of Deeds, Book of Plans 318, Page 41.

There is also included in the sale all equipment and fixtures situated on the premises to the extent they are part of the realty.

Said mortgaged premises will be sold and conveyed subject to and with the benefit of the following, if any there be, insofar as in force and applicable and having priority over the Mortgage: any and all restrictions, easements, improvements, covenants, unpaid taxes, tax titles, municipal liens, assessments, other liens or claims in the nature of liens, attachments and encumbrances, boundary line disputes, overlaps, encroachments and any matters which would be disclosed by an accurate survey and inspection of the premises.

Said mortgaged premises will also be sold subject to and with the benefit of the following, to the extent the same are in force and applicable: Deed restrictions described in a deed from Wendy's Old Fashioned Hamburgers of New York, Inc. ("Wendy's") recorded in said Registry at Book 11461, Page 458; Right of First Refusal granted to Wendy's recorded in said Registry at Book 11461, Page 463; Tax Taking recorded at Book 16497, Page 535; Easement rights of the City of Springfield recorded at Book 9629, Page 356; Taking by the Springfield recorded at Book 9823, Page 375; Notice of Activity and Use Limitation recorded at Book 10010, Page 1 as amended at Book 12817, Page 489 and at Book 12918, Page 464; and Special Permit recorded in said Registry at Book 11493, page 452.

TERMS OF SALE. The successful bidder will be required to make a deposit at the sale in the amount of \$50,000 and, within three (3) business days after the sale an additional deposit shall be paid by the successful bidder sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price. The deposit shall be paid to and held by Shatz, Schwartz and Fentin, P.C. ("Escrow Agent") at the time and place of sale as earnest money, by certified or bank cashier's check, unless otherwise announced at the sale. The balance of the purchase price is to be paid at closing as described below. The high bidder shall be responsible for paying a 3.5% commission payment to the auctioneer in addition to the bid price. **TIME WILL BE OF THE ESSENCE.**

The sale is subject to the Right of First Refusal granted by the mortgagor to Wendy's described above. At the conclusion of the auction and the execution of the Memorandum of Sale, the Mortgage Holder will notify Wendy's of the terms of the

foreclosure sale. If Wendy's notifies Mortgage Holder within forty-five days of Wendy's intention to exercise its rights under the Right of First Refusal, the successful bidder's deposit shall be returned, the successful bidder's rights under the Memorandum of Sale shall terminate and the premises will be sold to Wendy's for the highest bid price. If Wendy's notifies the Mortgage Holder that it does not intend to exercise the Right of First Refusal, or does not timely notify the Mortgage Holder of its intent to do so, then the successful bidder shall be obligated to complete the sale in accordance with the terms of the Memorandum of Sale on or before the first to occur of (i) thirty days after receipt of notice from Mortgage Holder that Wendy's elected not to exercise its Right of First Refusal, or (ii) May 12, 2008.

In the event that the successful bidder at the public auction shall default in purchasing the within described property according to the terms of this Notice of Mortgagee's Sale and/or the terms of the Memorandum of Sale executed at the public auction, the Mortgage Holder reserves all of its rights against such successful bidder and in addition, Mortgage Holder may, at its election, purchase the mortgaged property for the amount bid by the successful bidder or sell the property to the second highest bidder at the public auction, provided that Mortgage Holder in its discretion may require, (i) said second highest bidder to deposit with the Escrow Agent the amount of the required deposit as set forth herein within three (3) business days after written notice to the second highest bidder of the default of the previous highest bidder, (ii) the second highest bidder to execute a Memorandum of Sale and (iii) the closing to occur within twenty (20) days of said written notice, time being of the essence unless the Mortgage Holder agrees otherwise.

The Mortgage Holder reserves the right to sell any parcel or any portion thereof separately, or in any order that Mortgage Holder may choose and/or to postpone this sale to a later time or date by public proclamation at the time and date appointed for the sale and to further postpone any adjourned sale date by public proclamation at the time and date appointed for the adjourned sale date. The description for the premises contained in said Mortgage shall control in the event of a typographical error in this publication.

The successful bidder shall pay all recording fees and documentary stamps in connection with the transfer of the premises, any costs of obtaining smoke and carbon monoxide detector certificates and the transfer or issuance of any licenses, all real estate taxes, tax titles, and municipal charges due as of the date of sale and those due thereafter through the date of Closing, as well as all of its costs in connection with the transaction, including but not limited to title examinations and title premiums. No adjustments whatsoever will be made, whether for taxes, municipal charges, utilities or otherwise.

Other terms, if any, will be announced at the sale. The successful bidder will be required to sign at the auction sale a Memorandum of Sale containing the terms of sale.

Date: February 4, 2008

Wendy's International, Inc.
Present holder of said Mortgage
By Shatz, Schwartz and Fentin, P.C.
Its attorneys
Gary S. Fentin, Esquire
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Springfield, MA 01103
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