

56034

Vol. m93 Page 202

Drawn by ~~and~~ ~~and~~ ~~to~~:

NB PROPERTY NO.: 52
CITY: Klamath Falls
STATE: Oregon

Bruce Saber
Fried, Frank, Harris, Shriver
& Jacobson
One New York Plaza
New York, NY 10004

m9c 28003
MEMORANDUM OF LEASE

MEMORANDUM OF LEASE, dated as of December 1, 1992, between RETAIL TRUST III, a Delaware business trust, having an address at 1100 N. Market Street, Rodney Square North, Wilmington, Delaware 19890-0001 ("Lessor") and WAL-MART STORES, INC., a Delaware corporation having an address at 702 S.W. 8th Street, Bentonville, Arkansas 72716 ("Lessee").

W I T N E S S E T H:

1. Lessor, pursuant to a Lease (the "Lease"), dated of even date herewith, has demised and leased to Lessee, and Lessee leases from Lessor, upon and subject to the terms, covenants and conditions set forth therein (i) Lessor's right, title and interest, as ground lessee under that certain Ground Lease, dated of even date herewith, between Lessee, as ground lessor, and Lessor, as ground lessee, in the parcel of land (the "Land") situated in Klamath Falls, County of Klamath, State of Oregon, more particularly described on Exhibit A annexed hereto, (ii) all right, title and interest of Lessor in and to all buildings and other structures and fixtures now or hereafter located on the Land (the "Improvements") and (iii) all right, title and interest of Lessor in and to all easements, rights and appurtenances relating to the Land and Improvements (collectively, the "Demised Premises"). All capitalized terms, if not defined herein, are as defined in the Lease.

2. The initial term of the Lease commences on December 22, 1992, and expires on December 21, 2012.

3. Lessee has the option to renew the term of the Lease for up to 5 consecutive terms; the first 3 renewal terms are for 3 years each, the 4th renewal term is for 5 years and the 5th renewal term is for 6 years, in each case upon the terms and conditions more particularly set forth in Section 3 of the Lease.

Return to: Stacie Taylor
c/o Commonwealth Land Title
14643 Dallas Parkway
Suite 770, LB-61
Dallas, Texas 75240

4. Lessee has certain options to purchase the Demised Premises from Lessor, upon the terms and conditions more particularly set forth in Sections 9, 14, 15, 17 and 19.

5. Lessee and Lessor have certain options to terminate the Lease prior to the scheduled expiration of the term of the Lease, upon the terms and conditions more particularly set forth in Sections 9, 14, 15, 16, 18, 19 and 23(a) of the Lease.

6. Lessee has certain rights to substitute property for the Demised Premises, upon the terms and conditions more particularly set forth in Section 16 of the Lease.

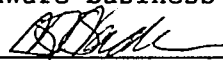
7. This Memorandum of Lease shall be released upon the expiration or earlier termination of the Lease.


8. This instrument is intended only to be a Memorandum of the Lease and shall not be construed to vary or otherwise affect any of the provisions of the Lease.

9. It is expressly understood and agreed by the parties to the Lease that (i) the Lease is executed and delivered by Wilmington Trust Company and William J. Wade (the "Individual Trustee"; together with Wilmington Trust Company, the "Trustees"), not individually or personally but solely as owner trustees on behalf of Lessor, in the exercise of the powers and authority conferred and vested in them as the owner trustees under the Trust Agreement, (ii) each of the representations, undertakings and agreements in the Lease made by Lessor are made and intended not as personal representations, undertakings and agreements by the Trustees but are made and intended for the purpose of binding only the Trust Estate created by the Trust Agreement, (iii) nothing contained in the Lease shall be construed as creating any liability on the Trustees, individually or personally, to perform any covenant either expressed or implied contained in the Lease, all such liability, if any, being expressly waived by Lessee and by any Person claiming by, through or under Lessee and (iv) under no circumstances shall the Trustees be personally liable for the payment of any indebtedness or expenses of the Trustees or Lessor under the Lease or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Trustees or Lessor under the Lease.

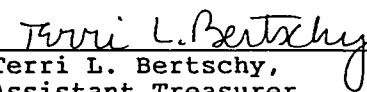
IN WITNESS WHEREOF, this Memorandum of Lease has been duly executed and delivered pursuant to proper authority duly granted by Lessor and Lessee as of the date first written above.

RETAIL TRUST III,
a Delaware business trust

By: 
William J. Wade,
acting not individually but
solely as trustee for the
trust under a Trust
Agreement dated as of
December 1, 1992

Attest: 
George J. Bacso, III,
Assistant Secretary

WAL-MART STORES, INC.

By: 
Terri L. Bertschy,
Assistant Treasurer

587/KLC8515R

STATE OF NEW YORK
COUNTY OF NEW YORK

)
: ss.:
)

Know all men by these presents that before me, the below-named Notary Public in and for the State and County named above duly commissioned to take acknowledgments, there personally appeared Terri L. Bertschy and George J. Bacso, III, each of whom is personally known to me to be a person named in and who signed the legal instrument to which this acknowledgment is attached and which was produced to me in the State and County aforesaid, and being by me first duly sworn each did acknowledge before me, depose and say to me that he resides in, respectively, 503 Southwest O Street, Bentonville, Arkansas and 4 Astwood Lane, Bella Vista, Arkansas, and is, respectively, assistant treasurer and assistant secretary of WAL-MART STORES, INC., a Delaware corporation, named as one of the parties to the aforementioned legal instrument; that he knows the seal of said corporation; that the seal imprinted on the legal instrument to which this acknowledgement is attached is an imprint of the true seal of said corporation; that after being duly informed of the contents and import of such legal instrument he had signed and caused the seal of such corporation to be imprinted on such legal instrument as the officer of such corporation indicated above; that he had signed and sealed the same in the name of and on behalf of such corporation by the authority, order and resolution of its Board of Directors; that he had signed his name thereto on behalf of said corporation by like order; that the execution of said legal instrument was the free and voluntary act and deed of said corporation for the consideration, purposes, and uses set forth in such legal instrument; that he had delivered such legal instrument to the other parties thereto as such; and that on behalf of said corporation he had received a true copy of such legal instrument without charge.

IN WITNESS WHEREOF, I have signed and imprinted my official notarial seal on this acknowledgment in the State and County named above on the 21st day of December, 1992.

My commission expires: 3/21/94

CAMERON S. FOSTER
NOTARY PUBLIC, State of New York
No. 03-4921384
Qualified in Bronx County
Certificate Filed in New York County
Commission Expires 3/21/94

Cameron S. Foster
Notary Public

Print Name: Cameron S. Foster

STATE OF NEW YORK
COUNTY OF NEW YORK

)
: ss.:
)

Know all men by these presents that before me, the below-named Notary Public in and for the State and County named above duly commissioned to take acknowledgments, there personally appeared William J. Wade, who is personally known to me to be a person named in and who signed the legal instrument to which this acknowledgment is attached and which was produced to me in the State and County aforesaid, and being by me first duly sworn each did acknowledge before me, depose and say to me that he is a trustee of RETAIL TRUST III, a Delaware business trust, named as one of the parties to the aforementioned legal instrument; that after being duly informed of the contents and import of such legal instrument he had signed such legal instrument as the trustee of such trust indicated above; that he had signed the same in the name of and on behalf of such trust; that the execution of said legal instrument was the free and voluntary act and deed of said trust for the consideration, purposes, and uses set forth in such legal instrument; that he had delivered such legal instrument to the other parties thereto as such; and that on behalf of said trust he had received a true copy of such legal instrument without charge.

IN WITNESS WHEREOF, I have signed and imprinted my official notarial seal on this acknowledgment in the State and County named above on the 21st day of December, 1992.

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CAMERON S. FOSTER
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No. 03-4921384
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Cameron S. Foster
Notary Public

Print Name: Cameron S. Foster



OWNER TRUSTEE III INDIVIDUAL
1754/ML8151R

EXHIBIT "A"

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN LOTS 1, 2, AND 3, BLOCK 1, OF "TRACT 1080 - WASHBURN PARK", ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON, AND THE SE1/4 NE1/4 OF SECTION 9, T39S, R9EWM, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE S00°02'00"E, ALONG THE EAST LINE OF SAID LOT 2, 60.00 FEET; THENCE S89°58'00"W 209.00 FEET; THENCE S00°02'00"E 209.00 FEET; THENCE N89°58'00"E 181.66 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 2; THENCE ALONG THE BOUNDARIES OF SAID LOTS 2 AND 1, ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS POINT BEARS N68°55'22"W 532.96 FEET AND CENTRAL ANGLE EQUALS 49°28'52") 460.27 FEET, ALONG THE ARC OF A SPIRAL CURVE TO THE RIGHT (THE LONG CHORD OF WHICH BEARS S84°01'29"W 384.34 FEET) 386.00, N89°26'30"W 40.35 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, AND N89°26'30"W 359.98 FEET TO A POINT FROM WHICH THE SOUTHWEST CORNER OF SAID LOT 1 BEARS N89°26'30"W 260.00 FEET; THENCE N00°07'15"W, PARALLEL TO THE WEST LINE OF SAID LOT 1, 619.18 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 1; THENCE CONTINUING N00°07'15"W 32.00 FEET; THENCE S89°25'35"E 359.98 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3; THENCE N89°58'00"E 771.06 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE S00°02'00"E 32.00 FEET TO THE POINT OF BEGINNING, CONTAINING 14.519 ACRES, MORE OR LESS, AND WITH BEARINGS BASED ON SAID "TRACT 1080 -- WASHBURN PARK".

TOGETHER WITH the benefits of an easement granted in that certain Agreement of Easement with Covenants and Restrictions Affecting Land between Wal-Mart Stores, Inc. and Washburn Enterprises, Inc. dated May 21, 1991, and recorded June 25, 1991, in M91, Page 12081.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co the 6th day
of Jan. A.D. 19 93 at 10:12 o'clock A.M., and duly recorded in Vol. M93
of Deeds on Page 202.

FEE \$55.00

Evelyn Biehn . County Clerk
By Deborah G. Mullenbarger