

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	
)	
Plaintiff,)	CIVIL NO. SX-12-CV-370
)	
v.)	ACTION FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF
)	
FATHI YUSUF and UNITED CORPORATION ,)	
)	
Defendants.)	JURY TRIAL DEMANDED
)	

PLAINTIFF’S RESPONSE TO UNITED’S MOTION TO WITHDRAW RENT

United Corporation (“United”) has moved for an order authorizing it to withdraw rent allegedly due from the Plaza Extra Supermarket at Sion Farm where United is the landlord. Before responding, several comments are in order.

First, in seeking the payment of rent, United **again** concedes that Plaza Extra Supermarket is separate legal entity from United.

Second, United cites no procedural basis that would allow this Court to grant the extraordinary relief of allowing United, the landlord, to withdraw funds from the bank account of its tenant, Plaza Extra Supermarket.

Third, it is undisputed that United is the landlord and Plaza Extra is the tenant at the Sion Farm location, for which rent is due since January of 2012. However, the rent issue, like most issues between these parties, is a disputed one that needs clarity so it can be resolved. Hamed would *welcome assistance* from this Court in resolving this issue if there is a procedural basis for doing so.

Finally, United’s suggestion that this Court has treated the Defendants any different than the Plaintiff is untrue (and insulting). Indeed, this Court has granted

several of United's motions, such as a motion to clarify the injunction and a motion to do discovery on the Plaintiff's motion for partial summary judgment.

With these comments in order, Hamed will address United's "rent motion."

I. United's Current Rent Claims

As this Court will recall, one of the exhibits at the preliminary injunction hearing (Plaintiff's Hearing Exhibit 8) was the payment of rent by Plaza Extra to United in February of 2012 for the time period from 2004 through 2011, which United attached to its current motion as Exhibit B. This rent was calculated using the terms of the lease for the St. Thomas Plaza Extra store (whose landlord is Tutu Park, Inc.), which calculation was a hearing exhibit as well (Plaintiff's Hearing Exhibit 6) and which United attached to its rent motion as Exhibit C.

As the Court will also recall, a group of monthly rent notices were also sent **by United to Hamed at the Plaza Extra Supermarket** after the February, 2012 payment, which were submitted as Plaintiff's Hearing Exhibit 7.

Plaintiff's Exhibits 6, 7 and 8 were introduced at the preliminary hearing to demonstrate that United considered Plaza Extra Supermarket as a separate entity and that it sent these notices **to Hamed as the partner in charge of rent for the Sion Farm store**. Even after the hearing, United continued to send these monthly rent notices that were routinely submitted to the Court to supplement the preliminary injunction record.¹

After this Court's ruling on April 25th finding that these rent notices aided the Court in finding that Hamed was likely to succeed on the merits of his claim

¹ See, e.g., March 18, 2013 "Notice Of Supplementation of the Preliminary Injunction Record."

that he has a partnership with Yusuf (Conclusions of Law ¶¶ 2-5 and 9), United continued to send monthly rental notices (from May through September) **addressed to Hamed at Plaza Extra Supermarkets. See Group Exhibit 1.** These notices continue to seek **\$250,000 per month in rent**, with an alleged total now due in excess of \$5.6 million since the payment was made in February of 2012. Not surprisingly, Hamed has repeatedly told United it does not agree with this astronomical rent assessment unilaterally made by United. **See Group Exhibit 2.** Indeed, it seems that United's excessive rent claims are designed to somehow provoke or intimidate Hamed.

Notwithstanding these notices, United's rent motion attaches a verified affidavit (Exhibit A) from Fathi Yusuf on behalf of United that states in ¶ 5 that the rent due for this time period is **\$58,791.38 per month**, or a total of \$1,234,618.98 due in total since that 2012 rent payment. Yusuf also admits in paragraph ¶ 5 that this rent is calculated using the St. Thomas lease terms (as he acknowledges in ¶ 6 was also used in calculating the rent payment made in February of 2012). However, there are several problems with this calculation.

First, and most importantly, while Yusuf states under oath that the rent due since January 2011 is \$58,791.38 per month, United then states in its rent motion in ¶ 9 on page 5 as follows:

On January 1, 2012, United Corporation gave notice of increased rent for Bay 1. Any increased rents Defendant United may be entitled to will be addressed in Defendant United's counterclaims. Defendant United does not waive none [sic] of its legal and equitable rights concerning its demand for increased rents. (Emphasis added).

Thus, while United has submitted an affidavit signed by Fathi Yusuf clearly stating that the amount of rent due is \$58,791.38 per month since January 2012, United then affirmatively states that it intends to assert a claim for \$250,000 per month in back rent as set forth in the rent notices it has sent each month for this same time period, supposedly to be raised in a counterclaim yet to be filed in this litigation. Thus, despite United's assertion that the amount due is not disputed, United contradicts itself by asserting that a much larger amount is really due for the same time period in this case, **thus making the amount due disputed.**²

Second, Hamed agrees that the terms of the St. Thomas lease govern the landlord-tenant issues for the Plaza Extra Supermarket in Sion Farm. To avoid continued misunderstandings about the landlord-tenant relationship, Hamed submitted a written agreement to United's counsel to clarify the lease terms. See **Exhibit 3** (relevant portion only). If United truly believes the rent for the Sion Farm store is the same as the rent for the St. Thomas Plaza Extra Supermarket, it need only sign that document, which would end this dispute (in writing).³

Third, and less important, the rent under the lease is based on the square footage of the Sion Farm store. United believes the square footage of the store

² It is hard to understand why United thinks it can assert such a claim since Yusuf's affidavit attached as Exhibit A to United's rent motion unequivocally states that the rent due is \$58,791.38 per month and is based upon the parties' agreement to use the terms of the St. Thomas lease to calculate the rent due.

³ If this Court were to find that the terms of the St. Thomas lease do not govern the terms of the Sion Farm lease, as asserted by United in ¶ 9 on page 5 of its motion (contrary to Yusuf's affidavit as well as Hamed's understanding), then Hamed reserves the right to argue that rent should only be what is a reasonable amount for such a store on St. Croix, which is far less than the rent being paid in St. Thomas.

(designated by United as Bay 1) is 69,280 sq. ft. (see ¶ 3 of Exhibit A to its motion), but Hamed has calculated this figure to be 67,498 sq. ft. See Exhibit 3 attached. This discrepancy also needs to be addressed, but this measurement can easily be resolved if the general terms of the lease are resolved.

In summary, the partnership Plaza Extra Supermarket does not dispute that it owes rent to United for the Sion Farm store for the time period since January, 2012. However, until the terms of the St. Thomas lease are deemed to be binding on the parties for the Sion Farm store, there is no basis for requiring rent to be paid using that calculation. Moreover, due to the contentious nature of the parties' relationship, the terms of that lease need to be formalized in writing. As such, aside from the fact that there is no procedural basis for granting the relief sought, United's own arguments contradicts its assertion that the amount of the rent due is "undisputed."

II. United's Claims for Past Rents

In addition to seeking rent for the time period after the last rent was paid in early 2012, United unexpectedly sent a demand for rent on May 17, 2013, for rent for other bays within the shopping center as well as for back rent going back into the 1990's. **See Exhibit 4.** In its current motion, United has dropped all claims except for back rent for Bay 1, seeking rent from January, 1994, through May, 2004 based upon an alleged agreement to pay \$5.55 a square foot, with a calculation of rent being due for this time period of \$3,999,679.73. However, United has failed to demonstrate that any such rent was ever agreed to. Indeed,

United does not explain why this alleged rent was not addressed when the rent for the 2004 to 2011 time period was agreed to and paid.

Moreover, the statute of limitations has run on this claim for back rent. In this regard, 5 V.I.C. §31(3) provides as follows:

- (3) *Six years* –
 - (A) An action upon a contract or liability, express or implied, excepting those mentioned in paragraph (1)(C) of this article.⁴

Thus, even if United had a procedural basis for raising this issue in this case, this claim for back rent would fail as (1) there is no factual basis to support the claim that such rent was ever agreed to and (2) even if the rent had been agreed to, the statute of limitations has now run on any claims for rent that was due in the 1994 to 2004 time period.⁵

III. Conclusion

For the reasons set forth herein, it is respectfully submitted that the motion to have this Court enter an order allowing United to remove funds from Plaza Extra's bank account for past rent should be denied for two separate reasons. First, the amount is still disputed.⁶ Second, it does not appear that there is a procedural basis for addressing this issue in this case, as United did not cite any

⁴ Paragraph 1(C) deals with sealed instruments, so it is not applicable here.

⁵ United tries to save this claim by arguing that it could not have previously raised this claim because the Government had seized its records in 2004, making it impossible to determine the months for when rent was or was not paid. Really?

⁶ Hamed has provided United with a simple, immediate solution to this problem, but United's greed in trying to get the rent to which the parties have agreed **plus** (1) increased rent from approximately \$58,000 to \$250,000 since 2012 and (2) back rent going back 10 to 20 years ago has prevented this issue from being resolved.

such authority and the Plaintiff is unaware of such a procedural rule. As noted, if the Court can assist, however, Hamed welcomes that assistance.

Dated: September 16, 2013

/s/ Joel H. Holt _____

Joel H. Holt, Esq.
2132 Company Street
Christiansted, St. Croix
USVI, 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8677

/s/ Carl J. Hartmann, III, Esq.

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L-6
Christiansted, St. Croix
U.S. Virgin Islands 00820
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2013, a true and accurate copy of the foregoing was served by hand on:

Nizar A. DeWood
The Dewood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820

And by mail and email on:

Joseph A. DiRuzzo, III
Christopher David, Esq.
Fuerst Littleman David & Joseph, PL
1001 Brickell Bay Drive, 32nd. Fl.
Miami, FL 33131

EXHIBIT 1

UNITED CORPORATION
4C & 4D Sion Farm
St Croix, USVI 00821
Phone (340) 778-6240

May 4, 2012

Mohammad Abdul Qader Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of May 1, 2012

Rent due for Plaza Extra – East, January 1, 2012 through April 1, 2012	Balance Due	\$850,000.00
ADD: 1% interest on outstanding Balance	Amount Due	<u>\$ 8,500.00</u>
		\$858,500.00
May 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due May 1, 2012	<u>\$1,108,500.00</u>

Please forward a check immediately.

Sincerely,



Najeh Yusuf for Nathi Yusuf

CC: Wally Hamed



UNITED CORPORATION
4C & 4D Sion Farm
St. Croix, USVI 00821
Phone (340) 778-6240

June 1, 2013

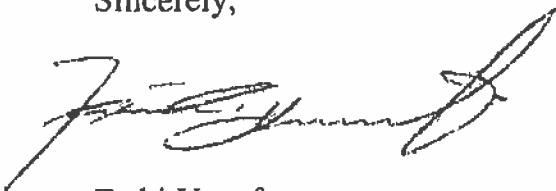
Mohammad Abdul Qader Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of June 1, 2013

Rent due for Plaza Extra – East January 1, 2012 through May 31, 2013	Balance Due	\$4,419,711.31
1% interest on outstanding Balance		\$ <u>44,197.11</u>
	Amount Due	\$4,463,908.42
June 2013 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due June 1, 2013	<u>\$4,713,908.42</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION
4C & 4D Sion Farm
St. Croix, USVI 00821
Phone (340) 778-6240

July 1, 2013

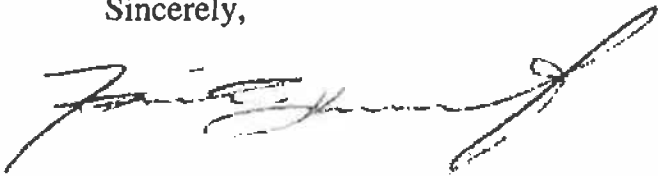
Mohammad Abdul Qader Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of July 1, 2013

Rent due for Plaza Extra – East January 1, 2012 through June 30, 2013	Balance Due	\$4,713,908.42
1% interest on outstanding Balance		\$ <u>47,139.08</u>
	Amount Due	\$4,761,047.50
July 2013 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due July 1, 2013	<u>\$5,011,047.50</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

UNITED CORPORATION
4C & 4D Sion Farm
St. Croix, USVI 00821
Phone (340) 778-6240

August 1, 2013

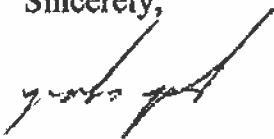
Mohammad Abdul Qader Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of August 1, 2013

Rent due for Plaza Extra – East January 1, 2012 through July 31, 2013	Balance Due	\$5,011,047.50
1% interest on outstanding Balance	Amount Due	\$ 50,110.48
		\$5,061,157.98
August 2013 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due August 1, 2013	<u>\$5,311,157.98</u>

Please forward a check immediately.

Sincerely,



Maher Yusuf

UNITED CORPORATION
4C & 4D Sion Farm
St. Croix, USVI 00821
Phone (340) 778-6240

August 1, 2013

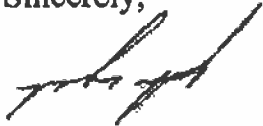
Mohammad Abdul Qader Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

Statement of Rent due for Plaza Extra – East as of September 1, 2013

Rent due for Plaza Extra – East January 1, 2012 through August 31, 2013	Balance Due	\$5,311,157.98
1% interest on outstanding Balance		\$ <u>53,111.58</u>
	Amount Due	\$5,364,269.56
September 2013 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due September 1, 2013	<u>\$5,614,269.56</u>

Please forward a check immediately.

Sincerely,



Maher Yusuf

EXHIBIT 2

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com


May 11, 2012

Fathi Yusuf
United Corporation
4C & 4D Slon Farm
St. Croix, USVI 00821

Dear Mr. Yusuf:

Wally Hamed received the Statement of Rent allegedly due for Plaza Extra dated May 4, 2012, signed by Najeh Yusuf on your behalf, a copy of which is attached. He has requested that I respond to it on behalf of his family. Mr. Hamed finds it difficult to believe that you think the store has agreed to pay such rent, as it has not. Indeed, it would be a dereliction of the manager's interest to ever agree to such rent. Your efforts to act unilaterally are not in the interest of the business or its owners, much less its creditors, customers and the community it serves. Such actions will not be recognized as valid. Please have your lawyer contact me if you have any questions.

Cordially,


Joel H. Holt
JHH/jf

cc: Nizar Dewood



Mohammad Hamed
Plaza Extra Supermarket
4-C & 4-D Estate Sion Farm
Christiansted, VI 00821

November 6, 2012

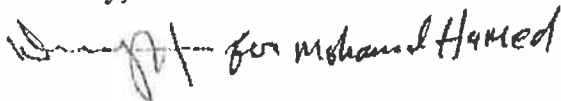
Email/Hand deliver

Fathi Yusuf
United Corporation
4C & 4D Sion Farm
St. Croix, USVI 00821

Dear, Mr. Yusuf:

I continue to receive the rent notes for the Plaza Extra Supermarket store at Sion Farm. I previously had my attorney write to you telling you that Plaza Extra Supermarket has never agreed to the rent you are now trying to charge us. A copy of that letter is attached. This letter is being sent to remind you that the rent you are trying to charge is outrageous, has not been agreed to and will never be agreed to.

Cordially,

 for Mohammad Hamed

Mohammad Hamed

cc: Joel Holt

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com


May 11, 2012

Fathi Yusuf
United Corporation
4C & 4D Slon Farm
St. Croix, USVI 00821

Dear Mr. Yusuf:

Wally Hamed received the Statement of Rent allegedly due for Plaza Extra dated May 4, 2012, signed by Najeh Yusuf on your behalf, a copy of which is attached. He has requested that I respond to it on behalf of his family. Mr. Hamed finds it difficult to believe that you think the store has agreed to pay such rent, as it has not. Indeed, it would be a dereliction of the manager's interest to ever agree to such rent. Your efforts to act unilaterally are not in the interest of the business or its owners, much less its creditors, customers and the community it serves. Such actions will not be recognized as valid. Please have your lawyer contact me if you have any questions.

Cordially,


Joel H. Holt
JHH/jf

cc: Nizar Dewood

EXHIBIT 3

From: Joel Holt <holtvi@aol.com>

To: dewoodlaw <dewoodlaw@gmail.com>

Cc: jdiruzzo <jdiruzzo@fuerstlaw.com>; cdavid <cdavid@fuerstlaw.com>

Bcc: wallyhstx <wallyhstx@yahoo.com>; carl <carl@carlhartmann.com>

Subject: rent/Becksted

Date: Tue, Sep 3, 2013 8:11 am

Attachments: LEASE_AGREEMENT_Plaza_1.docx (100K), ESCROW_AGRGEMENT_Hamed_Yusuf.doc (35K)

Nizar-as we discussed last week, our clients need written agreements going forward so there is clarity in the relationship. The attached 2 documents (which are independent of one another) address the funds currently held by Carl Beckstedt as well as the rent issue you have repeatedly asked about. If these can be signed, we can move past these issues.

Joel H. Holt, Esq.
2132 Company Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8709



LEASE AGREEMENT

Comes now United Corporation ("Landlord") and Fathi Yusuf and Mohammad Hamed d/b/a Plaza Extra Supermarket ("Tenant") and hereby agree to that the terms of the attached lease in effect for the St. Thomas Plaza Extra Supermarket are applicable in full to the Plaza Extra Supermarket at Sion Farm, St. Croix effective January 1, 2012, except as follows:

1. The Demised Premises is the current location of the Plaza Extra Sion Farm Supermarket in the United Shopping Center, Sion Farm, St. Croix.
2. The square footage in §2.03 (b) is 67,498 sq. ft.
3. All other terms are the same as those in Exhibit A.

Dated:

LANDLORD:

United Corporation, by its President

Attested By:

Secretary, United Corporation

TENANT:

Dated:

Fathi Yusuf

Dated:

Mohammad Hamed,

May 30, 1991

LEASE

between

TUTU PARK LIMITED

LANDLORD

and

UNITED CORPORATION d/b/a PLAZA EXTRA

TENANT



FY126919

TABLE OF CONTENTS

<u>Article</u>	<u>Title</u>	<u>Page</u>
Preliminary Statement	Definition of Shopping Center, Site Plan, Store, Leased Premises	4
1	Demise of Premises; Term of Lease; Renewal Option; Plans and Construction; Definition of Improvements; Definition of Common Areas; Definition of First Partial Lease Year, Preliminary Term; Lease, Demised Term Obtaining Permits; Termination Right	4
2	Fixed Rent; Percentage Rent; Additional Rent; Definition of Rent; Commencement Date; Net Lease Clause; Definition of Lease Interest Rate	10
3	Taxes (including Real Estate Taxes), Expenses and Other Charges	15
4	Use of Premises; Restrictions on Use; Exclusive Use; and Compliance, etc.	19
5	Public Utility Charges	21
6	Indemnification	21
7	Maintenance and Repairs; Right of Inspection; Common Area Maintenance; Common Area Expense; Surrender at End of Term	22
8	Mechanics' Liens	29
9	Alterations	30
10	Insurance and Damage	31
11	Eminent Domain	35
12	Insolvency	37
13	Conditional Limitation - Default Provisions	38
14	Cumulative Remedies - Waiver - Oral Change	40
15	Quiet Enjoyment	42

<u>Article</u>	<u>Title</u>	<u>Page</u>
16	Right to Perform Other's Covenants	42
17	Assignment and Subletting	43
18	Excavations on Adjoining Property	45
19	Broker	45
20	Estoppel Certificate by Parties	45
21	Signs	46
22	Notices	46
23	Invalidity of Particular Provisions	47
24	Arbitration	47
25	Covenants to Bind and Benefit Respective Parties	48
26	Landlord's Mortgages, Tenant's Mortgages	48
27	Captions and Headings	49
28	Recording	49
29	Relationship of Parties	50
30	Recognition Agreements	50
31	Force Majeure	50
32	Asbestos	51
	Signatures	51
	Guarantee	53
	Exhibit A (description)	
	Exhibit B (site plan)	
	Exhibit C (encumbrances)	
	Schedule A (specifications & plans)	

FY126921

relieved of any and all liability under this Lease accruing thereafter.

SECTION 1.06. Landlord agrees to use best efforts, diligently and in good faith to pursue the obtaining of all Permits while this Lease is in effect. Landlord agrees to give Tenant written notice promptly each time as and when any Permits are obtained. When Landlord has informed Tenant in writing that all Permits have been obtained, Tenant's Termination Right, unless effectively exercised prior thereto in accordance with SECTION 1.05, shall then be null and void, and Landlord agrees to construct the Store and the Common Area Improvements in accordance with the Plans, and Landlord agrees that, in any and all events, construction of the store shall be completed no later than 10-31-93.

ARTICLE TWO

Fixed Rent; Percentage Rent; Additional Rent

SECTION 2.01. The expression "Rent Commencement Date" shall mean the date which is the earlier of either (i) ninety (90) days after Landlord delivers possession of the Leased Premises to Tenant, or (ii) the earlier date that any part of the Store is first opened for business with the public.

From and after the Rent Commencement Date, Tenant shall pay to Landlord the sums set forth in SECTION 2.03 for Fixed Rent in addition to all the other sums required in this Lease to be paid as rent or additional rent; all without prior demand therefor. The term "Rent" shall be deemed to include the Fixed Rent and Percentage Rent (as hereinafter defined) and at all times shall include all additional sums ("Additional Rent") payable by Tenant pursuant to this Lease. Percentage Rent and Additional Rent shall constitute Rent payable hereunder with the same effect as if it were part of the Fixed Rent. In the event the Rent Commencement Date shall not be the first day of the calendar month, then such Rent for such period be prorated for the partial month for the actual number of days involved.

SECTION 2.02. All amounts payable by the Tenant to the Landlord under the terms of this Lease, shall be paid, at the office of the Landlord set forth in this Lease, or at such other place as the Landlord shall from time to time, on at lease thirty (30) days prior notice to Tenant, designate to the Tenant, in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment. Any overdue payments shall bear interest at the Lease Interest Rate set forth in Article 2.05.

FY126928

10

6-2-91

10-2'

SECTION 2.03. (a) During the Demised Term, Tenant shall pay to Landlord fixed rent ("Fixed Rent") in equal monthly installments in advance at the following minimum annual rate(s), except as the same may be increased, modified, abated or diminished only as provided in this Lease:

(i) \$364,312.50 per annum during each of the Lease Years during the Initial Term;

(ii) \$819,703 per annum during each of the Lease Years of the first Renewal Period (if exercised by Tenant);

(iii) \$910,780 per annum during each of the Lease Years of the second Renewal Period (if exercised by Tenant); and

(iv) \$1,001,858 per annum during each of the Lease Years of the third Renewal Period (if exercised by Tenant);

Rent may be reviewed every renewal period referred to above at the option of Landlord and reset to Market Rent (rent based on fair market value in St. Thomas), which shall be determined by Landlord, however Tenant is hereby given the right to a review and redetermination of Landlord's Market Rent determination pursuant to the following provisions.

All claims, disputes and other matters in question arising out of, or relating to, the establishment by Landlord of Market Rent shall be decided by arbitration in accordance with the Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law.

Notice of the demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claims, dispute or other matter in question would be barred by the applicable statute of limitations.

The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

(b) The annual Fixed Rent set forth in Section 2.03 (a) above has been based on the Leased Premises having a Floor Area of 50,250 ft. In this regard if Tenant builds

FY126929

its own mezzanine, then no additional floor rent will be due
Landlord. ~~GAM charges related thereto will still be due~~
~~and payable by Tenant.~~ Said rental amounts shall be
proportionately increased or decreased, as the case may be,
based on the actual Floor Area contained in the Leased
Premises as determined by Landlord's architect. The
measurement of Floor Area shall be made from the outside of
exterior walls and the centerlines of party and demising
walls and shall exclude all exterior and not roofed loading
docks, canopies extending from the exterior, exterior
entranceways (unless any of such areas are used for sales
in which event they shall be includable in the Floor Area).
In the event Tenant disputes a measurement, the matter shall
be submitted to arbitration in accordance with Article 24
hereof and the parties agree that, pending resolution of
such dispute, Tenant will pay Fixed Rent and all items of
additional rent hereunder at the rates set forth in this
article. When Landlord and Tenant agree on the Floor Area,
or when such area is decided by arbitration as aforesaid,
the parties will enter into an agreement setting forth such
areas and the Fixed Rent due hereunder.

File
6-2-91
10-29-91

SECTION 2.04. For each Lease Year that Tenant operates
the Demised Premises as a supermarket, Tenant shall pay to
Landlord a sum ("Percentage Rent") equal to the amount of
(1.5%) of Gross Sales (as hereinafter defined) attributable
to the Store during each Lease Year in excess of:

- (i) \$25,000,000 during each of the Lease Years of
the Initial Term of this Lease;
- (ii) \$42,000,000 during each Lease Year of the
first Renewal Period of this Lease;
- (iii) \$50,000,000 during each Lease Year of the
second Renewal Period of this Lease; and
- (iv) \$60,000,000 during each Lease Year of the
third Renewal Period of this Lease.

No Percentage Rent will be due on Gross Sales under
\$25,000,000.00. The Gross Sales Volume numbers set forth
above for renewal periods may be renegotiated at election of
Landlord to set market rents for renewal periods. The Gross
Sales Volume numbers set forth herein shall be
proportionately reduced for any Partial Lease Year.

Percentage Rent shall first become due and payable in
each lease year on the Thirtieth (30th) day of the month
immediately following the month during which said Gross
Sales exceed the Percentage Break Point for such lease year
and thereafter shall be paid monthly on all additional Gross
Sales made during the remainder of such lease year.

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As used in this Lease, "Gross Sales" shall be the total prices charged for all sales or services resulting from business conducted in, on, or from the Demised Premises, whether for cash or otherwise (including sales or services, if any, made by any sublessee, licensee or concessionaire of Tenant) after deducting therefrom the following:

(a) The amount of refunds, credits and allowances to customers for merchandise returned or exchanged;

(b) Unpaid balances on credit sales, or uncollected checks written off as bad debts, provided that if subsequently recovered they shall be added to Gross Sales in the Lease Year in which received;

(c) Federal, State and local taxes imposed directly on sales and collected from customers, provided that the amount of such taxes is separately recorded;

(d) Transfers of merchandise to other stores of Tenant or affiliated units of Tenant not in connection with sales made at or from the Demised Premises;

(e) Service and interest charges and penalties for time payment accounts and charge accounts;

(f) Non-retail sales or bulk sales to the trade in an amount not to exceed one percent (1%) of Gross Sales for that Lease Year;

(g) The gross receipts of the sale of tickets for a governmental sponsored lottery, whether local, state, regional or national, provided, however, Tenant's net receipts from such sales shall be includable in Gross Sales; and

(h) Receipts not retained by Tenant from bottles and other refundable deposits and public telephones inside the Leased Premises.

Layaway sales, if any, shall be added to Gross Sales as and when payments are received from the customer.

Tenant shall keep records and accounts of its Gross Sales in accordance with generally accepted accounting practices. The aforementioned records and accounts shall include records and accounts of subtenants, concessionaires and licensees to the extent that the same are in the possession or control of Tenant, provided, however, that Tenant shall use its best efforts to obtain such records from its subtenants, concessionaires and licensees. Tenant shall permit Landlord to obtain a direct electronic, concurrent, transaction report from each and every sales

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13

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reporting or registering device in Tenants operation which will furnish Landlord with a current and accurate report of Tenant's gross sales as they occur. In this regard Tenant shall direct the firm or company installing or servicing Tenant's point of sale equipment, to hook up said data transmission line and to periodically certify that said line was functioning in a manner insuring that Landlord was receiving accurate sales information. The cost of installing and certifying this data line shall be at Landlord's expense. Tenant will furnish to Landlord within sixty (60) days after the expiration of each Lease Year (or any Partial Lease Year), a statement certified by an independent C.P.A. or an officer of Tenant setting forth the Gross Sales for the preceding Lease Year in reasonable detail, and any Percentage Rent which shall be shown to be due by said statement shall be paid concurrently therewith.

Landlord shall have the right, from time to time, but not more often than once a year nor later than two (2) years after the end of the Lease Year (or Partial Lease Year) in question, to examine Tenant's records and accounts relating to Gross Sales including exceptions and deductions therefrom. Such examination shall be conducted during reasonable business hours at Tenant's principal records office by an independent certified public accountant or an agent or employee of Landlord on at least ten (10) business days' prior written notice to Tenant. If any such examination discloses that any additional Percentage Rent is payable to Landlord, the additional amount shall be paid to Landlord on demand with interest on the amount due and owing at two percent (2%) above the prime commercial lending rate of Chemical Bank for unsecured short-term loans to its most creditworthy customers (the "Lease Interest Rate"). If Chemical Bank shall cease to make such loans, the largest commercial bank located in the City of New York (in terms of assets) making such loans shall be substituted for Chemical Bank in determining the Lease Interest Rate as aforesaid. If the examination discloses that Tenant made an overpayment, it shall be refunded to Tenant on demand. If such examination shall disclose that Gross Sales for any Lease Year were understated by Tenant in excess of two percent (2%) of the Gross Sales, Tenant shall reimburse Landlord for the reasonable cost of the examination. Tenant has not and does not make any representation or warranty as to the amount of Gross Sales which are anticipated from the Leased Premises or as to the manner of the sale operation to be conducted therein. The computation of Percentage Rent shall be made separately with respect to each Lease Year (and any Partial Lease Year), it being understood and agreed that neither the Gross Sales in any Lease Year, nor the payment of Percentage Rent, if any, for any Lease Year shall have any bearing on or connection with the sales or payments for any other Lease Year.

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During any period that Tenant discontinues the operation of a Super Market in 15% or more of the Leased Premises, Landlord shall have the following options: (i) adjusting the percentage rent rate and the gross sales figures set forth above to a calculation more suitable in the shopping center industry for the type of business then being conducted; or (ii) if no percentage rent would be appropriate for the business then being conducted in the Leased Premises, or if no business is being conducted in the Leased Premises, then increasing the Fixed Rent based on the fair Market rental value of the Premises at the time.

SECTION 2.05. CPI Increase Formula, as used in this Lease, shall refer to the following determination: using the Price Index applicable on the first day of the month in which this Lease was executed as the denominator and the index number for the first month of each Lease Year or other period being adjusted thereafter as the numerator, multiply said resulting fraction times the Fixed Rent.

Price Index. Price Index, as used in this Lease, shall mean the "All Items" portion of the "Consumer Price Index for All Urban Consumers: U.S. City Average" (1982-84 = 100), as compiled by the Bureau of Labor Statistics, United States Department of Labor. If such Price Index should in the future be compiled on a different basis, appropriate adjustments will be made for purposes of computations. If the United States Department of Labor no longer compiles and publishes such Price Index, any comparable index published by any other branch or department of the federal government shall be used for the purpose of computing the adjustments herein provided for, and if no such index is compiled and published by any branch or department of the federal government, the statistics reflecting cost of living changes, as compiled by any institution, organization or individual, generally recognized as an authority by financial and insurance institutions shall be used as a basis for such adjustments.

ARTICLE THREE

Taxes, Expenses and Other Charges

SECTION 3.01. From and after the Rent Commencement Date, Tenant shall pay the "Real Estate Taxes" (as defined in this SECTION) attributable to the Leased Premises (regardless when the same became a lien), subject, however, to the provisions of SECTION 3.06 hereof.

For the purposes of this Lease, the expression "Real Estate Taxes" shall mean: all real estate taxes and assessments (including without limitation ad valorem taxes and general, special and betterment assessments); and all water and sewer charges which constitute a lien on the

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15

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6-2-91 10-29-91
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necessary to prevent exposure of the Leased Premises, Tenant and Tenant's employees, invitees, agents and representatives to asbestos during such removal and otherwise. Notwithstanding Landlord's obligations under this Section, in the event it is disclosed that the Shopping Center, the Leased Premises or any such walls, ceilings, beams or ducts contain or are exposed to asbestos, and same was not disclosed to Tenant in this Lease, the Tenant may, in its sole discretion take immediate steps to remove such asbestos or prevent such asbestos from contaminating the Leased Premises, Tenant and Tenant's employees, invitees, agents and representatives, all at Landlord's sole cost and expense, if Landlord fails to remove such asbestos promptly and in a safe manner. Nothing contained in this Section shall or shall be deemed to limit Tenant's legal and equitable remedies.

SECTION 32.02. In addition to the foregoing, Landlord shall bear all costs and expenses, including attorneys' fees, of complying with the laws, rules, regulations, ordinances, policies and legal requirements pertaining to asbestos.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

ATTEST:

TUTU PARK LIMITED
By: P.I.D., Inc.,
General Partner

W. J. [Signature]
Secretary

By: *[Signature]*
(seal)
UNITED CORPORATION d/b/a
PLAZA EXTRA

[Signature]
Secretary

By: *[Signature]*
(seal)

RP

~~TERRITORY~~
~~STATE OF THE VIRGIN ISLANDS,~~
~~COUNTY OF S. CROIX~~
District

) ss.

Personally appeared before me, the undersigned, a Notary Public, in and for said County and State, *[Signature]* and *[Signature]*, known to me to be the Secretary, respectively, of *[Signature]*, the President and *[Signature]*, the

corporation which executed the foregoing document, who acknowledged that they did sign and seal the foregoing document for and on behalf of said corporation, being thereunto duly authorized by its Board of Directors; that the same is their free act and deed as such officers and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at St. Croix this 29 day of October, 1994.

My commission expires:

April 15, 1993

[Signature]
Notary Public

~~TELETYPE~~
STATE OF VIRGINIA ISLANDS
COUNTY OF ST. CROIX) ss.

Personally appeared before me, the undersigned, a Notary Public, in and for said County and State, John F. Foster and William M. Mahaffey known to me to be the Secretary, respectively, of P.P.D. INC., the corporation which executed the foregoing document, who acknowledged that they did sign and seal the foregoing document for and on behalf of said corporation, being thereunto duly authorized by its Board of Directors; that the same is their free act and deed as such officers and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at St. Croix this 29 day of October, 1994.

My commission expires:

April 12, 1993

[Signature]
Notary Public

GUARANTEE

IN CONSIDERATION of the execution of the within Lease to the within named Tenant, UNITED CORPORATION d/b/a PLAZA EXTRA, the receipt of which is hereby acknowledged, the undersigned does hereby covenant and agree to and with said Landlord, TUTU PARK LIMITED, its successors and assigns, that if at any time default shall be made by said Tenant, its successors or assigns, in the payment of rent or other charges, or in the performance of the covenants and

Wm

EXHIBIT 4

DEWOOD LAW FIRM

2006 Eastern Suburb Suite 101
Christiansted, V.I. 00820
Admitted: NY, NJ, MD, & VI
T: 340.773.3444
F: 888.398.8428
info@dewood-law.com

BY: FIRST CLASS MAIL & EMAIL ONLY

May 17, 2013

Joel Holt, Esq.
2132 Company Street
Christiansted, VI 00820

Re: Rent Due – Plaza Extra – East Operations

Dear Attorney Holt,

On behalf of United Corporation, the following is a notice of the value of rents due as follows:

Rent due for Plaza Extra – East

Bay No. 1 January 1, 1994 through April 4, 2004
69,680 SQ. FT. at \$5.55 10 years and 95 days Balance Due \$3,967,894.19

Bay No. 5 May 1, 1994 through October 31, 2001
3,125 SQ. FT. at \$12.00 6 years and 184 days Balance Due \$243,904.00

Bay No. 8 April 1, 2008 through May 30, 2013
6,250 SQ. FT. at \$12.00 5 years and one month Balance Due \$381,250.00

Total Amount Due **\$4,593,048.19**

These amounts are undisputed, and have been outstanding for a very long time - before 2012. This amount does not reflect the rent increase requested and noticed to Mohammed Hamed since January 1, 2012. We reserve our client's right for the additional rents due and owing based on the rent increase after January 1, 2012. Kindly review the amount with your client, and advise when a check can be issued. Thank you.

Sincerely,

Nizar A. De Wood, Esq.

