

**Memorandum in Support of Motion of Plaintiff  
216 Jamaica Avenue LLC for Summary Judgment**

**Exhibit B**

THIS ASSIGNMENT AND ASSUMPTION is made this 21 day of May, 1982, by and between THE HALLE BROTHERS COMPANY, a Delaware corporation (herein "Assignor"), and S & R PLAYHOUSE REALTY COMPANY, an Ohio General Partnership (herein "Assignee").

WITNESSETH:

WHEREAS, by Indenture of Lease dated March 15, 1912, recorded in Volume 52, page 383 of the Records of Leases for Cuyahoga County, Ohio, as modified by subsequent Agreement dated October 17, 1912, recorded in Volume 56, page 355 of said Records of Leases, The Realty Investment Company, as lessor, leased to Salmon P. Halle and Samuel H. Halle, as lessees the property (herein the "Premises") described in Exhibit A attached hereto (said lease as so modified being herein referred to as the "Lease"); and

WHEREAS, Article VI of the Lease contains the following clause pertaining to assignments:

"The lessees further covenant and agree not to assign or transfer this lease at any time without the consent of the lessor in writing, unless the rents and all charges, assessments, liens and penalties then payable and covenants thereof at that time required to be performed have been paid, satisfied and performed; and unless the assignee shall expressly assume the lessees' engagements hereunder; and unless the lessees shall have placed in the hands of the lessor for inspection during a period of ten (10) days a legal and sufficient instrument of assignment and acceptance; and unless by instrument recorded at or about the time of delivery in the proper recorder's office;..."

and

WHEREAS, by transfers and assignments, Assignor has become and is now the lessee and owner of the leasehold estate under the Lease; and

WHEREAS, Assignor desires to assign all of its right, title, and interest in and to the Lease and as lessee and owner of the leasehold estate under the Lease to Assignee, and Assignee desires to accept such assignment;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements herein contained, the parties hereto agree as follows:

1. In consideration of Ten Dollars (\$10.00) and other good and valuable consideration the receipt of which is hereby acknowledged, Assignor does hereby sell, assign, transfer and convey to Assignee, its successors and assigns (a) all of Assignee's

*Halle Bros  
to S & R Playhouse Realty*

PARTNERSHIP FILED 5-21-82

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COUNTY RECORDER

CUYAHOGA COUNTY

BY Christina Ward DEPUTY

right, title, and interest in and to the Lease and as lessee and owner of the leasehold estate thereunder, and (b) all of Assignor's right, title, and interest in and to all buildings and improvements located on the Premises, together with all appurtenances thereunto belonging, and all property of whatsoever kind located therein or thereon; but subject, nevertheless, to the payment of the rents and the observance of all and singular the covenants, conditions, terms, and agreements in said Lease contained.

2. Assignor hereby covenants and agrees with Assignee that at and until the execution and delivery of this assignment, Assignor is well seized of the Lease and the leasehold estates thereby created and has good right to sell, assign, and transfer the same in manner and form as above written; the said Lease and leasehold estate are free and clear from all liens, claims, and encumbrances whatsoever, except taxes and assessments not yet due and payable; and Assignor warrants and defends said Lease and leasehold estate to Assignee, its successors and assigns, against all claims and demands whatsoever, except as above stated.

3. Assignee hereby accepts the foregoing assignment and transfer of said Lease, the leasehold estate thereunder, and said other property, and hereby assumes and agrees to perform each and all of the covenants, obligations, and engagements of the Assignor and lessee under said Lease and all other terms and provisions thereof on the part of lessee to be observed and performed after the date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first above written.

Signed and acknowledged in the presence of:

Spencer Smith  
Leo Stenman

Perry Terenban  
Debbie J. Jacob

ASSIGNOR:

THE HALLE BROTHERS COMPANY

By: Norm Schellens, Pres

ASSIGNEE:

S & R PLAYHOUSE REALTY COMPANY

By: Paul Lipman  
PAUL LIPMAN, Authorized Representative

STATE OF OHIO )  
 ) SS.  
COUNTY OF FRANKLIN )

The foregoing instrument was acknowledged before me this  
17 day of May, 1982, by Ernie Schatterson  
the President of THE GALLE BROTHERS COMPANY,  
a Delaware Corporation on behalf of said Corporation.

Carolyn J. Smith  
Notary Public

STATE OF OHIO )  
 ) SS.  
COUNTY OF CUYAHOGA )  
COUNTY OF FRANKLIN )

CAROLYN J. SMITH  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES APRIL 25, 1983

The foregoing instrument was acknowledged before me this  
21 day of May, 1982, by PAUL LIPMAN  
Authorized Representative, of S & R PLAYHOUSE REALTY COMPANY,  
an Ohio General Partnership on behalf of said partnership.

Perry Tenenbaum  
Notary Public

PERRY TENENBAUM, Attorney At Law  
Notary Public - State of Ohio  
My commission has no expiration date  
Section 147.03 R. C.

This instrument was prepared by: Leo Sternlicht  
250 East Broad Street  
14th Floor  
Columbus, Ohio 43215

EXHIBIT A

VOL 555pc 404

To Assignment and Assumption By  
and Between The Halle Brothers  
Company and S & R Playhouse Realty Company

Situated in the City of Cleveland, County of Cuyahoga  
and State of Ohio, to-wit:

Known as that part of two-acre lots numbers 157 and 158 which is bounded and described as follows, to-wit: Beginning at the intersection of the easterly line of Short Alley with the southerly line of Euclid Avenue; thence easterly along the southerly line of Euclid Avenue one hundred (100) feet to the westerly line of property of Alfred A. Pope; thence southerly, parallel with the easterly line of said Short Alley and along the westerly line of said Pope's property to a point in the northerly line of Huron Road (formerly Huron Street), which point is one hundred (100) feet westerly measured along said northerly line of Huron Road from the intersection of the northerly line of Huron Road and the easterly line of Short Alley; thence westerly along the northerly line of Huron Road forty-eight (48) feet to the westerly line of premises conveyed by Joel W. Tyler and wife to J. M. Henderson by deed recorded in Volume 313, page 37, of Cuyahoga County Records of Deeds; thence northerly parallel with the easterly line of Short Alley eighty (80) feet and along the easterly line of the premises conveyed to the said Henderson as aforesaid to the northeasterly corner thereof; thence westerly along the northerly line of the premises conveyed to the said Henderson as aforesaid 52.24 feet to a point in the easterly line of Short Alley, which point is eighty-five (85) feet northerly, measured along said line of said Alley, from the northerly line of Huron Road; thence northerly along the easterly line of Short Alley to the place of beginning.

Being all the premises [formerly] owned by The Realty Investment Company situated between Euclid Avenue on the north, Short Alley on the west, Huron Road on the south, and said premises of Alfred A. Pope on the east.

The foregoing premises are also described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as that part of two acre lots numbers 157 and 158 which is bounded and described as follows, to wit:

Beginning at the intersection of the Easterly Line of the East 12th Place (formerly Cross Alley) with the Southerly line of Euclid Avenue; thence Easterly along the Southerly line of Euclid Avenue, one hundred (100) feet to the Westerly line of property formerly owned by Alfred A. Pope; thence Southerly parallel with the Easterly line of said East 12th Place, and along the Westerly line of said property formerly owned by the said Alfred A. Pope, to a point in the Northerly line of Huron Road (formerly Huron Street), which point is one hundred (100)

feet Easterly measured along said Northerly line of Huron Road from the intersection of the Northerly line of Huron Road with the Easterly line of East 12th Place; thence Westerly along the Northerly line of Huron Road, forty-eight (48) feet to the Easterly line of premises conveyed by Joel W. Tyler and wife to J. M. Henderson by deed recorded in Volume 313, page 37, of Cuyahoga County Records of Deeds; thence Northerly parallel with the Easterly line of East 12th Place, eighty (80) feet and along the Easterly line of the premises conveyed to the said Henderson, as aforesaid, to the Northeastly corner thereof; thence Westerly along the Northerly line of the premises conveyed to the said Henderson, as aforesaid, fifty-two and twenty-four one-Hundredths (52.24) feet to a point in the Easterly line of East 12th Place which point is eighty-five (85) feet Northerly, measured along said line of said East 12th Place from the Northerly line of Huron Road; thence Northerly along the Easterly line of East 12th Place to the place of beginning, and being all of the premises [formerly] owned by The Realty Investment Company situated between Euclid Avenue on the North, East 12th Place on the West, Huron Road on the South and said premises formerly owned by the said Alfred A. Pope on the East, be the same more or less, but subject to all legal highways.