**Internal Revenue Service**

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**Legend:**

Taxpayer =

Date 1 =

Property =

Event =

Holding Partnership =

Property Partnership =

Signs L.P. =

Events L.P. =

Year 1 =

Year 2 =

Date 2 =

Date 3 =

Tenant =

Date 4 =

Date 5 =

a =

b =

Corporation =

Dear :

This is in reply to a letter dated June 10, 2011, in which Taxpayer requests certain rulings in connection with its intent to elect to be taxed as a real estate investment trust ("REIT") under §§ 856-860 of the Internal Revenue Code of 1986, as amended (the "Code").

**Facts:**

Taxpayer is a limited liability company that intends to adopt the calendar year as its tax year and the accrual method of accounting. Taxpayer intends to make an election to be treated as a REIT pursuant to § 856 effective for its initial taxable year ending Date 1.

Taxpayer intends to invest primarily in office and retail real estate properties, either directly or through one or more entities that are treated as partnerships or disregarded entities for federal income tax purposes. Taxpayer will acquire an interest in the partnership that owns the land and building located at Property. Property is at the center of Event. Property generates income from three sources: 1) Property leases interior space to traditional tenants, 2) Property leases space on steel structures on the façade of the Property to unrelated companies, and 3) Property sells sponsorship and media rights in connection with the Event.

Taxpayer will acquire a partnership interest in Holding Partnership. Holding Partnership owns a 99.9 percent limited partnership interest in three partnerships: the Property Partnership, Signs L.P., and Events L.P. Property Partnership owns the Property. Holding Partnership will have one limited partner (referred to as Investor X). Investor X is unaffiliated with Taxpayer. Taxpayer will form a subsidiary corporation and Taxpayer and subsidiary will jointly elect to treat the corporation as a taxable REIT subsidiary under § 856(l) ("TRS"). TRS and Investor X will acquire all the limited partnership interests in Events L.P. from Holding Partnership.

Property Partnership and Signs L.P. are parties to a license agreement dated as of Date 2, and an amendment to that license agreement dated Date 3 (collectively, the

"Master License Agreement"). Pursuant to the Master License Agreement, in exchange for specified fees (the "Master License Fees"), Property Partnership granted to Signs L.P., among other things, the exclusive right to use existing sign superstructures located on the façade and exterior of Property (the "Use Rights") (the existing and any new sign superstructures are referred to herein as the "Sign Superstructures"). Property Partnership owns the Sign Superstructures that were constructed prior to Year 2, and it has granted to Signs L.P. the Use Rights with respect to those Sign Superstructures. Signs L.P. owns the Sign Superstructures that were constructed after Year 1.

The Sublicense Agreements with Advertisers

Pursuant to individual agreements referred to herein as "Sublicense Agreements", Signs L.P. has granted various companies ("Advertisers") the right to place advertising signage ("Signs") on the Sign Superstructures in exchange for fees ("Sublicense Fees"). Advertisers using electrically powered light-emitting diode ("LED") video screen Signs also have the right under the Sublicense Agreements to use a small space inside the Property to house computer and technical equipment, which is owned and installed by Advertisers at their expense.

Events L.P. generates revenue by selling sponsorships, media rights, merchandise rights and other similar rights in connection with the Event to various companies ("Sponsors") in exchange for fees ("Sponsor Fees"). Because Taxpayer does not believe Sponsor Fees qualify as gross income described in §§ 856(c)(2) or 856(c)(3), its partnership interest in Events L.P. will be held by TRS.

The Traditional Leases to Tenants

Property has two traditional office tenants. Pursuant to a lease between Property Partnership and Tenant dated Date 4 ("Lease 1"), in exchange for rent, Property Partnership: 1) leases to Tenant the interior space of Property, and 2) grants Tenant the right to place Signs on certain Sign Superstructures. Tenant pays to Property Partnership a single, fixed amount of rent for these rights. Accordingly, Tenant is also an Advertiser and a portion of the rent it pays to Property Partnership is a Sublicense Fee.

The other tenant at Property is Events L.P., which pursuant to a lease dated Date 5 ("Lease 2") leases two floors ("Floors"). Events L.P. provides promotional efforts in promoting the Event. Property Partnership and Events L.P. intend to renegotiate Lease 2. Under the new terms of Lease 2, Events L.P. will pay market rent. Property Partnership will commence paying Events L.P. a fee equal to the amount of the revised market rent that Events L.P. will pay as compensation for Events L.P. promotional efforts in generating the Sponsor Fees.

In accordance with § 856(d)(8)(A), Taxpayer represents that at least 90% of the leased space at Property is leased to persons other than Events L.P. and related parties described in § 856(d)(2)(B). Further, the layout of the Floors is unusual and unlike any other space at Property. Taxpayer has no way to determine whether the space leased to Events L.P. is comparable to any space located in the same geographic area as Property as required by § 856(d)(8)(A). Therefore, Taxpayer represents that the rent to be paid under the revised lease will be approximately equal to the fair market rental value of the Floors.

The Signs and Sign Superstructures

The Sign Superstructures consist of welded steel frames that are bolted to the façade of Property. Each Sign Superstructure has been in place for at least years. No Sign Superstructure has been substantially modified since it was constructed and Taxpayer has no intention of doing so. Removal of a Sign Superstructure would be a costly and time consuming undertaking that would require the use of heavy construction equipment. Each Sublicense Agreement provides that Signs L.P. is responsible for the maintenance of the Sign Superstructures.

The Signs are attached to the Sign Superstructures and consist of either vinyl material or an LED video screen. The Signs vary in size, but each can be seen at a distance of several city blocks.

Each of the LED Signs, other than the Top Sign (as described below), is wholly owned by a particular Advertiser. The Advertiser is solely responsible for the production, installation, and maintenance of its LED Signs. Neither Taxpayer, Holding Partnership, Property Partnership, Signs L.P., nor Events L.P. provides any services relating to the production, installation, or maintenance of the LED Signs. Each LED Sign is connected via power lines to an electrical box or outlet made available by Signs L.P. The Advertiser is responsible for the cost of the electricity. Each Advertiser using an LED Sign also has the right under its Sublicense Agreement to use a small space inside Property to house its computers, which are used to program the LED Signs. The computers, fiber optic cables, and power lines are owned and installed by the Advertisers at their own expense.

Each of the vinyl Signs is wholly owned by a particular Advertiser. The vinyl Signs are illuminated by spotlights attached to the Sign Superstructures. Signs L.P. supplies the electricity necessary to power the spotlights and replaces the lightbulbs through an independent contractor. Taxpayer represents that the portion of the Sublicense Fee attributable to the spotlights is not more than 15 percent of the total Sublicense Fee attributable to the Sign Superstructure and the spotlights.

Signs L.P. retains independent contractors who produce and install the vinyl Signs (“Sign Installation”) based on the Advertisers’ specifications. Signs L.P. bills

these costs, together with a small "spread" to cover administrative costs, to the Advertisers. In some cases, however, Signs L.P. agrees to bear the cost of producing or installing a vinyl Sign. Signs L.P. generally supervises and coordinates the production and installation process. Signs L.P. provides Sign Installation to ensure that the vinyl Signs are properly produced and installed for safety purposes. Sign Installation is also convenient for Advertisers. Taxpayer represents that Sign Installation is customarily furnished, rendered, or arranged for by similar properties in the geographic market in which Property is located. Neither Taxpayer nor Signs L.P. receives any income from the independent contractors that produce or install the vinyl Signs. In addition, Signs L.P. contracts with an independent contractor to monitor the condition of the vinyl Signs. Taxpayer represents that the independent contractors that produce or install the vinyl Signs qualify as "independent contractors" under § 856(d)(3).

The Top Sign

The Top Sign is an LED Sign which measures a feet wide and b feet tall. It is bolted to a Sign Superstructure and was constructed to remain in place on the Sign Superstructure indefinitely. Signs L.P. has no intention of removing the Top Sign and doing so would require substantial deconstruction. Computers housed inside Property transmit programming data to the Top Sign via fiber optic cables, and an electrical box transmits electricity to the Top Sign via power lines.

Signs L.P. owns the Top Sign but does not provide any services other than the provision of electricity with respect to the Top Sign. Signs L.P. entered into a sublicense agreement with Corporation (the "Top Sign Sublicense Agreement"). The maintenance and operation of the Top Sign are performed by an independent contractor hired by Corporation. Corporation is responsible for the cost of the electricity. Signs L.P. owns the computers, fiber optic cables, and power cables (collectively, the "Top Sign Equipment"). Signs L.P. leases the Top Sign Equipment to Corporation along with the Top Sign under the Top Sign Sublicense Agreement.

Signs L.P. granted Corporation the right to advertise on the Top Sign (the "Top Sign Rights") pursuant to the Top Sign Sublicense Agreement. In addition, Signs L.P. granted Corporation numerous Top Sign Event Rights. In exchange for the Top Sign Rights and the Top Sign Event Rights, Corporation pays Signs L.P. a single, fixed fee ("Top Sign Sublicense Fee") each month. In turn, Signs L.P. pays 1/12 of the Top Sign Sublicense Fee to Events L.P. In exchange, Events L.P. assumes Signs L.P.'s obligation to provide the Top Sign Event Rights. Taxpayer will treat the Top Sign Event Rights as noncustomary services. Taxpayer represents that the 1/12 of the Top Sign Sublicense Fee is at least 150 percent of Events L.P.'s direct cost in providing the Top Sign Event Rights.

Taxpayer represents the following: 1) Taxpayer does not own and will not own, directly or indirectly, in the case of an Advertiser that is a corporation, ten percent or

more of the total combined voting power of all classes of stock entitled to vote of such Advertiser, or in the case of any Advertiser that is not a corporation, an interest of ten percent or more in the assets or net profits of such Advertiser; 2) no portion of the Sublicense Fees or the Top Sign Sublicense Fee depends in whole or in part on the income or profits derived by any person from the Signs or Sign Superstructures; and 3) the portion of the Top Sign Sublicense Fee attributable to the Top Sign Equipment is not more than 15 percent of the total Top Sign Sublicense Fee attributable to the Top Sign and the Top Sign Equipment.

**Law:**

Section 856(c)(2) provides that at least 95 percent of a REIT's gross income must be derived from, among other sources, rents from real property.

Section 856(c)(3) provides that at least 75 percent of a REIT's gross income must be derived from, among other sources, rents from real property.

Section 856(c)(4)(A) provides that at the close of each quarter of its tax year, at least 75 percent of the value of a REIT's total assets must be represented by real estate assets, cash, and cash items (including receivables), and Government securities.

Section 856(c)(5)(B) provides that the term "real estate assets," for purposes of § 856, means real property (including interests in real property and interests in mortgages on real property) and shares (or transferable certificates of beneficial interest) in other REITs that meet the requirements of §§ 856 through 859.

Section 856(c)(5)(C) and § 1.856-3(c) of the Income Tax Regulations provide that the term "interests in real property" includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests.

Section 856(d)(1) provides that rents from real property include (subject to exclusions provided in § 856(d)(2)): (A) rents from interests in real property; (B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated; and (C) rent attributable to personal property leased under, or in connection with, a lease of real property, but only if the rent attributable to the personal property for the taxable year does not exceed 15 percent of the total rent for the tax year attributable to both the real and personal property leased under, or in connection with, the lease.

Section 856(d)(2)(C) excludes from the definition of "rents from real property" any impermissible tenant service income as defined in § 856(d)(7). Section 856(d)(7)(A) provides, in relevant part, that the term impermissible tenant service income means,

with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for managing or operating such property. Section 856(d)(7)(B) provides that de minimis amounts of impermissible tenant service income, i.e., amounts less than one percent of all amounts received or accrued by the REIT with respect to a particular property during the taxable year, will not cause otherwise qualifying amounts to not be treated as rents from real property.

Section 856(d)(7)(C) excludes from the definition of impermissible tenant service income amounts received for services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income. Subparagraph (A) does not take into account any amount that would be excluded from unrelated business taxable income ("UBTI") under § 512(b)(3) if received by an organization described in § 511(a)(2).

Section 512(b)(3) provides, in relevant part, that rents from real property are excluded from the computation of UBTI. Section 1.512(b)-1(c)(5) provides that payments for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, motor courts or motels, or for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rent from real property. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways and lobbies, and the collection of trash are not considered as services rendered to the occupant.

Section 856(d)(7)(C)(i) provides that a REIT can provide noncustomary services without tainting the rent that it receives, so long as the noncustomary services are provided through a TRS of the REIT or through an independent contractor from whom the REIT does not derive or receive any income.

Section 856(d)(7)(D) provides that the amount treated as received for any service (or management or operation) must not be less than 150 percent of the direct cost of the REIT in furnishing or rendering the service (or providing the management or operation).

Section 1.856-3(b) provides, in part, that the term "real estate assets" means real property. Section 1.856-3(d) provides that "real property" includes land or improvements thereon, such as buildings or other inherently permanent structures thereon (including items which are structural components of such buildings or structures). In addition, the term "real property" includes interests in real property. Local law definitions will not be controlling for purposes of determining the meaning of "real property" for purposes of § 856 and the regulations thereunder. Under the

regulations, “real property” includes, for example, the wiring in a building, plumbing systems, central heating or central air-conditioning machinery, pipes or ducts, elevators or escalators installed in a building, or other items which are structural components of a building or other permanent structure. The term does not include assets accessory to the operation of a business, such as machinery, printing press, transportation equipment which is not a structural component of the building, office equipment, refrigerators, individual air-conditioning units, grocery counters, furnishings of a motel, hotel, or office building, etc. even though such items may be termed fixtures under local law.

Under § 1.856-3(g), a REIT that is a partner in a partnership is deemed to own its proportionate share of each of the assets of the partnership and to be entitled to the income of the partnership attributable to that share. For purposes of § 856 the interest of a partner in the partnership's assets is determined in accordance with the partner's capital interest in the partnership. The character of the various assets in the hands of the partnership and items of gross income of the partnership retain the same character in the hands of the partners for all purposes of § 856.

Section 1.856-4(a)(1) provides that the term “rents from real property” means, generally, the gross amounts received for the use of, or the right to use, real property of the real estate investment trust.

Section 1.856-4(b)(1) provides that services provided to tenants of a particular building will be considered customary if, in the geographic market in which the building is located, tenants in buildings which are of a similar class are customarily provided with the service. Such services include the furnishing of water, heat, light, air conditioning and telephone answering services. Where it is customary in a particular geographic marketing area to furnish electricity or other utilities to tenants in buildings of a particular class, the submetering of such utilities to tenants in such buildings will be considered a customary service. To qualify as a service customarily furnished, the service must be furnished or rendered to the tenants of the REIT or, primarily for the convenience or benefit of the tenant, to the guests, customers, or subtenants of the tenant. The service must be furnished through an independent contractor from whom the trust does not derive or receive any income.

Section 1.856-4(b)(5)(ii) provides that trustees or directors of the REIT are not required to delegate or contract out their fiduciary duty to manage the trust itself, as distinguished from rendering or furnishing services to the tenants of its property or managing or operating the property. Thus, the trustees or directors may do all those things necessary, in their fiduciary capacities, to manage and conduct the affairs of the trust itself including establishing rental terms, choosing tenants, entering into renewal of leases, and dealing with taxes, interest, and insurance relating to the REIT's property. The trustees or directors may also make capital expenditures with respect to the REIT's

property and may make decisions as to repairs of the property the cost of which may be borne by the REIT. See also, Rev. Rul. 67-353, 1967-2 C.B. 252.

Rev. Rul. 98-60, 1998-2 C.B. 749, holds that the determination of whether impermissible tenant service income received by a REIT exceeds the one percent limitation is computed separately with respect to each property owned by the REIT rather than with respect to any particular tenant.

Rev. Rul. 75-424, 1975-2 C.B. 269, concerns whether various components of a microwave transmission system are real estate assets for purposes of § 856. The system consists of transmitting and receiving towers built upon pilings or foundations, transmitting and receiving antennae affixed to the towers, a building, equipment within the building, and waveguides. The waveguides are transmission lines from the receivers or transmitters to the antennae, and are metal pipes permanently bolted or welded to the tower and never removed or replaced unless blown off by weather. The transmitting, multiplex, and receiving equipment is housed in the building. Prewired modular racks are installed in the building to support the equipment that is installed upon them. The racks are completely wired in the factory and then bolted to the floor and ceiling. They are self-supporting and do not depend upon the exterior walls for support. The equipment provides for transmission of audio or video signals through the waveguides to the antennae. Also installed in the building is a permanent heating and air conditioning system. The transmission site is surrounded by chain link fencing. The revenue ruling holds that the building, the heating and air conditioning system, the transmitting and receiving towers, and the fence are real estate assets. The ruling further holds that the antennae, waveguides, transmitting, receiving, and multiplex equipment, and the prewired modular racks are assets accessory to the operation of a business and therefore not real estate assets.

Rev. Rul. 73-425, 1973-2 C.B. 222, considers whether a mortgage secured by a shopping center and its total energy system is an obligation secured by real property. A total energy system is a self-contained facility for the production of all the electricity, steam or hot water, and refrigeration needs of associated commercial or industrial buildings, building complexes, shopping centers, apartment complexes, and community developments. The system may be permanently installed in the building, attached to the building, or it may be a separate structure nearby. The principal components consist of electric generators powered by turbines or reciprocating engines, waste heat boilers, heat exchangers, gas-fired boilers, and cooling units. In addition, each facility includes fuel storage tanks, control and sensor equipment, electrical substations, and air handling equipment for heat, hot water, and ventilation. It also includes ducts, pipes, conduits, wiring, and other associated parts, machinery and equipment. The revenue ruling holds, in part, that a mortgage secured by the building and the system is a real estate asset, regardless of whether the system is housed in the building it serves or is housed in a separate structure apart from the building it serves. This is because the interest in a structural component is included with an interest held in a building or

inherently permanent structure to which the structural component is functionally related.

Rev. Rul. 80-151, 1980-1 C.B. 7, provides two examples that illustrate how the Service will apply the criteria set forth in Whiteco Industries, Inc. v. Commission, 65 T.C. 664 (1975) acq., 1980-1 C.B. 1, in determining whether outdoor advertising displays are inherently permanent structures or tangible personal property that qualified for the now-repealed investment tax credit. The criteria, which are in the form of questions, are: (1) is the property capable of being moved, and has it in fact been moved? (2) Is the property designed or constructed to remain permanently in place? (3) Are there circumstances that tend to show the expected or intended length of fixation, that is, are there circumstances that show the property may or will have to be moved? (4) How substantial a job is removal of the property, and how time-consuming is it? (5) How much damage will the property sustain upon its removal? (6) What is the manner of affixation of the property to the land?

**Analysis:**

Issue 1: Real Estate Assets

The Sign Superstructures consist of large, welded steel frames that are bolted to Property. They are designed and constructed to remain permanently in place. There is no plan to remove any Sign Superstructure, and removal of a Sign Superstructure would be a costly and time consuming undertaking. In addition, the Top Sign consists of an LED video screen that measures a feet wide and b feet high. It is bolted to a Sign Superstructure and was constructed to remain in place indefinitely. There is no plan to remove the Top Sign and removing it would be a costly and time consuming undertaking that would require it to be dismantled piece-by-piece by outside engineers and other personnel.

Similar to the properties or structural components described in Rev. Rul. 75-424 and Rev. Rul. 73-425 that qualify as real property for purposes of § 856, the Sign Superstructures and Top Sign described above are inherently permanent structures. The Sign Superstructures and Top Sign are structural components of Property themselves and therefore are not assets accessory to the operation of a business like the examples set forth in § 1.856-3(d).

Accordingly, based on the facts as represented by Taxpayer, we conclude that the Sign Superstructures and the Top Sign, constitute real property for purposes of §§ 856(c)(2)(C) and 856(c)(3)(A). In addition, because the Sign Superstructures and the Top Sign are real property, they constitute “real estate assets” for purposes of §§ 856(c)(4)(A) and 856(c)(5)(B).

Issue 2: Use Rights

As ruled on above, the Sign Superstructures qualify as "real estate assets" and therefore "real property" under § 1.856-3(d). Based upon that, the Use Rights, which are granted under the Master License Agreement and permit Signs L.P. to use the Sign Superstructures owned by Property Partnership, constitute "interests in real property" under §§ 856(c)(5)(C) and 1.856-3(c) and therefore are "real estate assets" under §§ 856(c)(4)(A) and 856(c)(5)(B).

Issue 3: Rents from Real Property

The Sublicense Fees and Top Sign Sublicense Fee received by Signs L.P. are payments for the right to use space on the Sign Superstructures and on Property. The licenses grant to each licensee the right to use specified real property in exchange for a fee. The Sublicense Fees and Top Sign Sublicense Fee are similar to rent payments that would be required under a lease. Therefore, the Sublicense Fees and Top Sign Sublicense Fee received pursuant to the Sublicense Agreements qualify as "rents from real property" under § 856(d)(1).

Issue 4: Sign Installation

Taxpayer has represented that Sign Installation is provided through independent contractors and is customarily furnished, rendered, or arranged by similar properties in the geographic market in which Property is located. Taxpayer has also represented that Sign Installation is rendered for the convenience of the Advertisers. In addition, as part of their fiduciary duties, the directors of Taxpayer have an obligation to ensure that the vinyl Signs are properly produced and installed on the Sign Superstructures. Consequently, Sign Installation by Taxpayer and its independent contractors will not cause Taxpayer's allocable share of the Sublicense Fees or the Top Sign Sublicense Fee paid to Signs L.P. to be treated as impermissible tenant service income and excluded from rents from real property pursuant to § 856(d)(2)(C).

Issue 5: Sponsor Fees

The sponsorship, media, and merchandising rights provided to Sponsors are not provided to Advertisers in connection with the rental of real property. Sponsorships are generally available to interested companies, and Events L.P. does not offer discounted Sponsor Fees to Advertisers. Events L.P. operates a separate line of business related to the Event, and it keeps separate books and records from the Property Partnership and Signs L.P. Taxpayer's partnership interest in Events L.P. is held through TRS, which provides further evidence that this is a separate line of business.

Accordingly, the provision of the sponsorship, media, merchandising, and similar rights by Events L.P. to the Sponsors will not cause the Sublicense Fees or the Top Sign Sublicense Fee to be treated as other than "rents from real property" under

§ 856(d) because such rights are not services rendered by Taxpayer to Advertisers in connection with the rental of real property.

Issue 6: Top Sign Event Rights

The Top Sign Event Rights that are provided in exchange for a portion of the Top Sign Sublicense Fee generate impermissible tenant service income under § 856(d)(7)(A). As noted above, Signs L.P. pays a portion of the Top Sign Sublicense Fee to Events L.P. In exchange, Events L.P. assumes the obligation to satisfy the Top Sign Event Rights. The Top Sign Event Rights that Events L.P. provides to Corporation are deemed provided by TRS and Investor X as partners of Events L.P. Signs L.P. compensates TRS and Investor X for the Top Sign Event Rights they are deemed to provide by paying Events L.P. 1/12 of the Top Sign Sublicense Fee. Taxpayer represents that the 1/12 of the Top Sign Sublicense Fee is approximately equal to the fair market value of the Top Sign Event Rights and is at least 150 percent of Events L.P.'s direct cost in providing the Top Sign Event Rights.

The portion of the Top Sign Event Rights deemed provided by TRS do not generate impermissible tenant service income because they are being provided by a TRS as permitted by § 856(d)(7)(C)(i). The portion of the Top Sign Event Rights deemed provided by Investor X do represent impermissible tenant service income.

Property generates income by leasing interior space to Tenant and Events L.P., by leasing spaces on the Sign Superstructures to various Advertisers, and by leasing the Top Sign to Corporation. Consistent with Rev. Rul. 98-60, the entire Property constitutes the "property" for purposes of § 856(d)(7)(B), including the Sign Superstructures, the Top Sign, and the interior space leased to Tenant and Events L.P. Accordingly, Taxpayer represents that the value of the Top Sign Event Rights that are deemed to be provided by Investor X falls within the de minimis one percent basket for noncustomary services provided in § 856(d)(7)(B). Based on this representation, the provision of the Top Sign Event Rights will not cause otherwise qualifying income received or accrued by the Taxpayer with respect to Property to not be treated as rents from real property.

Issue 7: Master License Fees

Taxpayer will acquire a partnership interest in Holding Partnership, which owns all of the limited partnership interests in Property Partnership and Signs L.P. Pursuant to § 1.856-3(g), Taxpayer, through Holding Partnership, will be allocated a percentage of the gross income derived by Signs L.P. from the Sublicense Fees paid by the Advertisers. Taxpayer, through Holding Partnership, will be allocated the same percentage of the gross income derived by Property Partnership from the Master License Fees paid by Signs L.P. Further, Taxpayer, through Holding Partnership, will be allocated the same percentage of the deduction attributable to Signs L.P.'s payment

of the Master License Fees. Thus, Taxpayer would be treated as earning the same gross income twice.

Accordingly, for purposes of determining Taxpayer's gross income under §§ 856(c)(2) and (c)(3), Taxpayer's allocable share of the Master License Fees paid from Signs L.P. to Property Partnership will be disregarded as an item of gross income to the extent that those amounts do not exceed Taxpayer's allocable share of Signs L.P.'s deductions attributable to the Master License Fees paid to Property Partnership.

Except as specifically ruled upon above, no opinion is expressed concerning any federal income tax consequences relating to the facts herein under any other provision of the Code. Specifically, we do not rule whether Taxpayer otherwise qualifies as a REIT under part II of subchapter M of Chapter 1 of the Code.

This ruling is directed only to the taxpayer requesting it. Taxpayer should attach a copy of this ruling to each tax return to which it applies. Section 6110(k)(3) provides that this ruling may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Diana Imholtz
Diana Imholtz
Branch Chief, Branch 1
Office of Associate Chief Counsel
(Financial Institutions and Products)

Enclosures:
Copy of this letter
Copy for § 6110 purposes