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Easement Agreement

GEORGE J. HENNINGZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBRASKA

This Agreement made and entered into by and between Shoney's, Inc., a Tennessee corporation, hereinafter called "Shoney's", and Omaha Hotel, Inc., a Nebraska corporation, hereinafter called "Omaha Hotel", WITNESSETH:

WHEREAS, Omaha Hotel is the present owner of Lots 1, 2, 3, and 4, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska, and

WHEREAS, Shoney's has contracted to purchase Lot 4, in said Hampton Commercial Plaza from Omaha Hotel, and

WHEREAS, a plat of said Hampton Commercial Plaza has been recorded in the office of the Register of Deeds of Douglas County, Nebraska in Deed Book 1817 at Page 297, and

WHEREAS, said plat shows on the face thereof a "permanent ingress & egress easement" located upon Lot 1 in said Hampton Commercial Plaza, and

WHEREAS, said plat also shows a "permanent ingress & egress easement" located upon Lots 2 and 3 in said Hampton Commercial Plaza, and

WHEREAS, Omaha Hotel desires to retain two easements for the purpose of maintaining a sign and a satellite dish on portions of Lot 4 in said Hampton Commercial Plaza, from and after the date of sale of said Lot 4 to Shoney's, and

WHEREAS, certain agreements between the parties should be reduced to writing and filed of record,

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Omaha Hotel, as owner of said Lot 1, Hampton Commercial Plaza, agrees that the owner of said Lot 1 shall maintain suitable surfacing upon the "permanent ingress and egress easement" located upon said Lot 1, Hampton Commercial Plaza, as shown on the plat thereof which is of record in the office of the Register of Deeds of Douglas County, Nebraska. Such maintenance shall be at the expense of the owner of said Lot 1 as of the time such maintenance is needed.

2. Omaha Hotel agrees, at its expense, to cause the installation of a 25' wide blacktop overlay, over the existing concrete surfacing, within the area designated as "permanent ingress and egress easement" located upon said Lots 2 and 3, Hampton Commercial Plaza, as shown on the recorded plat thereof.

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The precise location of said 25' wide strip of blacktop shall be determined by Omaha Hotel. Said 25' wide strip of blacktop shall be installed at such time as Shoney's shall install blacktop surfacing on said Lot 4, Hampton Commercial Plaza. Should Omaha Hotel fail to complete the installation of said 25' strip within seven days from the time Shoney's shall have completed the installation of blacktop surfacing on said Lot 4, Hampton Commercial Plaza, then Shoney's may proceed to install such 25' wide strip of blacktop, billing the cost of the installation to Omaha Hotel, which cost shall be paid by Omaha Hotel.

3. Shoney's, and its successors in interest as owner of said Lot 4, Hampton Commercial Plaza, together with Omaha Hotel, and its successors in interest as owner of said Lots 2 and 3, Hampton Commercial Plaza, shall be obligated to pay the costs incurred (after the installation of the blacktop surfacing referred to in Paragraph 2 above) for the maintenance and repair of said 25' wide blacktop surfacing in the "permanent ingress and egress easement" located upon said Lots 2 and 3, Hampton Commercial Plaza, as shown on the recorded plat thereof, said costs to be paid in the following percentages:

- (a) the owner of Lot 4 shall pay for 50% thereof;
- (b) the owner of Lot 3 shall pay for 30% thereof;
and
- (c) the owner of Lot 2 shall pay for 20% thereof.

The obligation to arrange for any repairs and maintenance of the 25' wide strip above referred to shall be with the owner of said Lot 4, Hampton Commercial Plaza, which owner shall, before proceeding with any work in connection with the repairs or maintenance thereto, secure not less than two independent bids, and the owner of said Lot 4 shall act as an ordinary, reasonable and prudent man would, in using judgment to obtain good quality work at reasonable prices.

Notwithstanding anything aforesaid, no surfacing for driveway or roadway purposes need be made on the portion of said Lots 2 and 3 hereinafter described in Paragraphs 4, 8 and 9, upon which sign easements are being established.

4. There is hereby established on that part of said Lot 2, Hampton Commercial Plaza, as hereinafter described, two sign easements, one for the use and benefit of the present and future owners of said Lot 1, Hampton Commercial Plaza, and one for the use and benefit of the present and future owners of said Lot 4, Hampton Commercial Plaza. Such sign easements are for the installation and maintenance of appropriate signs for the benefit of the owners of said lots, as hereinafter provided, for the

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purpose of giving directions to any business or other establishments maintained upon said lots, or by the tenants of the owners thereof. Any signs placed in said sign easement area shall comply with the ordinances of the City of Omaha and all other public authorities having jurisdiction thereof, and shall meet the following requirements:

- (a) The top of any such sign shall not be more than six feet (6') above ground level at the place where the sign is located; and
- (b) The face of any such sign shall not exceed twenty-four inches (24") in height by forty-eight inches (48") in width.

The portion of said Lot 2 on which said sign easements are hereby established is described as:

That part of Lot 2, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska, lying northwesterly of a line which commences at a point on the north line of said Lot 2 which is 219.19 feet west of the northeast corner of said Lot 2, and runs thence southwesterly to a point on the west line of said Lot 2 which is 107.89 feet north of the southwest corner of said Lot 2.

The southwesterly one-half of the above-described portion of Lot 2 shall be the area on which a sign easement is established for the benefit of said Lot 4, Hampton Commercial Plaza. The northeasterly half of the above-described portion of Lot 2 shall be the area on which a sign easement is established for the benefit of said Lot 1, Hampton Commercial Plaza. The cost of installation and maintenance of any sign installed for the benefit of said Lot 1 shall be borne by the owner of said Lot 1 and the cost of installation and maintenance of any sign installed for the benefit of the owner of said Lot 4 shall be borne by the owner of said Lot 4.

Nothing herein contained shall prevent the owner of the lot for whose use and benefit either of said sign easements are established to assign any or all of their rights in and to the pertinent sign easement.

5. Omaha Hotel hereby reserves for the use and benefit of the present and future owners of said Lot 1, Hampton Commercial Plaza, a non-exclusive easement for the purpose of installing, replacing and maintaining a sign on that portion of

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said Lot 4, Hampton Commercial Plaza, described as follows:

The south 30 feet of the west 30 feet of Lot 4, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska,

together with reasonable ingress and egress thereto over and across said Lot 4. The present and future owners of said Lot 4 shall also have the non-exclusive right to use the above-described easement area for the purpose of installing, replacing and maintaining a sign for the use and benefit of the owner of said Lot 4 and any establishment maintained on said Lot 4.

All installation and maintenance costs of any signs erected for the use and benefit of the owner of said Lot 1 shall be borne by the owner of said Lot 1, and all of the installation and maintenance costs of any sign installed for the use and benefit of the owner of said Lot 4 shall be borne by the owner of said Lot 4.

The owners of said Lots 1 and 4, Hampton Commercial Plaza, shall cooperate in the installation and maintenance of signs on the above-described easement area so as to give the owners of said Lot 1 and said Lot 4, Hampton Commercial Plaza, appropriate signs for the use and benefit of the owners of said lots, without either of said signs blocking the view of the other of said signs.

6. Omaha Hotel hereby reserves for the use and benefit of the present and future owners of said Lot 1, Hampton Commercial Plaza, an easement for the purpose of installing and maintaining a satellite dish, on that portion of said Lot 4, Hampton Commercial Plaza, described as follows:

The south 15 feet of the east 10 feet of Lot 4, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska.

All installation and maintenance cost of any satellite dish located on said parcel shall be borne by the owner of said Lot 1, Hampton Commercial Plaza, and this easement shall be for the benefit of the present and future owner or owners of said Lot 1, Hampton Commercial Plaza. Should the owner of said Lot 1 cause such satellite dish to be removed, without replacing the same within six months after such removal, this easement shall terminate.

7. Shoney's agrees that from and after the time Shoney's acquires title to said Lot 4, Hampton Commercial Plaza,

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Shoney's will permit the owners of said Lots 1, 2 and 3, Hampton Commercial Plaza, together with their tenants and invitees, to travel over and across Lot 4 in areas which the owner of Lot 4 shall have designated as areas for the operation of motor vehicles and/or pedestrian traffic, as the case may be. The purpose of this provision is to permit travel from said Lot 1 to either of said Lots 2 and 3, and to permit travel from either of said Lots 2 and 3 to said Lot 1. It is understood that Shoney's, and its successors in interest, shall designate certain portions of said Lot 4, Hampton Commercial Plaza, for motor vehicle and pedestrian traffic.

8. Omaha Hotel hereby reserves for the use and benefit of the present and future owners of said Lot 2, Hampton Commercial Plaza, an easement for the purpose of installing and maintaining a sign on that portion of said Lot 2, Hampton Commercial Plaza, described as follows:

The south 15 feet of the west 12 feet of Lot 2, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska.

All installation and maintenance costs of any sign located on said parcel shall be borne by the owner of said Lot 2, Hampton Commercial Plaza, and this Easement shall be for the benefit of the present and future owner or owners of said Lot 2, Hampton Commercial Plaza.

9. Omaha Hotel hereby reserves for the use and benefit of the present and future owners of said Lot 3, Hampton Commercial Plaza, an easement for the purpose of installing and maintaining a sign on that portion of said Lot 3, Hampton Commercial Plaza, described as follows:

The south 15 feet of the west 12 feet of Lot 3, Hampton Commercial Plaza, a subdivision in the City of Omaha, Douglas County, Nebraska.

All installation and maintenance costs of any sign located on said parcel shall be borne by the owner of said Lot 3, Hampton Commercial Plaza, and this Easement shall be for the benefit of the present and future owner or owners of said Lot 3, Hampton Commercial Plaza.

10. Parties agree that the plat of Hampton Commercial Plaza now of record in the office of the Register of Deeds of Douglas County, Nebraska, shows a "permanent sanitary sewer easement" running in favor of the City of Omaha, covering the

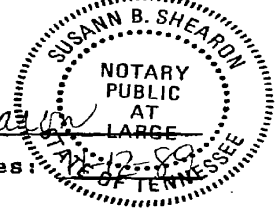
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STATE OF ~~NEBRASKA~~)
 TENNESSEE)
 DAVIDSON) ss.
COUNTY OF DOUGLAS)

The foregoing Easement Agreement was acknowledged by J. M. Grout, the Vice President of Shoney's, Inc., on January 21, 1988, as the voluntary act and deed of said officer and as the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal.

Susann B. Shearon
Notary Public
My Commission Expires: Nov 12, 1989



CONSENT AND SUBORDINATION

My Commission Expires Nov. 12, 1989

William E. Naviaux, Trustee, and HWH, Inc., a Nebraska corporation, beneficiary, being the Trustee and Beneficiary under a Deed of Trust dated February 1, 1985 and filed February 5, 1985 in Mortgage Book 2762 at Page 463 in the records of the Register of Deeds of Douglas County, Nebraska, hereby consent to the provisions of the above and foregoing Easement Agreement, and hereby subordinate said Deed of Trust to said Easement Agreement.

William E. Naviaux
William E. Naviaux, Trustee

HWH, Inc., a Nebraska corporation, beneficiary

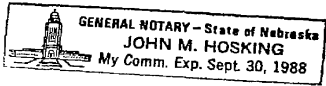
By: [Signature]
Title: [Signature]

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing Consent and Subordination was acknowledged by William E. Naviaux, Trustee, on Jan 27, 1988, as the voluntary act and deed of said officer and as the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal.

John M. Hosking
Notary Public
My Commission Expires: _____

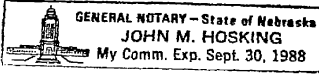


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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing Consent and Subordination was acknowledged by Bruce Williams, the Sec. Treas. of HWH, Inc., a Nebraska corporation, beneficiary, on Jan 22nd, 1988, as the voluntary act and deed of said officer and as the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal.



John M. Hosking
Notary Public
My Commission Expires: _____

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