



BK 0878 PG 088



MISC 1989 02675

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RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT ("Agreement") is made and entered into on this _____ day of February, 1989, by and between Howard M. Kooper and Sharon B. Kooper, husband and wife and Thomas H. Fellman and Darlynn A. Fellman, husband and wife ("Grantors") and Q Centre Limited, A Nebraska Limited Partnership ("Grantee").

WHEREAS, Grantors are the owners of the real property more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("Grantors' Property");

WHEREAS, Grantee is the owner of the real property contiguous thereto on the east, more particularly described on Exhibit "B" attached hereto and incorporated herein by reference ("Grantee's Property"); and

WHEREAS, Grantee is in the process of constructing a strip shopping center on the Grantee's Property; and,

WHEREAS, Grantors have heretofore permitted Grantee to enter upon a portion of Grantors' Property, more particularly described on Exhibit "C" attached hereto and by this reference incorporated herein (the "Grantors' Easement Area") in order to grade a portion of Grantors' Property and Grantee's Property in accordance with the "Site Pre-Grading Plan for Applewood Centre, 96th & "Q" Streets, Omaha, Nebraska" prepared by Purdy & Slack, Architects, Project No. 87097, dated 8-26-88, last revised 8-30-88 (the "Site Pre-Grading Plan"); and

WHEREAS, Grantee has requested that the Grantors grant Grantee an easement over, under and across Grantors' Easement Area for the purpose of maintaining the slope on Grantors' Property in accordance with the Site Pre-Grading Plan, subject to the terms, conditions and provisions as hereinafter set forth; and

WHEREAS, Grantors have agreed to grant such easement, provided that Grantee grant to Grantors the right to regrade Grantors' Easement Area, should Grantors desire to utilize Grantors' Easement Area at some future date, and provided that Grantee grant to Grantors a similar easement over that portion of Grantee's Property more particularly described on Exhibit "D" attached hereto ("Grantee's Easement Area"), so that the Grantors' Easement Area can be utilized in accordance with future development plans to be determined by Grantors for Grantors' Property.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt, sufficiency and adequacy is hereby acknowledged, the parties agree as follows:

1. Grantors hereby grant to Grantee, its successors and assigns an easement for the purpose of maintaining the grading slope established in the Site Pre-Grading Plan over, under and across the Grantors' Easement Area in order to permit Grantee the right to enter onto Grantors' Easement Area to maintain the grade of Grantors' Easement Area in accordance with the Site Pre-Grading Plan.

2. Exclusive and permanent use of the Grantor's Easement Area is not hereby granted. The right to present or future use of the Grantors' Easement Area is expressly reserved by Grantors, so long as such use does not alter the slope as shown on the Site Pre-Grading Plan, unless Grantors regrade Grantors' Easement Area and Grantee's Easement Area, in accordance with the requirements hereinafter set forth in Paragraph 3.

3. In the event Grantor desires to utilize Grantors' Easement Area for development, Grantee hereby grants to Grantors,

their successors and assigns an easement for ingress and egress over, under and across the Grantee's Easement Area, in order to permit Grantors the right to enter upon Grantee's Easement Area to: (1) regrade Grantee's Easement Area; and (2) to displace thereon dirt from Grantors' Easement Area all in accordance with Grantor's development plans for Grantors' Property provided that:

(a) Grantors, at their sole cost and expense construct a retaining wall on the Grantee's Property at the location depicted on Exhibit "D" attached hereto and by this reference incorporated herein;

(b) The slope located immediately east of the retaining wall on the Grantee's Property, which together with the slope located immediately east of the west boundary of Grantors' Property shall be at least 3 to 1;

(c) The retaining wall shall be constructed of railroad ties or equivalent and in accordance with Grantee's plans and specifications; and

(d) Grantors shall relandscape all affected areas located on the Grantee's Easement Area to the standard that existed before the relocation of the slope area by Grantors.

4. Exclusive use of Grantee's Easement Area is not hereby granted to Grantors. The right to use Grantee's Easement Area is expressly reserved by Grantee, provided, however, in no event shall Grantee's use of Grantee's Easement Area be of such a nature that would preclude Grantors' right to use Grantee's Easement Area as contemplated by this Agreement.

5. Except as otherwise provided in paragraph 3 above, each party shall be solely responsible for all costs and expenses incurred by it, including the maintenance of its own property.

6. All provisions of this Agreement, including the benefits and burdens, run with the land and shall be binding upon, and inure to the benefit of the parties hereto and their respective heirs, assigns, successors, tenants and personal representatives.


IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

GRANTORS:


Howard M. Kooper


Sharon B. Kooper


Thomas H. Fellman


Darlynn A. Fellman

GRANTEE:

Q CENTRE LIMITED, a Nebraska
Limited Partnership,

By: Q Centre, Inc., a Nebraska
corporation

By: M. J. Pont
Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned, a notary public in and for said county and state, on this 8 day of February, 1989, personally appeared Howard M. Kooper, known to me to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein set forth.

Mary Jo Pont
Notary Public



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned, a notary public in and for said county and state, on this 8 day of February, 1989, personally appeared Sharon B. Kooper, known to me to be the identical person who executed the within and foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

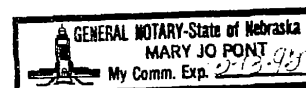
Mary Jo Pont
Notary Public



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned, a notary public in and for said county and state, on this 8 day of February, 1989, personally appeared Thomas H. Fellman, known to me to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Mary Jo Pont
Notary Public



STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

BOOK 878 PAGE 91

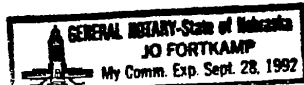
Before me, the undersigned, a notary public in and for said county and state, on this 8 day of February, 1989, personally appeared Darlynn A. Fellman, known to me to be the identical person who executed the within and foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed, for the uses and purposes therein set forth.

Mary Jo Pont
 Notary Public



STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

Before me, the undersigned, a notary public in and for said county and state, on this 12th day of February, 1989, personally appeared Michael J. Mike, known to me to be the identical person who executed the within and foregoing instrument, as Vice President of Q Centre Inc., a Nebraska corporation, and acknowledged to me that he executed the same as his free and voluntary act and deed, and the free and voluntary act and deed of the corporation for the uses and purposes therein set forth.



Jo Fortkamp
 Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION

That part of Lot 35, in APPLEWOOD, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of said Lot 35; thence North $89^{\circ}54'50''$ West along the South line of said Lot 35, a distance of 945.00 feet to the Point of Beginning; thence continuing North $89^{\circ}54'50''$ West, 4.69 feet to a point of curvature; thence on a 256.75 feet radius curve to the left, a distance of 239.74 feet (said curve has a chord bearing South $63^{\circ}16'39''$ West and chord distance of 231.17 feet) to a point of compound curve; thence on a 1,246.25 feet radius curve to the left, a distance of 95.09 feet (said curve has a chord bearing South $34^{\circ}19'23''$ West and a chord distance of 94.91 feet) to a point; thence North $53^{\circ}28'16''$ West, 108.92 feet to a point of curvature; thence on a 365.28 feet radius curve to the right, a distance of 341.31 feet (said curve has a chord bearing North $26^{\circ}40'21''$ West, and a chord distance of 329.21 feet) to a point; thence North $00^{\circ}06'41''$ East, 365.05 feet to a point; thence South $89^{\circ}52'57''$ East, 200.12 feet to a point; thence North $00^{\circ}07'54''$ East, 200.05 feet, to a point on the North line of said Lot 35; thence South $89^{\circ}52'56''$ East, along the North line of said Lot 35, 299.81 feet to a point; thence South $00^{\circ}05'10''$ West, 740.76 feet, to the Point of Beginning.

EXHIBIT "B"

LEGAL DESCRIPTION

That part of Lot 35, in APPLEWOOD, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Southeast corner of said Lot 35; thence North $89^{\circ}54'50''$ West, along the South line of said Lot 35, 945.00 feet to a point; thence North $00^{\circ}05'10''$ East, 740.76 feet to a point on the North line of said Lot 35; thence South $89^{\circ}52'56''$ East along said North line, 745.13 feet to a point; thence South $00^{\circ}05'19''$ West, 220.07 feet; thence South $89^{\circ}52'06''$ East, 200.02 feet to the East line of said Lot 35; thence South $00^{\circ}06'05''$ West, 520.12 feet to the Point of Beginning.

LEGAL DESCRIPTION

AN EASEMENT FOR GRADING PURPOSES OVER AND UPON A PART OF LOT 35
APPLEWOOD, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN
DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 35, WHICH
POINT IS 499.00 FEET EAST OF THE NORTHWEST (NW) CORNER OF SAID
LOT 35; THENCE SOUTH 740.65 FEET TO THE SOUTH LINE OF SAID LOT
35; THENCE WEST ALONG SAID SOUTH LINE, 5.00 FEET; THENCE
NORTHWESTERLY 340.00 FEET TO A POINT LYING 15.00 FEET WEST OF THE
LINE FIRST DESCRIBED HEREIN; THENCE NORTHWESTERLY 85.00 FEET TO A
POINT LYING 80.00 FEET WEST OF THE LINE FIRST DESCRIBED HEREIN;
THENCE NORTHEASTERLY 355.00 FEET, MORE OR LESS, TO THE POINT OF
BEGINNING.

9-9-88
DIAL
1189 SK
MIKE KAUSS & ASSOCIATES, INC.

EXHIBIT "C"

LEGAL DESCRIPTION
FOR A GRADING EASEMENT

A TRACT OF LAND LOCATED IN PART OF LOT 35, APPLEWOOD, A PLATTED AND RECORDED ADDITION IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT SOUTHEAST CORNER OF LOT 35, APPLEWOOD; THENCE NORTH 89°54'50" WEST (ASSUMED BEARING) A DISTANCE OF 945.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°05'10" EAST A DISTANCE OF 740.65 FEET TO THE NORTH LINE OF SAID LOT 35; THENCE SOUTH 07°16'00" EAST A DISTANCE OF 156.30 FEET, THENCE SOUTH 89°52'40" EAST A DISTANCE OF 35.00 FEET; THENCE SOUTH 00°05'10" WEST A DISTANCE OF 300.00 FEET; THENCE NORTH 89°54'50" WEST A DISTANCE OF 35.00 FEET; THENCE SOUTH 04°05'30" WEST A DISTANCE OF 286.32 FEET TO THE POINT OF BEGINNING, CONTAINING 20,908 SQUARE FEET, MORE OR LESS.

12-27-88
DIAL REALTY INC.
1281 SK
MIKE KAUSS & ASSOCIATES, INC.

878
BK 878 N _____ C/O _____ FEE 40.
PG 88-95 N _____ DEL MC Wc
OF MC COMP _____ F/B 62-880

RECEIVED
1989 FEB 17 PM 4:18
COUNTY CLERK
DOUGLAS COUNTY
RECORDS & DEEDS
1001 AS SHERMAN, NEBR.

EXHIBIT "D"