

ALC 29



**AFTER RECORDING, RETURN TO:**

PepsiCo Real Estate  
c/o Taco Bell Corp.  
17901 Von Karman Avenue  
Irvine, CA 92614  
Attention: Law Dept. - Real Estate  
Site #01-1828, Omaha, NE  
019424

(Above for Recorder's Use Only)

**DECLARATION OF RESTRICTIVE COVENANT**

WHEREAS, under that certain Ground Lease Agreement dated August 27, 1996 ("Lease"), LeRoy L. Canfield ("Landlord"), agreed to lease to Taco Bell Corp., a California corporation ("Tenant"), a parcel of real property described on Exhibit "A" (the "Premises"); and

WHEREAS, the said Lease states that Landlord shall restrict the real property comprising the Canfield Plaza Shopping Center ("Shopping Center"), all of which is described on Exhibit "B";

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord hereby covenants and agrees as follows:

1. Landlord shall not allow the use of any real property leased or owned by Landlord in the Shopping Center (a) for the operation of any facility deriving ten percent (10%) or more of its total sales from the sale of prepared Mexican food (as long as Tenant continues to operate a restaurant featuring prepared Mexican food). The foregoing shall not apply to: (1) family-style, full service restaurants which do not offer fast food over the counter, except for incidental sales, or by means of a drive-through service and to: (2) any tenants of the shopping center operating at the Tenant's rent commencement date, including Arby's.
2. The Shopping Center shall not be used in any manner which interferes with access to the Premises or the visibility from 84th St. to the Premises of Tenant's improvements on the Premises, including Tenant's building and signs.
3. These restrictions are for the benefit of Buyer and run with the Premises and the Shopping Center, and are for the benefit of and binding upon all successive owners of the Premises and the Shopping Center.
4. This instrument shall be recorded in each county or parish in which the Premises and the Shopping Center are located and shall expire automatically upon the expiration of the Lease. Exhibit "A" is incorporated herein by this reference.
5. Failure to comply with any of the foregoing restrictions shall be grounds for relief which may include, without limitation, an action to recover damages, injunctive relief or any combination thereof.

IN WITNESS WHEREOF, the undersigned has executed this DECLARATION OF RESTRICTIVE COVENANT this 16<sup>th</sup> day of OCTOBER, 1996.

**LANDLORD:**

LEROY L. CANFIELD

By: [Signature]

Witness: [Signature]

Date: 10/16/96

5497 H  
2850

PLEASE ATTACH ALL EXHIBITS  
ALL SIGNATURES MUST BE NOTARIZED

FEE	28	77-237	01-6000
DEL.	C/O	COMP	56-24060
LEGAL PG	SCANDS	FV	

RICHARD N. TAKECHI  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

MAY 8 3 19 PM '97

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## LEGAL DESCRIPTION

A part of Lots 37 and 38, Marshall and Pahl Addition, a subdivision located in the Northeast Quarter of Section 34, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of said Section 34; thence S 00°00'00" W, (assumed bearing) along the East line of said Section 34, a distance of 407.48 feet; thence N 90°00'00" W, a distance of 50.00 feet to a point on the West right-of-way-line of 84th Street, said point also being on the East line of said Lot 38, Marshall and Pahl Addition, said point also being the Point of Beginning; thence S 00°00'00" W, along said West right-of-way line of 84th Street, said line also being said East line of Lot 38, Marshall and Pahl Addition, a distance of 106.00 feet; thence N 90°00'00" W, a distance of 290.00 feet; thence N 00°00'00" E, a distance of 106.00 feet; thence S. 90°00'00" E, a distance of 290.00 feet to the Point of Beginning.

Said part of Lots 37 and 38 contains an area of 30,740 sq. ft. (0.7057 acres), more or less.

EXHIBIT "A"

EXHIBIT "B"  
TO  
SHOPPING CENTER GROUND LEASE  
(Free Standing)

LEGAL DESCRIPTION OF THE CENTER

A tract of land being all of Lots 1 through 6, inclusive, Lots 28 through 35, inclusive, a portion of Lots 36 through 38, inclusive, all in MARSHALL AND PAHL ADDITION, an Addition to the City of Omaha, together with part of vacated 86th Street and together with a portion of the North Half of the Northeast Quarter of the Northeast Quarter of Section 34, Township 15 North, Range 12 East of the 6th, P.M., in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northwest corner of said Lot 1, said point also being on the South line of West Center Road; thence along the North line of Lots 1, 35 and 36, and along said South line of West Center Road, North 90°00'00" East (assumed bearing), 580.08 feet; thence South 00°00'00" East, 16.00 feet; thence North 90°00'00" East, 85.00 feet; thence North 00°00'00" West, 16.00 feet to said North line of Lot 36 and said South line of West Center Road; thence along said North line of Lot 36 and along said South line of West Center Road, North 90°00'00" East, 261.74 feet; thence South 00°17'37" West, 317.00 feet; thence North 90°00'00" East, 343.00 feet to the East line of said Lot 38, said point also being on the West line of 84th Street; thence along said West line, South 00°17'37" West, 294.39 feet to the Southeast corner of said Lot 38; thence along the South line of said Marshall and Pahl Addition and its Westerly extension, North 89°56'25" West, 1270.68 feet to the point of intersection with the Southerly extension of the Westerly line of said Marshall and Pahl Addition; thence along said Westerly line and its Southerly extension, North 00°22'35" East, 610.08 feet to the Point of Beginning.