

When Recorded Return To:

Read R. Hellewell
Kirton & McConkie
60 East South Temple, Suite 1800
Salt Lake City, Utah 84111

ENT 89575 BK 3574 PG 594
NINA B REID UTAH CO RECORDER BY MB
1994 NOV 23 2:08 PM FEE 29.00
RECORDED FOR FIRST AMERICAN TITLE

Store Number 745123

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
AGREEMENT

THIS AGREEMENT, made this 19th day of October, 1994, between the Lafayette Life Insurance Company, whose address is 1905 Teal Road, P. O. Box 7007, Lafayette, Indiana 47903, and United Farm Bureau Family Life Insurance Co., whose address is 225 South East Street, Indianapolis, Indiana 46204, collectively, hereinafter referred to as "Mortgagees", and PIZZA HUT OF UTAH, INC., a Utah corporation, whose address is 9111 East Douglas, P.O. Box 428, Wichita, Kansas 67201, hereinafter referred to as "Lessee", and CPI/Bountiful Limited Partnership, whose address is c/o Cantlon Properties, Inc., 101 S. Capitol Boulevard, Suite 1820, Boise, Idaho 83702, hereinafter referred to as "Lessor".

WITNESSETH:

WHEREAS, Mortgagee is the holder of a first mortgage upon the real property described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Lessee has a leasehold interest in said real property by reason of a certain Lease with Lessor dated February 18, 1994, covering the real estate encumbered by the aforesaid mortgage; and

WHEREAS, it is the desire of Mortgagee that Lessee subordinate its interest in said real property by virtue of said Lease of the lien of said mortgage.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, the parties agree as follows:


1. Lessee hereby subordinates its rights under the aforesaid Lease to the lien of Mortgagee as evidence by that certain mortgage recorded in the office of Utah County, in Book 3574 at Page 535, so that for all purposes the lien of said mortgage shall be deemed to be superior to all rights of Lessee in the real property described in Exhibit "A" attached hereto.
2. Provided Lessee is not in default (and has been given notice thereof) under the terms of the Lease, then:
 - a. The right of possession of Lessee to the leased premises and Lessee's rights arising out of the Lease shall not be affected or disturbed by Mortgagee in the exercise of any of its rights under the aforesaid mortgage or the note secured thereby, nor in any other way be deprived of its rights under the Lease.
 - b. In the event that Mortgagee or any other person acquires title to the mortgaged premises pursuant to the exercise of any remedy provided for in the mortgage, the Lease shall not be terminated or affected by said foreclosure or sale or transfer in lieu of foreclosure or any such proceeding, and Mortgagee hereby covenants that no sale by it of the mortgaged premises pursuant to the exercise of any rights and remedies under the mortgage or otherwise shall be made subject to the Lease and rights of the Lease hereunder; and, Lessee covenants and agrees to attorn to Mortgagee or such other person as its new Landlord, and the Lease shall continue in full force and effect as a direct Lease between Lessee and Mortgagee or such other person upon all the terms, covenants, conditions, and agreements set forth in the Lease.
 - c. Neither the mortgage nor any other security instrument executed in connection therewith shall cover or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by or for Lessee or its sublessees or licensees on the aforementioned property regardless of the manner or mode of attachment thereof.
3. The parties hereto agree that rents and other monies due to Lessor under the Lease shall be paid to Lessor. Upon receipt from Mortgagee of written notice to pay all such rents and other monies to or at the direction of Mortgagee, Lessor authorizes and directs Lessee thereafter to make all such payments to or at the direction of the Mortgagee, releases Lessee of any liability to Lessor for any and all payments so made, and shall defend, indemnify, and hold Tenant harmless from and against any and all claims, demands, losses, or liabilities asserted by, through, or under Lessor (except by Mortgagee) for any and all payments so made.

- 4. Subject to the provisions hereof, said Lease dated February 18, 1994 shall be subject and subordinate to the lien of the mortgage and to all the terms, conditions, and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications, or replacements thereof.
- 5. The foregoing provisions shall be self-operative and effective without the execution of any further instrument on the part of any party hereto. However, Lessee agrees to execute and deliver to Mortgagee, or to any person to whom Lessee herein agrees to attorn, such other instruments as either shall request in order to effectuate said provisions.
- 6. Neither Lessor nor Lessee will, without the prior written consent of Mortgagee: (a) modify the Lease or any extension or renewal thereof in such a way as to reduce the rent, accelerate rent payments, shorten the original term, or change any renewal option; (b) terminate the Lease except as provided by its terms; (c) tender or accept a surrender of the Lease or make prepayment in excess of one (1) month of any rent thereunder; or, (d) subordinate the Lease to any lien subordinate to the mortgage.
- 7. This Agreement shall be filed of record in the appropriate recording office at the time the Mortgage and related security documents are filed. All parties hereto shall promptly receive a copy of this Agreement upon full execution as well as a certified copy of the recorded original of the same.
- 8. Lessee agrees to give written notice to the Mortgagee, at the address contained herein or such other address as it has been notified of for notices, of any known default of the Lessor under the Lease concurrent with the notice it gives to the Lessor under the terms of the Lease.
- 9. The Lessee's representations hereunder are specifically contingent upon receipt of adequate legal documentation evidencing Lessor's fee interest in the property and right to receive rentals under the Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above written.

MORTGAGEE:

The Lafayette Insurance Company

By: 
Its: Vice President - Mortgage Loans

United Farm Bureau Family Life Insurance Co.

By: _____
Its: _____

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above written.

MORTGAGEE:

The Lafayette Insurance Company

By: _____
Its: _____

United Farm Bureau Family Life Insurance Co.

By: Bradford Barkley
Its: Director Investments

ENT89575 BK 3574 PG 600

STATE OF _____)
) ss.
County of _____)

On this _____ day of November, 1994, before me, _____ a Notary Public in and for said State, personally appeared _____ known or identified to me to be _____ of The Lafayette Life Insurance Co., the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

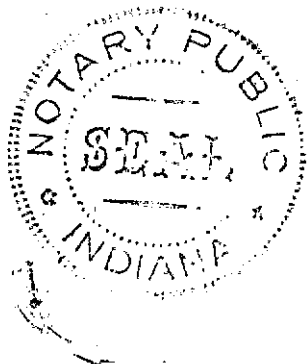
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for _____
Residing at _____
My commission expires _____, 19____

STATE OF INDIANA)
) ss.
County of MARION)

On this 22ND day of November, 1994, before me, PATRICIA E. STAPLETON, a Notary Public in and for said State, personally appeared BRADFORD BARKLEY known or identified to me to be DIRECTOR, INVESTMENTS of United Farm Bureau Family Life Insurance, the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Patricia E. Stapleton
Notary Public for INDIANA
Residing at INDIANAPOLIS, IN
My commission expires MARCH 26, 1996
COUNTY OF RESIDENCE: MARION

STATE OF IDAHO)
) ss.
County of Ada)

On this ____ day of _____, in the year 1994, before me, a Notary Public in and for the State of Idaho, personally appeared _____, known or identified to me to be the president, or vice president, or secretary or assistant secretary, of United Farm Bureau Family Life Insurance Co., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for Idaho
Residing at: _____
My commission expires: _____

STATE OF UTAH)
) ss.
County of Sedgwick)

On this 19th day of October, in the year 1994, before me, a Notary Public in and for the State of Kansas personally appeared Teresa J. Roll, known or identified to me to be the President of Pizza Hut of Utah, Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

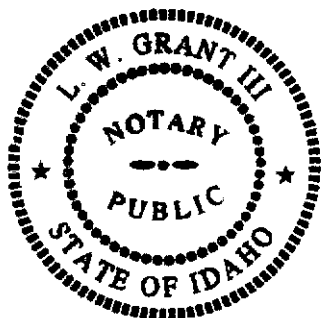


Connie J. Straight
Notary Public for ~~Idaho~~ Kansas
Residing at: Wichita
My commission expires: November 1, 1997

STATE OF IDAHO)
)
:SS
County of Ada)

On this 21st day of November, in the year 1994, before me, a Notary Public in and for the State of Idaho, personally appeared Roger D. Cantlon, known or identified to me to be President of Cantlon Properties, Inc., a General Partner of CPI/Bountiful Limited Partnership, who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



My commission expires 10-16-98
Residing at Boise, Idaho

A handwritten signature in cursive script, appearing to read "L. W. Grant III", written over a horizontal line.

Notary Public in and for the State
of Idaho, residing at _____
My commission expires _____

EXHIBIT A

LEGAL DESCRIPTION

ENT89575 BK 3574 PG 603

LOT 1, PLAT A, ALBERTSON'S CENTER NO. 2, AMERICAN FORK, UTAH, according to the official plat thereof on file and of record in the Utah County Recorder's Office, together with all easements and restrictions, appurtenance to Lot 1, Plat A, ALBERTSON'S CENTER NO. 2, as set forth in that certain Declaration of Restrictions and Grant of Easements dated November 16, 1993, and recorded May 20, 1994 as Entry No. 42740 in Book 3449 beginning at page 351, in the office of the County Recorder, State of Utah, as amended.

and

LOT 2, PLAT A, ALBERTSON'S CENTER NO. 2, AMERICAN FORK, UTAH, according to the official plat thereof on file and of record in the Utah County Recorder's Office, together with all easements and restrictions, appurtenant to Lot 2, Plat A, ALBERTSON'S CENTER NO. 2, as set forth in that certain Declaration of Restrictions and Grant of Easements dated November 16, 1993 and recorded May 20, 1994 as Entry No. 42740 in Book 3449 beginning at page 351, in the office of the County Recorder, State of Utah, as amended.