

2865879

EASEMENT AGREEMENT

This Easement Agreement hereinafter called "Agreement" is made this 7th day of September 1976, by THE BOYER COMPANY, hereinafter called "Seller" and FRANCHISE REALTY INTERSTATE CORPORATION, hereinafter called "Purchaser".

WITNESSETH

WHEREAS, the Seller, by contract dated April 13, 1976 has agreed to convey a certain tract of real property to Purchaser which real property is more fully described on Exhibit A attached hereto and made a part hereof and hereinafter referred to as Parcel 1; and

WHEREAS, the Seller owns additional property adjacent to Parcel 1 more fully described on Exhibit B attached hereto and made a part hereof and hereinafter referred to as Parcel 2; and

WHEREAS, Seller and Purchaser desire to establish certain rights, duties and obligations with respect to each of the above described parcels;

NOWHEREFORE, Seller and Purchaser, in consideration of the mutual covenants contained herein, agree effective the date the purchase of Parcel 1 is closed as follows:

1. Purchaser grants a perpetual non-exclusive easement for automobile and pedestrian ingress and egress, to and from Parcel 2, appurtenant to Parcel 2, over, upon and across the driveways and access ways, entrances, and exits as they may exist from time to time on Parcel 1. Nothing herein shall be interpreted as preventing Purchaser or any of its wholly owned subsidiaries or franchisees from making any improvements or alterations to its property or buildings that it may desire.
2. Seller grants to Purchaser a perpetual non-exclusive easement for ~~automobile parking and~~ automobile and pedestrian ingress and egress to and from Parcel 1 appurtenant to Parcel 1, over, upon, and across the parking areas and spaces, driveways, access ways, sidewalks, walkways, exits, entrances, and other common areas as said areas are proposed on Parcel 2, and for purposes of installing, operating, maintaining, repairing, replacing and removing sewer, water, gas and electric service over, above, along, under, in, and across Parcel 2. Nothing herein shall prevent Seller from making any improvements or alterations it desires over the ~~East 143.68 feet of~~ Parcel 2.  
Northerly 121.64 ft.
3. Purchaser shall have the right of ingress and egress across Parcel 2 for any purpose herein granted, and such ingress and egress shall be exercised in a reasonable manner. Where Purchaser's facilities have been installed, no trees, permanent buildings, or other structures shall be placed in or allowed to encroach upon the common area, and no change of grade elevation or any excavation shall be made thereon without the prior written approval of the Purchaser, which approval shall not be unreasonably withheld, but the same may be used for landscaping or other purposes that do not then or later interfere with the granted easement uses contained herein. \*

\* In addition, Seller grants to Purchaser a perpetual non-exclusive easement for automobile parking on and over the southerly 65 ft. of Parcel 2. Said easement to be appurtenant to Parcel 1.

U.T. 29475

Request for  
 Abstract  
 Title & Abstract Company  
 150  
 Cheryl Harrison  
 1450  
 1976

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BOOK 4358 PAGE 319

4. Purchaser and Seller covenant and agree to maintain in good condition and repair or cause to be maintained and kept in repair the parking, driveways and other common areas situate on its respective properties as described herein above. The obligation of the Purchaser and Seller to maintain, repair and keep in repair said parking driveways and other common areas in good condition and repair shall, without limiting the generality thereof, include the following:
  - a.) Maintaining the surfaces at such grades and levels that same may be used and enjoyed as contiguous and homogeneous common areas, and maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or of similar quality, use and durability;
  - b.) Removing all papers, debris, snow, ice, filth and refuse and thoroughly sweeping the areas to the extent reasonably necessary to keep said areas in a neat, clean and orderly condition;
  - c.) Placing, keeping in repair, and replacing any necessary appropriate directional signs, striping markets and lines; and operating, keeping in repair, and replacing, when necessary, such artificial lighting facilities as shall be reasonably required;
  - d.) Maintaining any perimeter walls in a good condition and state of repair;
  - e.) Maintaining all landscaped areas, making such replacements of shrubs and other landscaping as is necessary, and keeping said areas at all time adequately weeded, fertilized and watered.
5. Purchaser and Seller may erect curbs or curbstops, fences and landscaping between their parcels in order to define the premises to be conveyed and the adjoining parcel, so long as said curbstops, fences and landscaping do not detract from the mutual and common parking and access rights of the Purchaser and Seller or present, hinder or interfere in any way with the free flow and passage of vehicular and pedestrian traffic and parking over, to, from and between Parcel 1 and Parcel 2.
6. Purchaser and Seller shall have the right to enact reasonable rules concerning the conduct and operation of the parking areas and spaces, driveways and other common areas situate on their respective properties.
7. Purchaser and Seller covenant and agree, with respect to their own property, to comply with all laws, rules, regulations and requirements of all public authorities (and fire insurance rating associations having jurisdictions) and to indemnify, defend and hold each other harmless against all claims, demands, loss, damage, liabilities and expenses and all suits, actions and judgements (including but not limited to costs and attorney's fees) arising out of or in any way related to Purchaser's or Seller's failure to maintain their respective properties in a safe condition or in any way related to the activities conducted on the respective properties. Purchaser and Seller shall give prompt and timely notice of any claim made or suit or action commenced against the other party which in any way would result in indemnification hereunder.

7. Continued

Purchaser and Seller further covenant and agree to pay the expense of maintaining and repairing the parking, ingress, egress and other common areas situate on their respective properties, including the payment of all real estate taxes and assessments upon its land, subject only to the right of each to defer payment in a manner provided by law and/or in connection with a bonafide contest of such tax or assessment in the amount thereof, so long as the rights of Purchaser and Seller shall not be jeopardized by such deferring of payment.

8. In the event of any failure by either party to perform, fulfill or observe any agreement herein to be performed, fulfilled or observed by it, continuing for thirty (30) days, or in situations involving potential danger to the health or safety of persons in, on or about or substantial deterioration of Parcel 1 or Parcel 2 of any portion of any part thereof, in each case after written notice specifying such cure thereof commenced and diligently prosecuted at all time thereafter, the other party may, at its election, cure such failure or breach for and on behalf of the defaulting party, and any amount which the party so electing shall expend for such purpose or which shall otherwise be due by either party to the other hereunder, shall be paid to the party to whom due on demand, without contest, upon delivery of its invoice, together with interest thereon at the lower of (i) the rate of 10% per annum, or (ii) the maximum rate permissible from time to time under applicable law, from the date of expenditure or the date when same shall have become due to the date of payment thereof in full. The provisions of this paragraph shall be in all respects subject and subordinate to the lien of any mortgages or deeds of trust at any time or from time to time on the land of the defaulting party and the rights of the holder or holders thereof.

9. The rights and easements herein to be conveyed and reserved, the obligations herein imposed and the agreements herein contained are deemed to be and shall run with the land and shall inure to the benefit and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns, including but without limitation, all subsequent owners of any land included in Parcel 1 and Parcel 2. Notwithstanding the foregoing provisions of this paragraph, the right to the use and exercise of the rights and easements herein contained to be conveyed and reserved shall inure to and be for the benefit of the Purchaser and Seller, its successors and assigns, and tenants, sub-tenants, licensees, concessionaires, mortgagees in possession, customers and business invitees of such persons.

SELLER: THE BOYER COMPANY

PURCHASER: FRANCHISE REALTY INTERSTATE CORPORATION

BY: [Signature]  
PRESIDENT

BY: [Signature]  
Vice President

BY: [Signature]  
Secretary

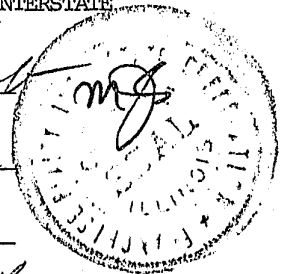
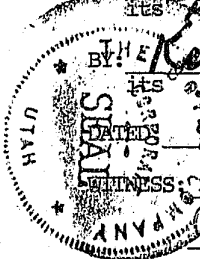
BY: [Signature]  
Assistant Secretary

9/22/76

DATED: 9-14-76

WITNESS: [Signature]

WITNESS: [Signature]  
[Signature]



PARCEL 1

The South 28.0 feet of Lots 15, 16, 17 and the South 28.0 feet of the East 33.0 feet of Lot 18 and the East 33.0 feet of Lot 19 and all of Lots 20, 21 and 22 all in Block 1, Granite Addition, Salt Lake County, Utah according to the official plats thereof and being more particularly described as follows: Beginning at the Northeast corner of Main Street and 3300 South Street, said point being North 89°54' East 32.26 feet from the Southwest corner of Lot 1, Block 33, 10 Acre Plat "A", Big Field Survey and said point of beginning also being North 89°54' East 33.00 feet and North 0°03'17" East 33.00 feet from a County Monument in the intersection of Main Street and 3300 South Street and running thence North 0°03'17" East along the East line of Main Street 176.60 feet; thence North 89°54'18" East 181.73 feet; thence South 0°03'03" West 176.58 feet to the North line of 3300 South Street; thence South 89°54' West along said North line 181.74 feet to the point of beginning. Contains 32,092.58 square feet or 0.737 acres.

Exhibit A

BOOK 4368 PAGE 322

PARCEL 2

The North 120.50 feet of Lots 12 through 17 and the North 120.50 feet of the East 33.0 feet of Lot 18, all in Block 1, Granite Addition and the vacated 66.0 foot wide Granite Avenue adjacent to and North of said lots in Salt Lake County Utah, according to the official plats thereof and being more particularly described as follows: Beginning at a point on the East line of Main Street said point being North  $89^{\circ}54'$  East 32.26 feet and North  $0^{\circ}03'17''$  East 176.60 feet from the Southwest corner of Lot 1, Block 33, 10 Acre Plat "A", Big Field Survey and said point of beginning also being North  $89^{\circ}54'$  East 33.00 feet and North  $0^{\circ}03'17''$  East 209.60 feet from a County Monument in the intersection of Main Street and 3300 South Street and running thence North  $0^{\circ}03'17''$  East along the East line of Main Street 186.64 feet; thence North  $89^{\circ}54'28''$  East 305.51 feet; thence South  $20^{\circ}31'30''$  East 70.53 feet; thence South  $0^{\circ}02'52''$  West 120.54 feet; thence South  $89^{\circ}54'18''$  West 330.41 feet to the point of beginning.

Exhibit B

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

On the 29th day of September, 1976, personally appeared before me H. ROGER BOYER and KEM C. GARDNER, who being by me duly sworn did say that he, the said H. ROGER BOYER is the president, and he, the said KEM C. GARDNER, is the secretary of THE BOYER COMPANY, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said H. ROGER BOYER and KEM C. GARDNER, duly acknowledged to me that said corporation executed the same.

Edmund Brown  
NOTARY PUBLIC

Residing at Salt Lake City, Utah



My Commission Expires:

8-23-80

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF ~~DUPAGE~~ COOK )

I, CAROL L. MICHALEK, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Luigi Salerni Vice President and Robert Ryan, Assistant Secretary of FRANCHISE REALTY INTERSTATE CORPORATION, a(n) Illinois corporation who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, respectively, appeared before me this date in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, and as such Vice President and Assistant Secretary, respectively, as the free and voluntary act of FRANCHISE REALTY INTERSTATE CORPORATION, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 15th day of September, 19 76.

My Commission expires:

My Commission Expires February 5, 1980

