

ENT 26570 BK 2626 PG 115
NINA B REID UTAH CO RECORDER BY BT
1989 SEP 8 4:36 PM FEE 13.00
RECORDED FOR ASSOCIATED TITLE COMPANY

ENT 26676 BK 2626 PG 393
NINA B REID UTAH CO RECORDER BY BT
1989 SEP 11 12:48 PM FEE 12.50
RECORDED FOR ASSOCIATED TITLE COMPANY

WHEN RECORDED, PLEASE RETURN TO:

SECOND RECORDING

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is executed as of the 8TH day of September, 1989, by BOYER OREM ASSOCIATES, a Utah limited to partnership ("Grantor"), whose address is 675 East 500 South, Suite 600, Salt Lake City, Utah 84102, in favor of SHOPKO STORES, INC, d/b/a UVALKO SHOPKO STORES, INC., a Minnesota corporation ("Grantee"), whose address is P.B. Box 19060, Green Bay, Wisconsin 54307-9060.

WITNESSETH:

FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, Grantor hereby conveys and warrants to Grantee against all persons claiming by, through or under Grantor, but not otherwise, that certain real property located in the County of Utah, State of Utah, more particularly described on the attached Exhibit A, incorporated by this reference. Together with the appurtenant interest in and to that certain Declaration of Restriction executed by FAMILY FIRST FEDERAL CREDIT UNION, f.k.a. Orem Geneva Federal Credit Union, dated August 29, 1989, recorded Sept 8 1989, as Entry No. 26561, in Book 2626, at Page 66, Utah County Recorder's Office. Subject to all taxes, assessments, liens, encumbrances, rights-of-way, easements, restrictions, reservations and other matters of record or enforceable at law or in equity, SO LONG AS AND WHILE, BUT ONLY SO LONG AS AND WHILE, THE FOLLOWING CONDITION IS FULFILLED: on or before October 1, 1989, Grantee irrevocably and unconditionally covenants with Grantor in writing to construct and open for business a 100,840 square foot general merchandise discount department store on or before October 11, 1990, subject to reasonable extensions of time for causes beyond the reasonable control of Grantee (excluding financial inability). The intent of Grantor, and the effect of this instrument, by use of the phrase "SO LONG AS AND WHILE, BUT ONLY SO LONG AS AND WHILE, THE FOLLOWING CONDITION IS FULFILLED. . ." is to create a fee simple determinable estate in Grantee, with the possibility of reverter in Grantor, and not a fee simple estate subject to a condition subsequent with the right of re-entry for condition broken. It is the intent of Grantor, and the effect of such phrase, that the estate created in Grantee by this instrument will automatically determine and expire upon the failure of such condition to occur timely.

ENT26570 BK 2626 PG 116

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GRANTOR has executed this Special warranty Deed in favor of Grantee on the date set forth below, to be effective as of the date first set forth above.

GRANTOR:

BOYER OREM ASSOCIATES,
a Utah limited partnership,
by its general partner:

THE BOYER COMPANY,
a Utah corporation

By H. Roger Boyer
H. Roger Boyer
Chairman of the Board
attorney-in-fact
Date September 8 1989

State of Utah)
County of) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 1989, by H. Roger Boyer, Chairman of the Board of Directors of The Boyer Company, a Utah Corporation, the general partner of Boyer Orem Associates, a Utah limited partnership.

(Seal)

My Commission Expires:

NOTARY PUBLIC

Residing at:

State of Utah)
) ss
County of Utah)

~~ENT 26570 BK 2626 PG 117~~

ENT 26676 BK 2626 PG 395

The foregoing instrument was acknowledged before me this 8th day of September, 1989, by H. Lewis Swain, Attorney in Fact for The Boyer Company, a Utah corporation, the general partner of Boyer Orem Associates, a Utah limited partnership.

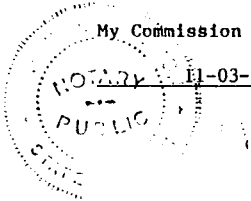
Brian D. Bruensa

NOTARY PUBLIC
Residing at:

Orem, Utah

My Commission Expires:

11-03-90



~~ENT26578 BK 2626 PG 118~~

ENT26676 BK 2626 PG 396

EXHIBIT A

to

SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

The real property referred to in the foregoing instrument is located in Utah County, Utah, and is more particularly described as follows:

A part of the Southwest Quarter of Section 14, Township 6 South, Range 2 East of the Salt Lake Base and Meridian, U.S. Survey.

Proposed Lot 3, Boyer Retail Center.

Beginning at a point on the South line of Center Street being 392.64 feet South 88 deg 53'35" East along the Quarter Section line and 30.38 feet South from the West Quarter corner of said Section 14; and running thence along said South line of Center Street South 88 deg 49'28" East 943.66 feet to a point on the projection of an existing boundary line fence; thence South 0 deg 01'43" East 371.22 feet along said fence to the Northwest corner of Chapel Park, a subdivision in Orem City, Utah County, Utah; thence South 0 deg 09'39" East 246.62 feet along said subdivision boundary to the North boundary of Royal Oaks Subdivision, Plat "E", in Orem City, Utah County, Utah; thence along said Southwest boundary the following two (2) courses; North 88 deg 45'40" West 143.18 feet and South 0 deg 18'10" East 122.13 feet to a point on an existing boundary line fence; thence South 0 deg 14'27" East 383.76 feet along said boundary line fence; thence North 88 deg 34'06" West 139.04 feet; thence Southwesterly along the arc of an 80.00 foot radius curve to the left a distance of 40.17 feet (Delta equals 28 deg 46'13" and Long Chord bears South 77 deg 02'52" West 39.75 feet) to a point of reverse curvature; thence Southwesterly along the arc of an 80.00 foot radius curve to the right a distance of 40.17 feet (Delta equals 28 deg 46'13" and Long Chord bears South 77 deg 02'52" West 39.75 feet); thence North 88 deg 34'06" West 50.10 feet; thence South 0 deg 33' East 5.00 feet; thence North 89 deg 10' West 227.45 feet; thence North 0 deg 14'27" West 274.15 feet; thence North 88 deg 47'06" West 59.15 feet; thence North 0 deg 14'27" West 88.84 feet; thence North 88 deg 47'06" West 135.73 feet to the Easterly line of State Street; thence North 18 deg 29'04" West 231.18 feet along said Easterly line; thence South 88 deg 54' East 93.90 feet; thence North 0 deg 06' East 131.89 feet; thence North 88 deg 54' West 138.52 feet to the Easterly line of said State Street; thence North 18 deg 29' 04" West 319.69 feet along said Easterly line; thence South 88 deg 59' East 103.51 feet; thence North 1 deg 01' East 134.31 feet to the point of beginning.

~~ENT 26576 BK 2626 PG 119~~

ENT 26676 BK 2626 PG 397

LEGAL DESCRIPTION
(CONT'D)

LESS AND EXCEPTING: Beginning at a point in the Easterly line of U.S. Highway No. 91, which point is 232.60 feet East along the quarter section line and 685.70 feet South 18 deg. 30' East along the Easterly line of said Highway from the West one-quarter corner of Section 14, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence East 125 feet; thence South 10 deg. 39' East 173.70 feet; thence West 100 feet to a point in the Easterly line of said Highway; thence North 18 deg. 30' West 180 feet to the point of beginning.

LESS AND EXCEPTING: Commencing at a point located South 88 deg. 59' East along the one-quarter Section line 873.18 feet and South 402.00 feet and South 0 deg. 46'10" East 100 feet from the West one-quarter corner of Section 14, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 88 deg. 59' East 104.82 feet to the Westerly boundary of 150 East Street; thence South 0 deg. 15'43" East 87.06 feet; thence along the arc of a 10.22 foot radius curve to the right 16.30 feet (chord bears South 45 deg. 25'09" West 14.62 feet); thence North 88 deg. 53'59" West along the North boundary of 100 South Street 96.33 feet; thence North 01 deg. 01' East 90.54 feet; thence North 0 deg. 46'10" West 6.83 feet to the point of beginning.