

MAILING ADDRESS REQUIRED

FOR TAXATION PURPOSES

PLEASE CALL (435) 734-3391

STATE CODE 57-3-5 (3)

LIMITED WARRANTY DEED

133177 Bk **0723** Pg **0135**
LuAnn Adams, Box Elder County Recorder
09/20/1999 4:33pm FEE: 18.00 Dep:NM
Rec'd For: PHILLIPS HANSEN LAND TITLE CO

03-146-0169 ✓

PH 8700

Return Document to:
Susan A. Buckna
Legal Counsel
700 Pilgrim Way
Green Bay, WI 54307
920-429-7428

Tax Parcel No: _____

THIS INDENTURE, made this 20th day of September, 1999, between SHOPKO STORES, INC., a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, party of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc., an Ohio corporation party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has given, granted, bargained, sold, remised, released, aliened, conveyed and confirmed, and by these presents does give, grant, bargain, sell, remise, release, alien, convey and confirm unto the said party of the second part, its heirs and assigns forever, the following described real estate, in an as-is condition, situated in the County of Box Elder, and State of Utah, to-wit:

**SEE ATTACHED
EXHIBIT A**

Together with all improvements, tenements, easements, fixtures and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining; and all the estate, right, title, interest, claim or demand whatsoever, of the said party of the first part, either in law or equity, either in possession or expectancy of, in and to the above bargained premises, and their hereditaments and appurtenances.

To have and to hold the said premises as above described with the hereditaments, appurtenances and restrictions, unto the said party of the second part, and to its heirs and assigns **FOREVER**.

And the said Shopko Stores, Inc., party of the first part, for itself and its successors, does covenant, grant, bargain and agree to and with the said party of the second part, heirs and assigns, that the above bargained premises, in the quiet and peaceable possession of the said party of the second part, heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, by, through or under said Shopko Stores, Inc., party of the first part, and none other, it will forever **WARRANT** and **DEFEND**, except municipal and zoning ordinances, public utility easements of record which do not interfere with the proposed development, general taxes for the year of closing, the Permitted Encumbrances set forth on Exhibit B, and such matters which would be disclosed by an accurate survey and inspection of the Property. ShopKo Stores, Inc., part of the first part, shall pay any deed or transfer tax payable with respect to such deed.

Restrictions applicable to the Premises include single tenant use, general height restriction of 18' plus 4' HVAC, screening and roof-top equipment, and prohibited use of the Property for a pharmacy, drugstore, optical center, discount retailer or general toy store. These restrictions shall run with the land and be binding upon the party of the second part's successors and assigns.

IN WITNESS WHEREOF, the said Shopko Stores, Inc., party of the first part, has caused these presents to be signed by William J. Podany, its President and countersigned by Richard D. Schepp, its Secretary, at Green Bay, Wisconsin, and its corporate seal to be hereunto affixed.

SHOPKO STORES, INC.

By:

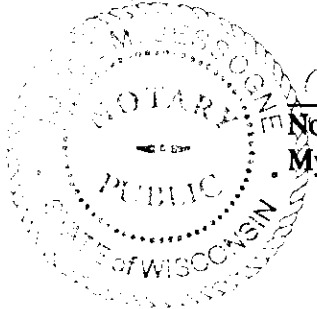
William J. Podany
William J. Podany, President

Attest:

Richard D. Schepp
Richard D. Schepp, Secretary

STATE OF WISCONSIN)
) ss.
COUNTY OF BROWN)

Personally came before me this 17th day of September, 1999, William J. Podany, President and Richard D. Schepp, Secretary of ShopKo Stores, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, and to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said corporation and acknowledged that they executed the foregoing instrument as such officers as the act of said corporation, by its authority.



Laura M. Jessop
Notary Public, Wisconsin

My Commission expires 4/27/03

EXHIBIT "A"

A PARCEL OF LAND BEING LOCATED IN BRIGHAM CITY, UTAH IN THE SOUTH HALF OF SECTION 24, AND THE NORTH HALF OF SECTION 25, TOWNSHIP 9 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOT 1A OF THE AMENDMENT TO LOT 1 BRIGHAM INTERMOUNTAIN DEVELOPMENT PLAT E SUBDIVISION AS RECORDED IN THE BOX ELDER COUNTY RECORDERS OFFICE, BOX ELDER COUNTY, UTAH SEPTEMBER 10, 1999 AT 9:13 A.M. AS ENTRY NO. 132795.

Exhibit "B"

1. Taxes for the year 1999 are a lien, not yet due. Taxes for the year 1998 were paid in the amount of \$33,188.44. Tax Serial (Sidwell) No. 03-146-0152.
2. Said property is within the boundaries of Brigham City, and is subject to any charges and assessments levied thereunder. None of which are now assessed.
3. Subject to a Public Utility Easement along the North 10 feet and along the West 20 feet as shown on the official plat file No. 132795 dated September 10, 1999.
4. Subject to a powerline easement as shown on recorded plat of said subdivision. Said easement being 10 feet in width, center line beginning 25.45 feet South 88°24'04" East of the Northwest corner of said Lot and running South 21°20'53" East 115.00 feet.
5. The described property is found within the Special Improvement District 20 as set out in documents recorded in Book 447, at Page 8 of the Official Records.
6. Subject to Brigham Intermountain Industrial Development properties Development Standards, Declaration of Buildings and use restrictions recorded October 20, 1986 in Book 427, at Page 22 as Entry No. 64117, records of Box Elder County.
7. Subject to Amended Declaration of Covenants, Conditions, Building and Use Restrictions for Brigham Intermountain Properties recorded July 15, 1988 in Book 461, at Page 179 as Entry No. 18431, records of Box Elder County.
8. Ordinance No. 586 recorded January 22, 1988 as Entry No. 14896 in Book 452, at Page 835 of the official records. Wherein this ordinance vacates Brigham Intermountain Development Plat C and the Public Streets thereof. Said Ordinance was Amended by Ordinance No. 589 recorded January 22, 1988 as Entry No. 15060, in Book 453, at Page 315 of the Official Records. This ordinance vacates Brigham Intermountain Development Plat C and the Public Streets thereof. Subject to certain terms and conditions, including certain easements retained by Brigham City and described in said ordinance.

9. Subject to all easements, reservations, etc. as shown on the ALTA Survey by Larsen & Malmquist, Inc Engineering dated September 16, 1999 made a part hereof including easement 1, and 3, Overhead Power (OHP), Storm Drain (SD), Telephone Service (T) Zoning Set Back, Shopko Business Sign.
10. Subject to the requirements of Brigham City Corporation concerning the subdivision of an existing subdivision lot. Proper procedure must be followed in accordance to Brigham City Planning and Zoning ordinances.

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To have and to hold the said premises as above described with the hereditaments, appurtenances and restrictions, unto the said party of the second part, and to its heirs and assigns **FOREVER**.

And the said Shopko Stores, Inc., party of the first part, for itself and its successors, does covenant, grant, bargain and agree to and with the said party of the second part, heirs and assigns, that the above bargained premises, in the quiet and peaceable possession of the said party of the second part, heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, by, through or under said Shopko Stores, Inc., party of the first part, and none other, it will forever **WARRANT** and **DEFEND**, except municipal and zoning ordinances, public utility easements of record which do not interfere with the proposed development, general taxes for the year of closing, the Permitted Encumbrances set forth on Exhibit B, and such matters which would be disclosed by an accurate survey and inspection of the Property. ShopKo Stores, Inc., part of the first part, shall pay any deed or transfer tax payable with respect to such deed.

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SHOPKO STORES, INC.

By:

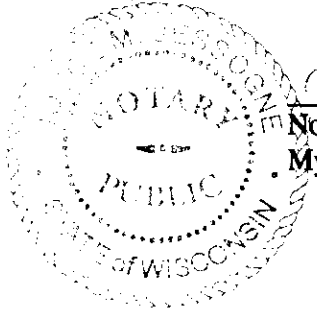
William J. Podany
William J. Podany, President

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Richard D. Schepp
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