

88427

Vol. 1780 Page 15514



KNOW that LYNDELL EDWARDS Assignor
of the City of Klamath Falls, County of
Klamath and State of Oregon for and in consideration of the sum of
Ten and no/100 Dollars,
lawful money of the United States of America,

in hand paid by VENIDA F. WHITIS Assignee
of the City of Keno County of Klamath
and State of Oregon, hereby assigns unto said Assignee, a certain lease made by
Beth Tyrholm to Lyndell Edwards,
dated April 18, 1980, ~~and covered~~ covering property described in the attached
~~XX~~
Lease on Exhibit "A" therein situate, being in and bounded and particularly described
as follows, to-wit:

SEE ATTACHED EXHIBIT "1"

To Have and to Hold the same unto said Assignee, her heirs successors and
~~XX~~ and assigns, from the 17 day of July, 1980,
for all the rest of the term of the Lease hereto attached
~~XX~~ subject to the rents, covenants, conditions and provisos therein also mentioned.

AND the Assignor, hereby covenants that the said assigned premises are free from encumbrances.

IN WITNESS WHEREOF, I, LYNDELL EDWARDS
the Assignor, have set my hand and seal this 17 day of July, 1980.

Executed in the presence of

[Signature]

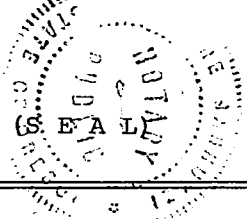
(SEAL)

(SEAL)

STATE OF OREGON }
County of Klamath } ss.

BE IT REMEMBERED, That on this 17 day of July, 1980,
before me, the undersigned, a notary public
in and for said County and State, personally appeared the within named
Lyndell Edwards who is known
to me to be the identical individual described in and who executed the within instrument and acknowl-
edged to me that he executed the same freely and voluntarily.

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



[Signature]
Notary Public for Oregon
My commission expires 4-10-82

Assignment of
LEASE
(FORM No. 43)

FROM

LYNDELL EDWARDS

TO

VENIDA F. WHITIS

PREMISES

See Attached Exhibit "1"

Date July 17, 19 80

Expires on Lease termination

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

After recording return
to:
TA Branch

280 AUG 15 PM 3 49

- L E A S E -

THIS LEASE, entered into at Klamath Falls, Oregon, on this 18th day of April, 1980, by and between Beth Tyrholm as Lessor, and Lynn Edwards as Lessee, on the following terms and conditions:

The premises leased hereunder are described in Exhibit "A" which has been initialed by the parties hereto and made a part hereof as though fully incorporated and set forth herein.

The term of this lease shall be for a period of five (5) years, commencing on the 18th day of April, 1980, until the 18th day of April, 1985, the commencement date being the date the Lessee commence business on the leased premises, with the public.

Lessee shall pay to Lessor, without deduction or setoff the sum of \$350.00 per month for each calendar month during the term of this lease, which shall be payable in advance on the 1st day of each calendar month.

Additionally, beginning on the 13th month after the execution of this lease, and each year thereafter, the monthly lease amount shall be adjusted to conform to the annual percentage or increase or decrease in the Consumer Price Index as published by the Department of Labor.

Upon the execution of this lease by Lessee, Lessee shall deposit the sum of \$700.00, said rent deposit being applied by Lessor as the first and last months' rent, under the terms of this lease.

Lessee shall install a "Burger Shoppe" unit, which shall be a decorative and self-contained prefabricated merchandising island, as illustrated in Exhibit "B" on said premises, and it shall be maintained in tenable repair and condition by Lessee. It is agreed that this structure is not and shall not be considered part of the realty, and shall be removed by Lessee at the expiration of this lease.

Lessee shall pay promptly, prior to delinquency, all utilities used or consumed by or supplied to Lessee in connection with the use of the demised premises. If Lessee does not pay the same, then in that event, Lessor may pay such amount, and the amount paid shall be collected as additional rent with the next installment of rent due. Lessee shall have the right to bring in utilities to the premises as Lessee's needs require and shall bear all costs of such installation.

Lessor shall pay all real property taxes, and Lessee shall pay all personal property taxes levied by reason of Lessee's occupancy of said premises. If, in the event; however, that the taxing authorities should deem the building of the "Burger Shoppe" unit to be, in fact, real property, then and in that event, Lessee agrees to pay such additional tax that the amount of said building shall increase Lessor's real property taxes.

Lessee shall use the premises exclusively for the operation of the "Burger Shoppe" sales unit, merchandising food, soft drinks, and other items normally sold in "Burger Shoppe" sales units. Lessee agrees that at all times during the term of this lease, they will conduct said business with adequate facilities, fixtures, employees, materials and inventory. Lessee further agrees to endeavor in the utmost good faith to exploit and develop such business in such a manner so as to produce the maximum volume of gross sales.

Lessee shall apply for all necessary permits required by governing authorities for the installation of the said "Burger Shoppe" unit at Lessee's sole expense. In the event that, for any reason whatsoever, Lessee is denied authority to install said "Burger Shoppe" unit, or to perform all or part of the work necessary to install the same within a reasonable time, Lessee shall have the option to terminate this lease by giving notice of that fact to the Lessor, and in the event this lease is so terminated, Lessee and Lessor shall have no further obligation, one to another, of any kind.

Lessee may install and maintain electric or other artistic signs capable of being illuminated, advertising its business or products sold on the premises, and Lessee shall obtain the necessary permits from governmental authorities for the erection and maintenance of said signs. If such sign shall deviate substantially from those set out in the attached Exhibit "B", then Lessee shall obtain approval for such alteration in writing from Lessor prior to the installation thereof. Lessor agrees that approval shall not be unreasonably or arbitrarily withheld, and if Lessor does not approve Lessee's request within 20 days from the date of receipt of written request for approval, such nonaction by the Lessor shall constitute consent and approval of the requested change.

Lessor acknowledges Lessee's right to assign the lease, or sublease the premises to other parties as part of Lessee's business, and Lessee shall have the right to assign or sublease, provided such assignment or sublease is within the purpose for which said premises are to be used pursuant to the terms of this lease. No sublease or assignments by Lessee shall relieve Lessee of any liability hereunder. Except as provided now in the foregoing, Lessee shall not, without the written consent of Lessor received prior thereto, assign this lease, or any interest thereunder, or sublease the premises, or any part thereof, or permit the use of the premises by any party other than Lessee. Consent to such assignment or sublease shall not be unreasonably withheld by Lessor, but consent to any assignment or sublease shall not destroy the terms of this provision and all later assignments or subleases shall likewise conform to the terms hereof.

It is mutually agreed that in the event the Lessee shall default in the payment of rent herein reserved when due, and fail to cure the default within 10 days from and after receipt of written notice thereof from Lessor; or if Lessee shall be in default in performing any of the terms or provisions of this lease, other than the provisions requiring the payment of rent, and fail to cure such default within 20 days after the date of receipt of written notice of default from the Lessor; or if Lessee is adjudicated bankrupt, or if a permanent receiver is appointed for Lessee's property, and such receiver is not removed within 20 days after receipt of written notice from Lessor to Lessee to obtain such removal; or if, whether voluntarily, Lessee takes advantage of any debtor relief proceedings under any present or future law whereby the rent or any part thereof is, or is proposed to be, reduced, or payment thereof deferred; or if Lessee makes an assignment for the benefit of creditors; or if Lessee's effects should be levied upon, or attached under process against Lessee, not satisfied or dissolved within 20 days after receipt of written notice from Lessor to Lessee to obtain satisfaction thereof; then, and in any of said events, Lessor at his option may at once, or within one month thereafter (but only during continuance of such default or condition) terminate this lease by written notice to Lessee; whereupon the lease shall end. After an authorized assignment or subletting of the entire premises covered by this lease, the occurring of any of the foregoing defaults or events shall affect this

lease only if caused by, or happening to the assignee or sublessee. It is understood further that any assignment or sublease by Lessee hereunder, while this lease is in default, shall be approved in writing by the Lessor, and the financial ability of said assignee or sublessee of Lessee hereunder must be with the Lessor's approval. Upon such termination by Lessor, Lessee will at once surrender possession of the premises to the Lessor and remove the "Burger Shoppe" structure and related equipment.

The parties hereto agree that all matters of dispute to be settled by litigation or negotiation shall be determined and controlled by the applicable law of the State of Oregon.

All notices or demands of any kind which Lessor is required to, or desire to serve on the Lessee shall be served by mailing a copy of such notice, or demand, to the Lessee at 6225 South Sixth Street, Klamath Falls, Oregon and postmarked letter to said address shall satisfy all requirements of notice of demand, unless an additional address is given to Lessor in writing.

That these premises in this instance comprise a portion of the parking lot of Lessor's business, and Lessee shall have the nonexclusive right to use the parking facilities provided and designated by Lessor within such lot for the accomodation and parking of such automobiles of the Lessee, its officers, agents and employees and its customers. Lessee agrees that its officers, agents and employees will park their automobiles only at such areas as the Lessor from time to time designates as "employees' parking areas" which may be outside of, but conveniently located with respect to the business properties of Lessor. Lessor will not allow blocking of traffic pattern as required for access in and out of the "Burger Shoppe" unit.

Lessee agrees that during the entire term of this lease, at Lessee's own cost and expense, they shall keep inforce, by advance payment of premises, liability insurance in an amount of not less than \$250,000.00 for injury to, or death of, one person as a result of one occurance, and not less than \$500,000.00 for one occurrence, and \$25,000 property damage insurance, insuring both Lessee and the Lessor against any liability that may accrue against them, or either of them, on account of any occurrences in or about the premises during the term, or in consequence of Lessee's occupancy of the premises, and resulting in property damage, personal injury, or death. That Lessee agrees to indemnify, protect, and hold harmless the Lessor, not

only against any and all such liability, but also against all loss, expense and damage of any and every sort and kind, including costs of investigation and attorney fees and other costs of defense which the Lessor may be required to expend as a result of Lessee's operation of said business under the terms of this lease. Lessee shall furnish to Lessor certificates of all insurance required under this paragraph, naming Lessor as an additional insured under all of said coverage.

The successful party in any litigation between the Lessor and Lessee, by reason of the terms of this lease, shall be entitled to reasonable attorney fees, and all costs of suit incurred therein.

Lessee shall at all times during the term of this lease, keep and maintain in good order, condition and repair the leased premises and every part thereof, including, without limiting the generality of the foregoing, all interior and exterior services, windows, doors and lighting fixtures. Lessee shall cause all trash, garbage, and waste from the Lessee's business to be removed daily, or deposited within a trash receptacle designated by Lessor in accordance with usual practice.

It is understood and agreed that Lessee is tying the sewer across Lessor's land, attaching to the Lessor's sewerline, and Lessee agrees to maintain said line in its entirety, and all repair thereto caused as a result of the operation of Lessee's business in connection with said sewer pipe, its attachments, and/or to said Lessor's sewerline, if failure is as a result of Lessee's operation.

If Lessee holds over after the termination of this lease, Lessee shall become tenant from month to month, only upon each and all of the terms herein provided as may be applicable to such month to month tenancy, and such holding over shall not constitute an extension of this lease. During such holding over, Lessee shall pay rent on a monthly basis upon the terms and conditions as existed, made and provided under the terms of this lease.

Lessor shall place Lessee in the peaceful and undisturbed possession of the demised premises on or before the commencement of the term hereof, the Lessee performing and observing all of the terms, covenants and conditions on their part and Lessor shall secure to the Lessee the quiet and peaceful possession of the demised premises during the term thereof.

Lessor agrees not to lease property contiguous to the demised premises to any other person, or permit the construction of a kiosk type structure on such property, for the purpose of utilizing a drivein method of selling prepared food and drinks.

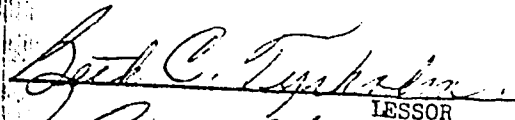
Should any term, covenant, condition, provision sentence, or part thereof of this lease be held invalid or unenforceable by any court of competent jurisdiction, the remaining terms and provisions shall, nevertheless, remain in full force and effect.

All monthly payments of rent and percentage payments are to be made to the Lessor at the following address: 4426 Day Drive, Klamath Falls, Oregon.

That in the event that Lessee shall perform completely all of the covenants and agreements contained in said lease during the said lease period, that the Lessor shall grant the Lessee an option to extend said lease for an additional five-year period on the same terms and conditions, with the exception that the payment of rental shall be established at that time; that Lessee shall give to the Lessor notice of this intention to exercise the said five-year option in writing, within 60 days from the expiration of the original term of lease, or said option shall be deemed waived.

This lease shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns, no assignee for the benefit of creditors, trustee, receiver or referee in bankruptcy shall acquire any rights under this lease by virtue of this paragraph. This lease may be modified in writing only. It constitutes the entire agreement of the parties who acknowledge that no oral or other representations have been made by themselves or any agent of either of them with respect to the conditions or said premises, or any obligation of the Lessor hereunder or otherwise.

IN WITNESS WHEREOF, the parties have hereto set their hands on the day and year first hereinabove written.


LESSOR


LESSEE

That portion of the following described property commonly known as the Burger Shoppe No. 1:

A trace of land situated in the NE 1/4 SW 1/4 of Section 1, T 39 S, R 9 EWM, Klamath County, Oregon, being a portion of that land as described in Deed Volume 160, Page 149, Deed Volume 248, Page 193, and Deed Volume 358, Page 159, Klamath County Deed Records, being more particularly described as follows:

Beginning at a 5/8 inch iron pin on the north line of the NE 1/4 SW 1/4 of said Section 1, said point being N 87°55'21" E 240.30 feet from the 5/8 inch iron pin marking the northwest corner of the NE 1/4 SW 1/4 of said Section 1; thence N 87°55'21" E along the north line of the NE 1/4 SW 1/4 of said Section 1 270.90 feet to a 5/8 inch iron pin; thence S 02°04'39" E at right angles to the north line of the NE 1/4 SW 1/4 of said Section 1 474.66 feet to a 5/8 inch iron pin in a north-south fence line; thence continuing S 02°04'39" E to the northerly right-of-way line of the State Highway as described in said Deed Volume 358, Page 159; thence northwesterly along said right-of-way line to a point that bears S 00°06'12" W from the point of beginning; thence N 00°06'12" E to a 5/8 inch iron pin; thence continuing N 00°06'12" E 240.53 feet to the point of beginning, containing 2.20 acres, more or less.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title

is 15th day of August A. D. 1980 at 3:49 o'clock P M., and

is recorded in Vol. M80, of Mortgages on Page 15514

Wm D. MILNE, County Clerk

By Bernetha M. Hetsch

Fee \$28.00