

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MORRIS W. MASTER  
RECORDER

**RECIPROCAL EASEMENT AGREEMENT**

**THIS RECIPROCAL EASEMENT AGREEMENT** is made this 14th day of March, 2000, by and between Aldi (Indiana) L.P., an Indiana limited partnership (hereinafter referred to as "Aldi") and Krygier Properties LLC, an Indiana limited liability company (hereinafter collectively referred to as "Krygier").

**WITNESSETH:**

**WHEREAS**, Aldi is the fee simple owner of real estate described as follows (hereinafter referred to as the "Aldi Parcel"):

Lots 1, 2 and 3, Deer Creek Park Subdivision, Unit 1 to the Town of Schererville, as shown in Plat Book 64, Page 35, in the Lake County, Indiana, now known as Lot 1, Deer Creek Park, Re-Subdivision of Lots 1, 2 and 3, as shown in Plat Book 77, Page 61.

**WHEREAS**, Krygier is the fee simple owner of real estate described as follows (hereinafter referred to as the "Krygier Parcel"):

Lot 4 in Deercreek Park - Unit 1 to the Town of Schererville, Lake County, Indiana as recorded in Plat Book 64, Page 35, in the Office of the Recorder of Lake County, Indiana containing 1.06 acres, more or less.

**WHEREAS**, Aldi and Krygier each desire to establish, dedicate and grant certain rights and to provide for reciprocal easements over and across certain portions of their respective parcels to provide for limited rights to their respective parcels and for other rights.

**NOW THEREFORE**, the undersigned, in consideration of the mutual covenants and promises made herein, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows: *ADK*

**FILED**

MAR 23 2000

PETER BENJAMIN  
LAKE COUNTY AUDITOR

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Am*

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1. **Incorporation of Recitals.** The foregoing recitals are true and correct and are hereby incorporated and made a part of this Agreement.


2. **Compensation.** Krygier shall pay to Aldi, the sum of Ten Thousand Dollars (\$10,000.00) payable in two equal installments of Five Thousand Dollars (\$5,000.00) due on or before March 31, 2000 and January 1, 2001.

3. **Grant of Parking Easement.** Aldi does hereby grant and convey a nonexclusive common right and easement for parking automobile vehicles of the employees, patrons, customers, or invitees of Krygier, or its successor and assigns, at all times hereafter which relate to or concern Krygier's use of the Krygier Parcel on, over and across the following described real estate (hereinafter referred to as the "Parking Easement") which is a portion of the Aldi Parcel:

The Eastern 90' of the following described parcel: Lots 1, 2 and 3, Deer Creek Park Subdivision, Unit 1 to the Town of Schererville, as shown in Plat Book 64, Page 35, in the Lake County, Indiana, now known a Lot 1, Deer Creek Park, Re-Subdivision of Lots 1, 2 and 3, as shown in Plat Book 77, Page 61.

The parking easement granted herein shall automatically terminate and be extinguished (i) at such time as the Krygier Parcel is not used as its current use as a Buffalo Wild Wings restaurant; (ii) non-compliance, illegally, or forced removal of the sign anticipated by Aldi to be located in the Sign Easement area provided for herein; or (iii) failure of Krygier to comply with the timely payment of compensation required herein. In the event of automatic termination of the parking easement granted in this paragraph within the first ten (10) years following the date of this instrument, Aldi shall grant a credit to or refund to Krygier a portion of the monetary compensation paid or owed to Aldi by Krygier hereunder. The amount of such credit or refund shall be determined by allowing One Thousand Dollars (\$1,000.00) for each year of the first ten (10) years that the parking easement was extinguished and not enjoyed by Krygier, together with a prorated amount for the actual year of termination.

Aldi shall maintain the Parking Easement. Such maintenance shall include, without limitation, keeping the same in good condition and repair and keeping the same reasonably free and clear of foreign objects, papers, debris, obstructions, standing water, snow and ice in a manner consistent with the parking area located on the Aldi Parcel and used exclusively by Aldi.

4. **Sign Easement.** Krygier does hereby grant and convey to Aldi an exclusive and perpetual right and easement to erect, maintain and repair a free standing sign not be exceed nine and one-half feet (9½') in advertising the business located on the Aldi Parcel and for no other message or purpose, and for ingress and egress to the sign therein for the purposes herein granted and conveyed, on the following described real estate (hereinafter referred to as the "Sign Easement") which is a portion of the Krygier Parcel: 

The North 10' of the East 22' of Lot 4 in Deercreek Park, Unit 1, an Addition to the Town of Schererville, Lake County, Indiana as recorded in Plat Book 64, Page 35, in the Office of the Recorder of Lake County, Indiana.

5. **Easements and Agreements to Run with the Land.** The easements granted, conveyed and created herein along with all covenants, promises and agreements shall run with the land and be binding upon and inure to the benefit of the parties hereto and their successors and assigns, and all persons holding under or through the parties hereto, their respective mortgagees (and any party claiming by, through or under such mortgagee and any purchaser at any foreclosure sale), lessees, sublessees and their employees, agents, customers, licensees and invitees.

6. **Indemnification and Release.** Each party shall indemnify and hold harmless all other parties relating to any and all claims or judgments arising from the use of the respective parcels unless the claim, demand or judgment is caused by the negligence of the other party or its tenant, lessee, or occupant. This indemnification shall not include any matter for which the Indemnified Party is effectively protected against by insurance. If any person institutes an action against Indemnifying Party in which Indemnified Party is made a party defendant, Indemnifying Party shall indemnify and save Indemnified Party harmless from all liabilities by reason thereof, including reasonable attorney's fees and all costs incurred by Indemnified Party in such action. Indemnified Party does not waive its right to appear, defend or otherwise take part in any proceeding for which indemnification is sought by Indemnified Party with counsel of Indemnified Party's choosing, and such appearance or defense shall not waive Indemnified Party's right of indemnification. Indemnifying Party does hereby release Indemnified Party from all liability for any accident, damage or injury caused to person or property on or about the Indemnified Party's real estate whether due to negligence on the part of Indemnified Party and notwithstanding whether such acts or omissions be active or passive. Each party does hereby release the other from all liability for any accident, damage or injury caused to person or property, provided, this release shall be effective only to the extent that the injured or damaged party is insured against such injury or damage and only if this release shall not adversely affect the right of the injured or damaged party to recover under such insurance policy.

7. **Not a Public Dedication.** Unless expressly stated otherwise in this Agreement, nothing contained in this Agreement will be deemed to be a gift or dedication of any portion of the respective parcels described herein to the general public or for the use of the general public or for any public purpose whatsoever, it being the intention that this Agreement will be strictly limited to and for the purpose expressed herein.

8. **Severability.** If any clause, sentence, or other portion of the terms, conditions, covenants, and restrictions of this Agreement become illegal, null, or void for any reason, or be held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect. *AMK*

9. **Enforcement.** Enforcement of the covenants, promises and agreements made herein shall be by any procedure at law or in equity against any persons, entity or entities violating or attempting to violate any covenant, promise or agreement either to restrain the violation or to require certain performances. Any costs of collection or enforcement, including reasonable attorneys fees, which costs and fees shall include those caused by reason of any appellate proceeding, incurred in the enforcement of any covenant, promise or agreement shall be paid by the non-prevailing party in any such proceeding. Failure to enforce any covenant, promise or agreement shall in no event be deemed a waiver of the right to enforce the same at any time.

10. **Ownership of Parcel.** The parties hereto represent and warrant that they are the holders of the fee simple title to the respective parcels, or a legal or equitable interest therein, and said parcels are not encumbered with any contract purchase, lease, tenant farmer, or any other interest not disclosed herein or inconsistent with the grant of easements made herein. Furthermore, the undersigned, having executed this Agreement on behalf of the respective legal entities represents and certifies that as a duly authorized representative, the undersigned is fully empowered, by proper resolution of the Board of Directors of the corporation, membership of the company, or the partners to execute and deliver this Agreement; that the corporation, company or partnership has full capacity to convey the interest in real estate described herein; and that all necessary action for the making of such grant has been taken and done.

11. **Amendment.** This Agreement may not be modified, rescinded, limited, amended or enlarged except by a written agreement signed by the parties hereto or their successors and assigns.

12. **Construction of Agreement.** The rule of strict construction shall not apply to the easements granted in this Agreement or to the covenants set forth herein. This Agreement shall be given a reasonable construction so that the intention of the parties to confer reasonably usable benefits and reasonably enforceable obligations are carried out.

13. **Real Estate Taxes.** Each party shall pay or cause to be paid before delinquency all general and real estate taxes and assessments levied against their respective parcels described herein. *EX*

**IN WITNESS TO THIS RECIPROCAL EASEMENT AGREEMENT,** the parties have caused this instrument to be executed as of the day and year first above written, subject to all of the terms and conditions herein set forth.

Aldi (Indiana) L.P.

By Aldi (Indiana) LLC  
Its General Partner

By: Michael J. Jessen  
Michael J. Jessen  
Its Manager

Krygier Properties LLC

By: *Alan D. Krygier*  
Alan D. Krygier  
Title: Member

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF PORTER )

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Before me, a Notary Public in and for said county and state, do hereby certify that Michael J. Jessen, Manager of Aldi (Indiana) LLC, the General Partner of Aldi (Indiana), L.P., an Indiana limited partnership, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he executed the foregoing instrument of his free and voluntary act.

Given under my hand and notarial seal this 14<sup>th</sup> day of March, 2000.

*Victoria G. Arndt*  
Notary Public  
Printed: Victoria G. Arndt

My Commission Expires: \_\_\_\_\_

**VICTORIA G ARNDT  
NOTARY PUBLIC STATE OF INDIANA  
LA PORTE COUNTY  
MY COMMISSION EXP. AUG. 31, 2006**

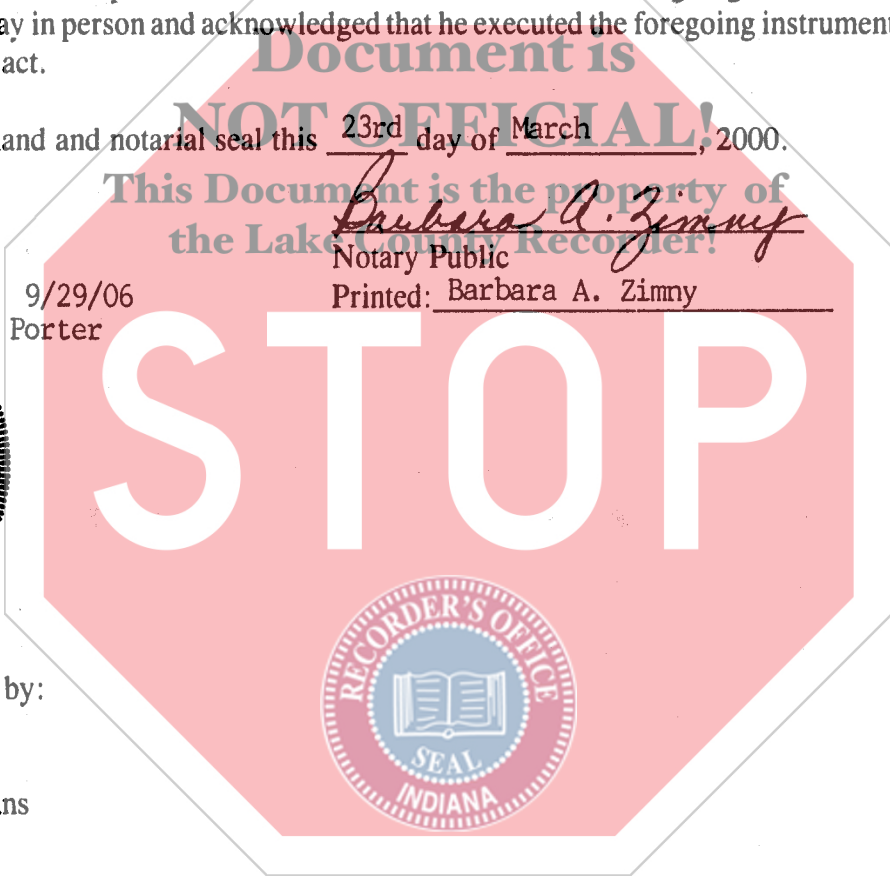


STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for said county and state, do hereby certify that, Alan D. Krygier, the President of Krygier Properties LLC, an Indiana limited liability company, and personally known to me to be the person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he executed the foregoing instrument of his free and voluntary act.

Given under my hand and notarial seal this 23rd day of March, 2000.

My Commission Expires: 9/29/06  
County of Residence: Porter



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This Document is the property of  
Barbara A. Zimny  
Notary Public  
Printed: Barbara A. Zimny



This instrument prepared by:

↓  
Todd A. Leeth  
Hoepner Wagner & Evans  
103 Lincolnway  
Post Office Box 2357  
Valparaiso, Indiana 46384  
(219) 464-4961

March 6, 2000 C:\Tal\Aldi-Misc\ReciprocalEasAgmt.wpd