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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2005 051744

2005 JUN 22 11:00 AM

MICHAEL J. ...
RETURN TO: GLENN R. PATTERSON, ESQ.
LUCAS, HOLCOMB & MEDREA, LLP
EASTON COURT
300 EAST 90TH DRIVE
MERRILLVILLE, INDIANA 46410

USE RESTRICTION AND COVENANT
(CERTAIN FOOD SALES)

CM 0520051177

This Use Restriction and Covenant is made and entered into this day by and between ***I-65 PARTNERS, LLC, an Indiana limited liability company*** (the "Grantor"), and ***VAN TIL'S REAL ESTATE, LLC, an Indiana limited liability company, and SVT, LLC, an Indiana limited liability company*** (together the "Grantee").

WHEREAS, Grantor is the owner of the following described real estate:

Parcel 1: The Northwest 1/4 of the Southwest 1/4 in Section 3, Township 34 North, Range 8 West of the 2nd Principal Meridian, in Lake County, Indiana, EXCEPTING THEREFROM THE FOLLOWING:

Beginning at a point on the North line of said 1/4 section, South 89 degrees 53 minutes 21 seconds East, 42.4 feet from the Northwest corner of said 1/4 section, which point of beginning is on the East Boundary of S.R. 53; thence continuing South 89 degrees 53 minutes 21 seconds East, 20.00 feet along the said North line; thence South 0 degrees 15 minutes 00 seconds East, 81.71 feet; thence South 21 degrees 33 minutes 05 seconds West, 53.85 feet to the East boundary of S.R. 53; thence North 0 degrees 15 minutes 00 seconds West 131.83 feet along the boundary of said S.R. 53 to the point of beginning, in Lake County, Indiana, said portion being deeded to the State of Indiana by Deed recorded December 4, 1995, as Document No. 95073549 and Deed recorded January 18, 1996, as Document No. 96003644.

Chicago Title Insurance Company

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FILED

JUN 22 2005

STEPHEN R. STIGLICH
LAKE COUNTY AUDITOR

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CT
RCL
01810

Parcel 2: The Southwest 1/4 of the Southwest 1/4 of Section 3 Township 34 North, Range 8 West of the 2nd Principal Meridian, in Lake County, Indiana, EXCEPTING THEREFROM THE FOLLOWING:

A part of the Southwest 1/4 of the Southwest 1/4 described as follows: Commencing at the Southwest corner of said section; thence North 89 degrees 43 minutes 58 seconds East, 65.00 feet along the South line of said 1/4 section; thence North 0 degrees 16 minutes 02 seconds West, 20.00 feet to the East boundary of S.R. 53 and the point of beginning of this description; thence North 31 degrees 13 minutes 45 seconds West, 14.54 feet along the boundary of said S.R. 53; thence North 89 degrees 59 minutes 33 seconds East, 592.62 feet; thence North 0 degrees 08 minutes 27 seconds East, 20.00 feet; thence South 89 degrees 51 minutes 33 seconds East, 110.63 feet to the Southern boundary of the Erie-Lackawanna Railroad; thence South 71 degrees 29 minutes 47 seconds East, 90.10 feet along the boundary of said Erie-Lackawanna Railroad to the north boundary of 109th Avenue; thence South 89 degrees 43 minutes 58 seconds West, 781.21 feet along the boundary of said 109th Avenue to the point of beginning, in Lake County, Indiana, said portion deeded to The City of Crown Point, Indiana by Warranty Deed recorded March 18, 2002, as Document No. 2002 026317.

Parcel 3: Part of the Southeast 1/4 of the Southwest 1/4 of Section 3, Township 34 North, Range 8 West, 2nd Principal Meridian, Lake County, Indiana, described as follows: Commencing at the Southwest corner of said Section 3 marked by a brass plug in concrete; thence North 00 degrees 33 minutes 01 seconds West, 1329.46 feet along the West line of the Southwest 1/4 of the Southwest 1/4 of said Section to the North line of the Southwest 1/4, 1/4; thence North 89 degrees 32 minutes 03 seconds East, 1325.39 feet along said North line to the West line of said Southeast 1/4, 1/4; thence South 00 degrees 35 minutes 08 seconds East, 662.12 feet along said West line of said Southeast 1/4, 1/4 to the point of beginning and the beginning of a tangent curve concave Northeasterly and having a radius of 400.00 feet and a chord that bears South 22 degrees 35 minutes 57 seconds East, 299.86 feet; thence Southerly 307.37 feet along said curve to the beginning of a tangent reverse curve concave Southwesterly and having radius of 400.00 feet and a chord that bears South 21 degrees 02 minutes 22 seconds East, 287.21 feet; thence Southerly 293.77 feet along said curve; thence South 00 degrees 00 minutes 00 seconds West, 74.84 feet to the North right of way line of 109th Avenue; thence South 89 degrees 51 minutes 11 seconds West, 212.00 feet along said North right of way line to said West line of said Southeast 1/4, 1/4; thence North 00 degrees 35 minutes 08 seconds West, 620.32 feet along said West 1/4, 1/4 line to the point of beginning.

and excepting from each of the foregoing, as applicable, Lots 1 through 14 inclusive, Beacon Hill - Phase One an Addition to the City of Crown Point, Indiana, as per plat thereof recorded in Plat Book 97, page 46, in the Office of the Recorder of Lake County, Indiana.

(the "Encumbered Real Estate"); and

WHEREAS, Grantee is the owner and tenant, respectively, of the following described real estate:

Lot 11, Beacon Hill - Phase One an Addition to the City of Crown Point, Indiana, as per plat thereof recorded in Plat Book 97, page 46, in the Office of the Recorder of Lake County, Indiana.

(the "Benefitted Real Estate"); and

WHEREAS, as a material inducement to Van Til's Real Estate, LLC, to purchase the Benefitted Real Estate from Grantor, and as a material inducement to SVT, LLC, to lease the Benefitted Real Estate from Van Til's Real Estate, LLC, Grantor has agreed to execute, deliver and record this Use Restriction and Covenant to prohibit the use of the Encumbered Real Estate for the sale of certain foods, as described herein.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor, and as a material inducement to Van Til's Real Estate, LLC, to purchase the Benefitted Real Estate from Grantor, and as a material inducement to SVT, LLC, to lease the Benefitted Real Estate from Van Til's Real Estate, LLC, Grantor hereby covenants and agrees that, so long as the Benefitted Real Estate is used for the operation of a supermarket, and so long as such use of the Benefitted Real Estate is not interrupted for a period in excess of one hundred eighty (180) consecutive days, the Encumbered Real Estate shall not be used as or for (1) a supermarket, grocery store, convenience food store, produce store, butcher or meat shop, delicatessen (as defined below), or bakery, or (2) any store of any size for the retail sale for off-premises consumption of (i) fresh fruits, vegetables, or other produce, (ii) fresh meats, fish or poultry, (iii) delicatessen items, (iv) fresh bakery goods, or (v) any combination of the foregoing, the sales floor area for which in such store, including all aisle space, exceeds in the aggregate, one hundred fifty (150) square feet, or (3) any store of any size having more than six thousand (6,000) square feet of sales floor area, including all aisle space, used for the retail sale of groceries and other food products for off-premises consumption; or (4) restaurants. For purposes of the foregoing, (a) the term "restaurant" shall mean any store, other than a delicatessen, for the sale of prepared food for on-premises sit-down service consumption, having no more than forty percent (40%) of the total floor area of the store to which customers have access used for the sale for off-premises consumption of (i) fresh fruits, vegetables, or other produce, (ii) fresh meats, fish, or poultry, (iii) delicatessen items, (iv) fresh bakery goods, or (v) any combination of the foregoing, and also having a customer seating area that is no less than

sixty percent (60%) of the total floor area of the store to which customers have access, and (b) the term "delicatessen" shall mean a store that sells cheese, fresh meats, fish and/or poultry for carry out, or in prepared sandwiches or salads for on and/or off-premises consumption.

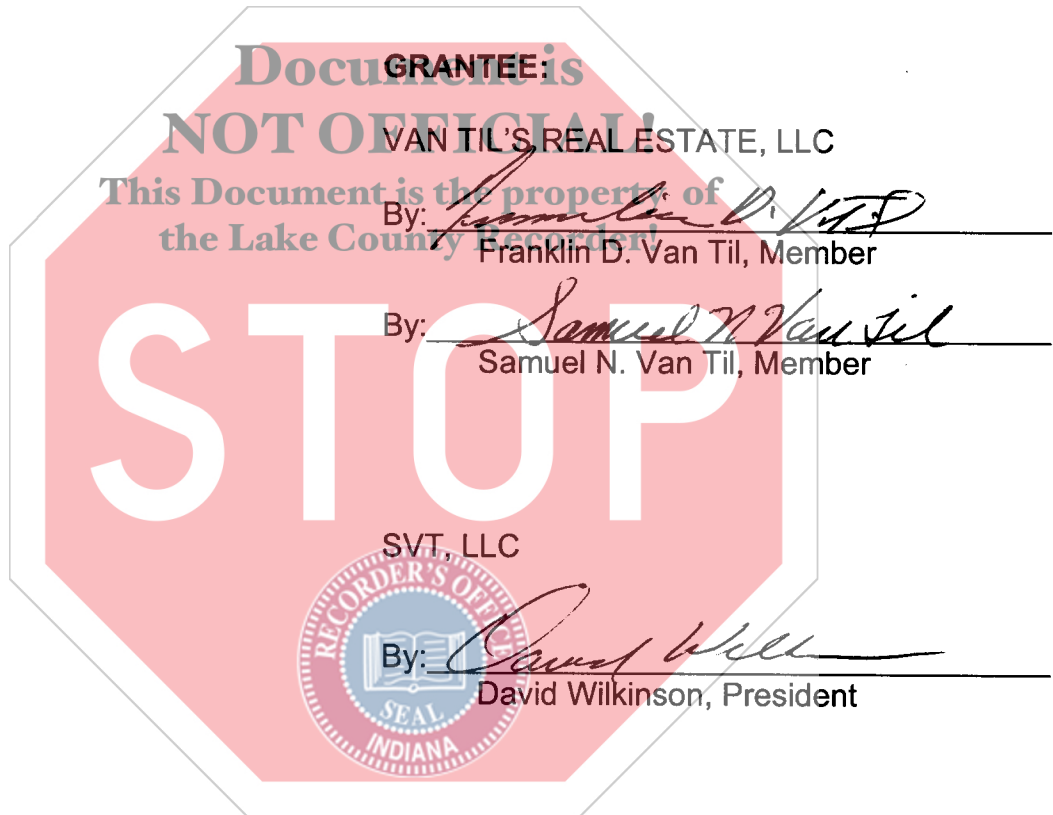
The foregoing restriction on the use of the Encumbered Real Estate is hereby declared to be a covenant running with the land of the Encumbered Real Estate to and for the benefit of Grantee and the Benefitted Real Estate.

Dated as of the 3rd day of June, 2005.

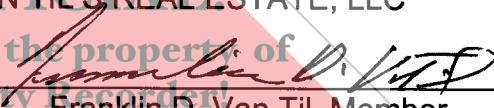
GRANTOR:


I-65 PARTNERS, LLC

By: 
Robert I. Rossman, Sole Member
and Sole Manager

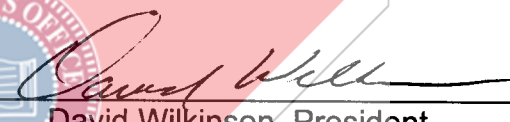



GRANTEE:
VAN TIL'S REAL ESTATE, LLC

By: 
Franklin D. Van Til, Member

By: 
Samuel N. Van Til, Member

SVT, LLC

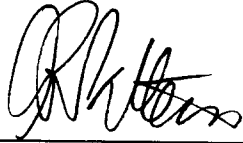
By: 
David Wilkinson, President



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned Notary Public in and for said County and State, this 3rd day of June, 2005, personally appeared ROBERT I. ROSSMAN, the Sole Member and Sole Manager of I-65 PARTNERS, LLC, and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Glenn R. Patterson, Notary Public

My Commission Expires:

November 25, 2008

County of Residence:

Lake



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned Notary Public in and for said County and State, this 3rd day of June, 2005, personally appeared FRANKLIN D. VAN TIL and SAMUEL N. VAN TIL, the Members of VAN TIL'S REAL ESTATE, LLC, and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



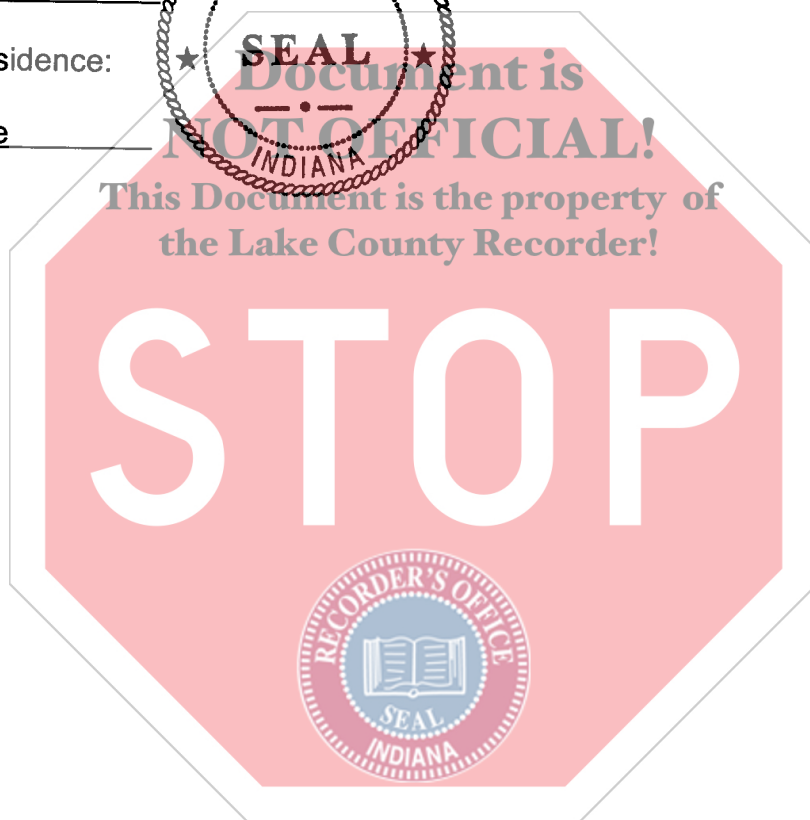
Glenn R. Patterson, Notary Public

My Commission Expires:

November 25, 2008

County of Residence:

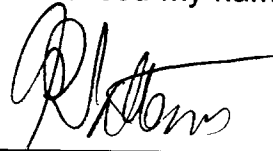
Lake



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned Notary Public in and for said County and State, this 3rd day of June, 2005, personally appeared DAVID WILKINSON, the President of SVT, LLC, and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.



Glenn R. Patterson, Notary Public

My Commission Expires:

November 25, 2008

County of Residence:

Lake



This instrument prepared by Glenn R. Patterson, Esq., Lucas, Holcomb & Medrea, Easton Court, 300 East 90th Drive, Merrillville, Indiana 46410

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