41
Denise

SPECIAL WARRANTY DEED

BOOK 11668 PAGE 72

FROM:	The Trustees of the Presbytery of Middle Tennessee Presbyterian Church (U.S.A.)	This instrument was prepared by: Gordon B. Russell, Esq. Kane, Russell, Coleman & Logan, P.C. 1601 Elm Street, Suite 3700 Dallas, Texas 75201
TO:	Foodmaker, Inc. Grantee	
Address New Owner(s) as follows:	Name and Address of the Person or Entity Responsible for the Payment of Real Property Taxes:	Map-Parcel Numbers 86.0.85
		Field Book Numbers 40-8800
Foodmaker, Inc., a Delaware Corporation 9330 Balboa San Diego, California 92123-1516	Foodmaker, Inc., a Delaware Corporation 9330 Balboa San Diego, California 92123-1516	

THE STATE OF TENNESSEE

COUNTY OF DAVIDSON

The actual consideration or value, whichever is greater, for this transfer is Three Hundred Eighty Thousand and No/100 Dollars ($380,000.00).

The Trustees of the Presbytery
of Middle Tennessee Presbyterian
Church (U.S.A.)
Affiant

SUBSCRIBED AND SWORN TO before me this the 15th day of September 1999.

Denise M. Lawrence
Notary Public

My Commission Expires: 3/25/2000

THAT the Trustees of the Presbytery of Middle Tennessee Presbyterian Church (U.S.A.), a non-

profit corporation ("Grantor") for and in consideration of the sum of Ten and No/100 Dollars ($10.00) cash and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor, paid by Foodmaker, Inc., a Delaware corporation ("Grantee") whose address is 9330 Balboa Avenue, San Diego, California have GRANTED, BARGAINED, SOLD and CONVEYED and by these presents do GRANT, BARGAIN, SELL and CONVEY unto Grantee all that certain land situated in Davidson County, Tennessee, and described on Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes, together with all appurtenances thereon in anywise appertaining thereto and all buildings, structures, fixtures and improvements located thereon (said land, improvements and appurtenances being herein together referred to as the "Property").

This Deed is made and accepted by Grantee with the express understanding that the Grantor will not operate now or in the future for a period of 25 years an establishment for the sale of hamburgers or taco oriented business within a one (1) mile radius of the Property. Said restriction shall be deemed a burden on said property and Grantor will execute any document, in recordable form, necessary to cause this restriction to run with the Property. The restriction contained herein shall be for the benefit of the Property and shall be binding upon Grantor, their heirs, administrators, grantees, successors, lessees, tenants, successors and assigns. Grantor does not own any property within a one (1) mile radius of the Property. It is further agreed that the failure of Grantee to enforce the provisions hereof in the event of a breach of said restriction, shall not be a waiver of the restriction with respect to such breach or any subsequent or different breach.

TO HAVE AND TO HOLD the Property unto Grantee, and Grantee's heirs, legal representatives, successors and assigns forever, and Grantor does hereby bind Grantor, and Grantor's heirs, legal representatives, successors and assigns to WARRANT and FOREVER DEFEND, all and singular the Property unto Grantee and Grantee's heirs, legal representatives, successors and assigns, against every

person whomsoever lawfully claiming or to claim the same or any part thereof, by through or under Grantor, but not further or otherwise..

EXECUTED this the 15 day of September, 1999.

GRANTOR:
The Trustees of the Presbytery
of Middle Tennessee Presbyterian
Church (U.S.A.)

By: _____
Name: William J. Barger
Title: President

STATE OF TENNESSEE §
§
COUNTY OF DAVIDSON §

Before me, Denise M. Lawrence a Notary public of said County and State, personally appeared William J. Barger with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President (or other officer authorized to execute the instrument) of Trustees of Presbytery the within named bargainor, a corporation and that he as such President executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

Witness my hand and seal, at Office, this 15th day of September, 1999.

Denise M. Lawrence
Notary Pubic

My Commission Expires: 3/25/2000

EXHIBIT "A"

PROPERTY DESCRIPTION

[TO BE INSERTED]

215963_1\02003 07\(9943)
K 1429.00
03/30 09/20 0101 03CHEC

The land referred to in this commitment/policy is situated in the State of Tennessee, County of Davidson and is described as follows:

Land in Davidson County, Tennessee, being a tract or parcel of land situated on the west side of Gallatin Pike in the 11th, formerly 19th Civil District of Davidson County, Tennessee, and being further described according to a survey by T. R. Sanford, Surveyor, August 23, 1955, as follows:

Beginning at an iron pin in the westerly margin of Gallatin Pike, said iron pin being in the present right-of-way line of Gallatin Pike, said point being the northeast corner of the property owned by the Madison Square Shopping Center, Inc., thence with the north line of said Madison Square Shopping Center, Inc. north 89 degrees, 03 minutes west(R), South 89 degrees 17 minutes 44 seconds West (M) 198.06 feet; thence North 22 degrees 28 minutes 54 seconds West 201.77 feet to an iron pin in the line of property formerly owned by C. E. Woodruff; thence with the south line of the lands formerly owned by Woodruff South 89 degrees 03 minutes east 340.00 feet, to an iron pin in the present right-of-way of Gallatin Pike; thence with the said right-of-way, southwesterly 189.49 feet(R), along a not tangential curve to the right with a radius of 1383.10 feet, and an arc length of 189.96 feet(M), subtended by a chord bearing South 19 degrees 56 minutes 10 seconds West, 189.91 feet; to the place of beginning. This description is taken from a survey prepared by AES Group, Inc., Michael F. Feldbusch, Surveyor, TRLS #1882, dated May 4, 1999.

Being part of the property conveyed to The Trustees of the Presbytery of Middle Tennessee, Presbyterian Church (U.S.A.) by deed of record in Book 11066, page 163, Register's Office for Davidson County, Tennessee.

RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING O
PRINTING IN THIS DOCUMENT
UNSATISFACTORY WHEN RECEIVE

99 SEP 20 PM 1:03
06374421

OFFICIAL RECEIPT

BILL GARRETT
REGISTER OF DAVIDSON COUNTY
NASHVILLE, TENNESSEE

RECEIVED OF _____

FOR _____

CO - CONVEYANCE	CC - CERTIFIED COPY	MISC - MISCELLANEOUS
MO - MORTGAGE	REL - RELEASE	CO TX - STATE TAX CONVEY
WD - WARRANTY DEED	UCC - UNIFORM COMMERCIAL CODE	MO TX - STATE TAX MORT
TD - TRUST DEED	CFEE - COMPUTER FEE	PRFEE - PROBATE FEE

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0637421

REFERENCE

99 SEP 20 PM 1:03

CAMT
380000.00
CON TX 1406.00
PRFEE 1.00
WDEED 20.00
CFEE 2.00
TOTAL 1429.00
CHECK 1429.00

09/20/99 01 13:06 0001 0140

RECEIPT IS NOT VALID UNTIL CHECK IS PAID BY BANK

No. 1518091