

# UNOFFICIAL COPY

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DEPT-01 RECORDING \$27.00  
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 #6155 ER \*-96-321978  
 COOK COUNTY RECORDER

## DECLARATION OF USE RESTRICTIONS

THIS DECLARATION OF USE RESTRICTIONS (the "Declaration") is executed as of the 5<sup>TH</sup> day of April, 1996 by CITY OF ROLLING MEADOWS, an Illinois municipal corporation (the "Declarant").

### WITNESSETH:

WHEREAS, Declarant is the owner of a certain parcel of improved land located at the address known as 3131 Kirchoff Road, Rolling Meadows, Illinois (the "Property"), which Property is legally described on Exhibit "A" attached hereto and incorporated by reference; and

WHEREAS, Eagle Food Centers, Inc., a Delaware Corporation ("Eagle") was the tenant of the Property pursuant to a certain Indenture of Lease, dated June 13, 1960, as amended (the "Lease"); and

WHEREAS, Eagle was also the sublessor and Dominick's Finer Foods, Inc., a ILLINOIS corporation ("Dominick's") was the sublessee under a sublease arrangement covering the Property, pursuant to a certain instrument entitled "Indenture of Lease," dated June 8, 1965, as amended (the "Sublease"); and

WHEREAS, Declarant, Eagle and Dominick's have, contemporaneously herewith, terminated the Lease and Sublease; and

WHEREAS, as part of the consideration of the termination of the Lease and Sublease, Declarant has agreed to impose upon the Property, for the benefit of Dominick's, certain use restrictions for a certain period of time, as hereinafter set forth.

NOW, THEREFORE, Declarant, as legal title holder of the Property, agrees as follows:

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1. Restrictive Uses. Declarant agrees that not more than 5,000 square feet of the Property shall be used for the purpose of (a) a retail food store; (b) a supermarket; or (c) the sale of food or grocery items for consumption off the Property. The restrictions contained in this Paragraph 1 shall not prohibit the sale of food prepared on the Property for consumption on or off the Property by a restaurant, take-out or food delivery service or prohibit the sale of drugs, liquor or health and beauty aids.

2. Binding Effect. The terms of this Declaration shall constitute covenants running with the land and shall be binding upon Declarant and each successor in interest to all or any part of the Property.

3. Enforcement. Dominick's and its successors in interest shall have the right to prosecute any proceedings at law or in equity against any person or entity which violates or attempts to violate the terms hereof, and to recover damages for any such violation or default. Such proceedings shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants or conditions of this Declaration or to obtain a decree to compel performance of any such terms, covenants or conditions, it being agreed that the remedy at law for a breach of any such term, covenant or condition is not adequate. All of the remedies permitted or available to Dominick's under this Declaration or at law or in equity shall be cumulative and the exercise of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

4. Severability. The invalidity of any of the provisions contained in this Declaration, or of the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions hereof where the application thereof to any other person and the same shall remain in full force and effect.

5. Amendments. This Declaration may be amended by, and only by, a written agreement signed and acknowledged by the then current owner of the Property and Dominick's and shall be effective only when recorded in the county and state where the Property is located.

6. Captions. Captions preceding the text of each article and section are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Declaration.

7. Term. This Declaration shall be effective as of the date first above written and shall continue in full force and effect until 12:00 p.m. midnight on June 30, 2000. Upon termination of this Declaration, all rights and privileges

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derived from and all duties and obligations created and imposed by the provisions of this Declaration shall terminate and have no further force or effect.

IN WITNESS WHEREOF, Declarant has executed this Declaration by its duly authorized representatives effective as of the day and year first above written.

ATTEST:

CITY OF ROLLING MEADOWS, an Illinois municipal corporation

By: Sharon L. Jacobson  
Its: City Clerk

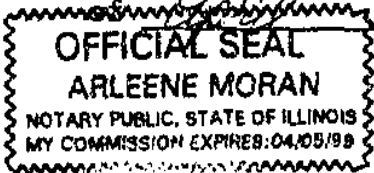
By: Thomas F. Menzel  
Its: Mayor

STATE OF ILLINOIS

COUNTY OF COOK

I, Arleene Moran, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas F. Menzel, as Mayor, and Sharon L. Jacobson, as City Clerk, of the City of Rolling Meadows, an Illinois municipal corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and City Clerk of the City of Rolling Meadows, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said City for the uses and purposes therein set forth; and said City Clerk did then and there acknowledge that she, as custodian of the City seal of said City did affix the seal of the City to said instrument as her own free and voluntary act and as the free and voluntary act of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 17 day of August, 1996.



Arleene Moran  
Notary Public

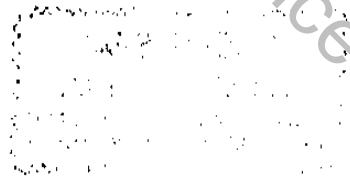
This instrument was prepared by Steven H. Leyton, Stone, Leyton & Gershman, A Professional Corporation, 7733 Forsyth Boulevard, Suite 500, St. Louis, Missouri 63105, (314) 721-7011.

Return this document to: Arnold Weinberg, Katz, Randall & Weinberg, Suite 1800, 333 West Wacker Drive, Chicago, Illinois 60606.

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## EXHIBIT "A"

### Legal Description of Property

That part of Lot "S", in Rolling Meadows Unit No. 8, hereinafter described, described as follows: Commencing at a point on the Northerly line of said Lot "S", 300.0 feet Westerly of the North Easterly corner of said Lot "S", thence Southerly at right angles to the Northerly line of said Lot "S", 310.0 feet; thence Westerly parallel to the Northerly line of Lot "S", 129.62 feet; thence South Westerly on a line drawn at right angles to the Southerly line of said Lot "S" and the Northerly line of Lots 1361 to 1371 inclusive, in said Rolling Meadows Unit No. 8, from a point 457.99 feet North Westerly of angle corner in South line of Lot "S", 250.77 feet to the Southerly line of said Lot "S", thence North Westerly along said Southerly line of Lot "S", and the Northerly line of said Lots 1361 to 1371 inclusive, 130.0 feet to a point 27.85 feet South Easterly of the North Westerly corner of said Lot 1371; thence North Easterly at right angles to said Southerly line of Lot "S", 253.78 feet to an intersection with a line drawn at right angles to the Northerly line of said Lot "S" from a point 600.0 feet Westerly of the North Easterly corner of Lot "S", thence Northerly along said line drawn at right angles to the Northerly line of Lot "S", 251.88 feet to the Northerly line of Lot "S", thence Easterly along the Northerly line of Lot "S", 300.0 feet to the place of beginning; in Rolling Meadows Unit No. 8, being a Subdivision in that part of the West half of Section 36, Township 42 North, Range 10 East of the Third Principal Meridian lying South of Kirchoff Road, according to the plat thereof registered in the Office of the Registrar of Titles of Cook County, Illinois, on July 19, 1955, and as document LR 1608437, all in Cook County, Illinois.

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