

STATE OF ALABAMA)

SHELBY COUNTY)

GROUND LEASE AGREEMENT

1. PARTIES. THIS LEASE AGREEMENT is between Roy Martin Construction, Inc., an Alabama corporation, herein referred to as "Lessor", and Stan R. Ehlman, an individual resident of the state of Alabama, herein referred to as Lessee.

2. PREMISES. Lessor hereby leases to Lessee and Lessee leases from Lessor for the term and upon the terms and conditions hereinafter set forth, the land or real property (hereinafter sometimes referred to as the "Premises") described in Exhibit "A" and shown on the site plan which shall be Exhibit "B", both of which exhibits shall be initialed by the parties and attached hereto and made a part hereof, together with the right to use all adjoining parking areas, driveways, sidewalks, roads, alleys and means of ingress and egress.

3. TERM. The primary term of this lease shall commence on the date of execution of this lease agreement or January 1, 1987, whichever date last occurs, and shall continue for a period of ten (10) years thereafter, unless sooner terminated or extended as hereafter provided. Lessee shall have and is hereby granted one (1) option to extend the term of the lease for a period of five (5) years upon the same covenants and conditions as herein provided. If Lessee shall elect to exercise such option, it shall do so by giving Lessor written notice at least ninety (90) days prior to the expiration of the primary term and in such notice Lessee shall state the date to which it elects to extend the term up to the additional five (5) year term.

4. RENT. The monthly rental for the first year of the primary term of this Lease shall be the sum of Five Hundred Dollars (^{515.00} ~~500.00~~) and said sum shall increase three (3%) percent per year for each additional year of the primary lease and the renewal term with monthly payments due by the first (1st) day of each month. Lessor hereby acknowledges receipt of the first monthly payment due with the execution of this Lease. If Lessee

opens for business on the premises before March 1, 1986, or other than the first day of a calendar month, Lessee agrees to pay Lessor the monthly rental herein on a prorated basis.

5. LESSOR'S USE COVENANT. Lessor covenants that the leased premises can be used for the purpose of operating thereon a drive-through restaurant. In the event Lessee should be prevented from so using and enjoying the property by any regulation or restriction affecting the property, or by the failure or refusal of any authority having jurisdiction over the property to issue any permit or license, then such fact or facts shall be treated as objections to Lessor's title, the provision herein with reference thereto shall apply, and Lessee shall not be required to accept or continue the lease on subject premises.

6. TAXES. As additional rent, Lessee agrees to pay all taxes levied upon personal property, including trade fixtures and inventory kept on the leased premises during the term of this lease.

7. ALTERATIONS. Lessor shall not be called upon to make any repairs or improvements whatsoever to Lessee's building and improvements during the term of this lease or any renewal thereof. Lessee may from time to time at its expense make such repairs, replacements, additions, improvements, alterations or changes that it deems necessary or appropriate for its use of the premises.

8. TERMINATION ON DEFAULT. Lessee further agrees that in the event it vacates the rented premises, or abandons the same, or files a voluntary petition in bankruptcy or an involuntary petition in bankruptcy is filed against Lessee and the same is not dismissed within thirty (30) days, or if any receiver or assignee action under the Order of any Court, or any sheriff, marshal, trustee in bankruptcy, creditor's committee, or any other officer comes into possession of the rented premises and the same is not dismissed within thirty (30) days, or if Lessee fails to make payment of any rentals due under this contract within thirty (30) days after the due date of such rental, or defaults in the performance of any of the obligations imposed

under Lessee herein, or violates any provisions of this contract, then Lessor may immediately terminate this rental contract with the right, in the event of such termination, to immediately re-rent and take possession of the rented premises and to eject and dispossess the Lessee from the use, possession, and occupancy of the same, and upon the Lessor ejecting and dispossessing the Lessee from the rented premises, the parties hereto agree that Lessee shall immediately become chargeable with and liable to Lessor, as damages, for the portion of the rent for the unexpired term of the rental contract as shall be the difference between the amount Lessee herein contracts to pay and the amount which Lessor realizes from any re-renting of the premises to any other party. Additionally in the event Lessee defaults in any of the obligations imposed herein, Lessor shall be entitled to pursue any other claim for actual or consequential damages.

9. BUILDING AND TRADE FIXTURES. Lessee shall construct on the premises the standard Skooters drive-through restaurant building. Lessee may from time to time during the term hereof clear, grade and otherwise prepare the premises for its intended use or uses thereof, construct or place buildings or other improvements thereon and demolish, modify or alter any building or other structure in such manner and as often as Lessee may deem beneficial to the development and use of the premises. Lessor shall, upon request, join with the Lessee in the application for any zoning change or variance or for any building or other permit required in connection with such improvements or use, but Lessor shall incur no costs or obligations thereby. All buildings and other improvements constructed or placed on the premises by the Lessee, including all equipment, machinery and fixtures therein and thereon shall, notwithstanding annexation to the land, remain and be the property of Lessee until termination of this Lease and Lessee shall have the right to remove any such improvements upon such termination. Lessee, however, shall not be required to remove any alterations, additions or improvements and Lessee's failure

to do so after the termination of this Lease shall be deemed an abandonment thereof whereby the same shall be and become part of the land with title thereto vesting in the Lessor. In the case of removal by the Lessee of any improvement on the premises at the termination of this Lease, Lessee shall level the area occupied by any such improvement so removed.

10. INSURANCE. Lessee shall, at its own cost and expense, obtain and maintain throughout the term of this Lease, public liability insurance for the benefits of the Lessor and Lessee in an amount of not less than \$100,000.00 for any one injury or death and \$500,000.00 for any one occurrence. The insurance referred to above shall be in the name of Lessor and Lessee and shall be issued under the Lessee's general policy. Lessee shall furnish Lessor with certificates thereof issued by Lessee's insurance company. Lessee further agrees to obtain and maintain in force and furnish a standard fire and extended coverage insurance policy on said improvements, personal property, fixtures and equipment during the entire term of this lease and any renewals thereof in an amount equal to at least \$50,000.00, or ninety (90%) percent of the replacement value, whichever is greater.

11. UTILITY BILLS. Lessee shall pay for all utility charges, including, but not limited to, water, sanitation, sewer, gas, electricity, fuel and other services incident to Lessee's use of the demised premises.

12. DAMAGE OR DESTRUCTION. In the event any building or improvement on the premises shall be damaged by fire or other casualty for which insurance will be payable, Lessee shall repair, restore or replace the damaged or destroyed buildings or improvements with such changes in the use of the premises or in the design, type or character of the buildings and improvements as Lessee may deem desirable; provided that the value of the replacement or new buildings and improvements shall be at least equal to that existing immediately prior to such fire or other casualty. There will be no abatement of rent during the period required for such repair, restoration or construction.

13. EMINENT DOMAIN. If all of the leased premises are taken under the power of eminent domain or conveyed under threat of condemnation proceedings, or if only a part of such premises are so taken or conveyed and Lessee shall determine that the remainder is inadequate or unsatisfactory for its purposes, which determination shall not be arbitrarily or capriciously made, then in either event, this lease shall terminate effective as of the date Lessee is required to give up the right to occupy or use any part of the leased premises or common areas. The termination of this lease as above provided shall not operate to deprive Lessee of the right to make claim against the condemning authority for any damages suffered by Lessee, but Lessee shall have no right to make any claim against Lessor because of such termination. If this lease is not terminated as above proved Lessor and Lessee shall agree upon an equitable reduction of the rental. If the parties fail to agree upon such reduction within sixty (60) days from the date of the final award or payment for the part of the leased premises so taken or conveyed, Lessor and Lessee shall each choose one arbitrator and the two arbitrators so chosen shall choose a third arbitrator. The decision of any two of the arbitrators as to the rental reduction, if any, shall be binding on Lessee and Lessor and any expense of arbitration shall be divided equally between Lessee and Lessor.

14. SUBLETTING. Lessee may not sublet the premises or assign this lease for any lawful use or purpose without Lessor's consent; provided, however, that Lessee shall remain liable under all the terms and provisions of this lease following any such assignment or subletting unless specifically released in writing by Lessor. Lessor's consent will not be unreasonably withheld.

15. LESSOR'S WARRANTY. Lessor represents and warrants that Lessor is the owner in fee simple of, or holds a leasehold estate in, the demised premises, and that on the date hereof the demised premises are free and clear of any liens, encumbrances, tenancies, and leases (other than this lease and mortgage financing or Lessor incidental to acquisition of land and

construction of the improvements thereon); that Lessor has the power and authority to execute and deliver this indenture and to incur all obligations provided herein, and perform and comply with the terms, conditions and provision of any agreement, obligation, judgment, decree, order, statute, rule or regulation applicable to Lessor.

16. COMPLIANCE WITH LAWS. Lessee will promptly comply with all applicable and valid laws, ordinances and regulations of federal, state, county, municipal or other lawful authority pertaining to the use and occupancy of the demised premises.

17. ATTORNEY'S FEES. Lessee agrees to pay a reasonable attorney's fee on any part of said rental that may be collected by or through an attorney at law, and in addition, agrees to pay for all costs incurred by Lessor arising from a default by Lessee in the provisions of this agreement.

18. NOTICES. All rentals to Lessor and notices required to be given to Lessor under this lease shall be sent to Lessor at P. O. Box 9, Pelham, Alabama 35124 and all notices required to be given to Lessee shall be sent to Lessee at 1402 Secretariat Drive, Helena, AL 35080, unless either party notifies the other in writing of a change of address.

19. MISCELLANEOUS. (a) Lessee shall not subordinate any interest Lessor has in the real estate or any rights Lessor has to payment of rents or taxes due under this agreement.

(b) This lease contains the entire agreement of the parties hereto and no modification of this lease shall be binding unless in writing, duly executed by all the parties hereto, and properly witnessed for recording in the state in which the demised premises are located.

(c) No waiver of any covenant or condition or breach of this lease by either party shall be deemed to imply or constitute a further waiver of the same covenant or condition or any other covenant or condition of this lease or a waiver of any other or subsequent breach.

(d) All of the covenants, agreements, provisions, and conditions of this lease shall inure to the benefit of and be

binding upon the parties hereto, their successors, legal representatives and assigns.

(e) The captions, section numbers, and index appearing in this lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this lease nor in any way affect this lease.

(f) This lease agreement shall become binding upon all parties and be of full force and effect upon the last execution date hereof.

(g) This Lease is contingent upon Lessee's obtaining satisfactory permanent financing for Lessee or its designee for the construction and equipping of the building and improvements on the premises on or before March 1, 1987. If such satisfactory financing is not obtained on or before such date, this Lease, at the option of the Lessee, shall terminate and Lessor's sole and exclusive remedy will be the retention of the lease payment made by Lessee pursuant to Paragraph 4 herein.

(h) The Lessee shall be responsible for any driveway repairs necessitated by the installation of utilities for the premises.

(i) Lessee shall keep the premises in a clean and orderly condition, free of rubbish and unlawful obstructions.

(j) In the event the gross sales (less sales tax) for any six consecutive months total less than \$90,000.00, the Lessee has the right to remove the building, equipment, and other improvements. In this event, the land lease will continue for a period of three (3) additional months and the Lessee will return the land to its original condition.

IN WITNESS WHEREOF, the parties hereunto affix their hands and seals.

EXECUTED by Lessee on the 15 day of Jan 1987,
1986.

LESSEE:

Stan R. Ehlman
Stan R. Ehlman

WITNESS:

Joyce Yancy

EXECUTED by Lessor on the 15th day of Ja 87,
1986.

LESSOR: ROY MARTIN CONSTRUCTION, INC.

BY

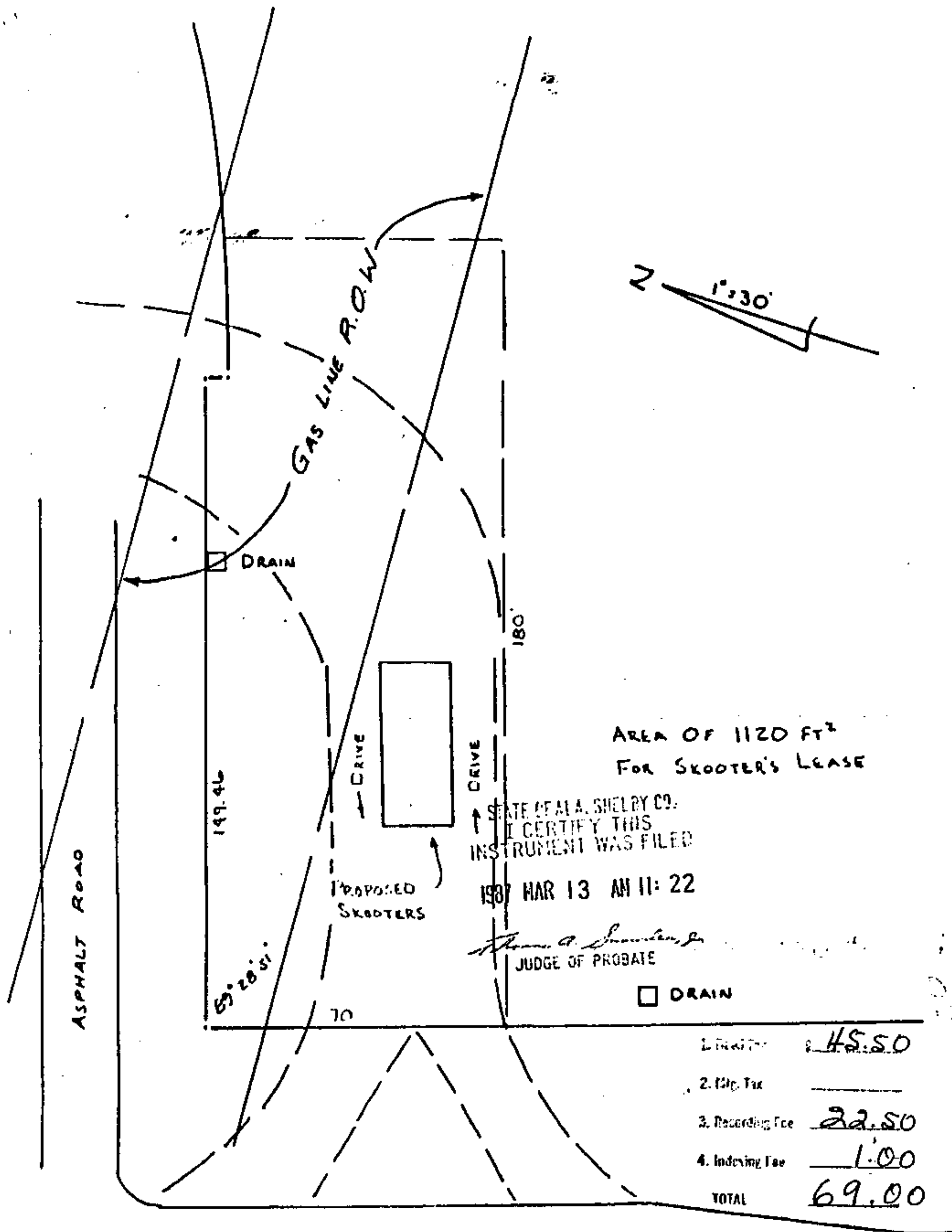
Roy X. Martin

AS ITS

Officer

BOOK 119 PAGE 661

BOOK 122 PAGE 329



A parcel of land located in the south half of the SW $\frac{1}{4}$ of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama, described as follows: Commence at the southeast corner of said Section 13, thence run east along the south section line 969.65 feet to the easterly right-of-way of U. S. Highway 31; thence turn left 102° 06' 33" and run northwesterly along said right-of-way 614.68 feet to the point of beginning; thence continue last course along said right-of-way 70 feet to the southeasterly right-of-way of a proposed road; thence turn right 90° 30' 56" and run northeasterly along said proposed right-of-way 149.46 feet; thence turn right 90° 00' 00" and run southerly along the proposed right-of-way 5.0 feet to the point of a counterclockwise curve having a central angle of 28° 05' 59" and a radius of 396.93 feet; thence turn left 90° 00' 00" to the tangent of said curve and run along the arc of said curve 31.21 feet; thence turn right and run southerly parallel to the right-of-way of U. S. Highway 31 66.22 feet; thence turn right 90° 00' 00" and proceed 180 feet in a southwesterly direction to the point of beginning.

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1987 MAR 31 AM 9:10

Re. Recorded
JUDGE OF PROBATE

1. Recording Fee	\$ 25.00
2. Indexing Fee	1.00
TOTAL	26.00

