

1557

POLLY CONRADI
CLERK OF THE CIRCUIT COURT
TENTH JUDICIAL CIRCUIT OF ALABAMA
307 Jefferson County Courthouse
BIRMINGHAM, ALABAMA 35203
Telephone: (205) 325-5360

JUDY MORING, Deputy Clerk

CERTIFICATE

STATE OF ALABAMA
JEFFERSON

TENTH JUDICIAL CIRCUIT OF ALABAMA
CIRCUIT COURT CASE # CV 87-3510

BOOK 355 PAGE 15

I, Polly Conradi, Clerk of the Circuit Court, Tenth Judicial Circuit of the State of Alabama, in and for the County of Jefferson, do hereby certify that the following pages numbered one to 5 are true and correct copies of the Consent Judgment

in the case of

Richard T. Darden

VS

Molton Realty & Development Corporation, et al.

Witness my hand and seal this the 19th day of July, 1991.


POLLY CONRADI, CLERK

attn. C.C. Stanley

Braden Grant Rose, White 1400 Park Place S.W. B'ham AL 35203

IN THE CIRCUIT COURT
FOR JEFFERSON COUNTY, ALABAMA

RICHARD T. DARDEN

Plaintiff,

v.

MOLTON REALTY & DEVELOPMENT
CORPORATION, et al.,

Defendants.

CIVIL ACTION NO.
CV-87-3510

Filed In Open Court

This 17th day of July, 1991

POLLY CONRADI
CLERK CIRCUIT COURT

By David W. Omsel
DEPUTY CLERK

CONSENT JUDGMENT

1. This cause having come on for trial and a jury verdict for plaintiff entered on February 2, 1990, in the amount of \$60,000.00 in damages plus a declaratory judgment concerning certain future payments.

2. On May 29, 1990, this Court entered an order granting a new trial and JNOV concerning the February 2, 1990, judgment, and Richard T. Darden perfected his appeal therefrom. This cause has been pending in the Supreme Court of Alabama since that time. During the pendency of the appeal the parties have agreed to certain terms of payment for amounts due in the past and amounts due in the future.

3. Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED by consent of the parties:

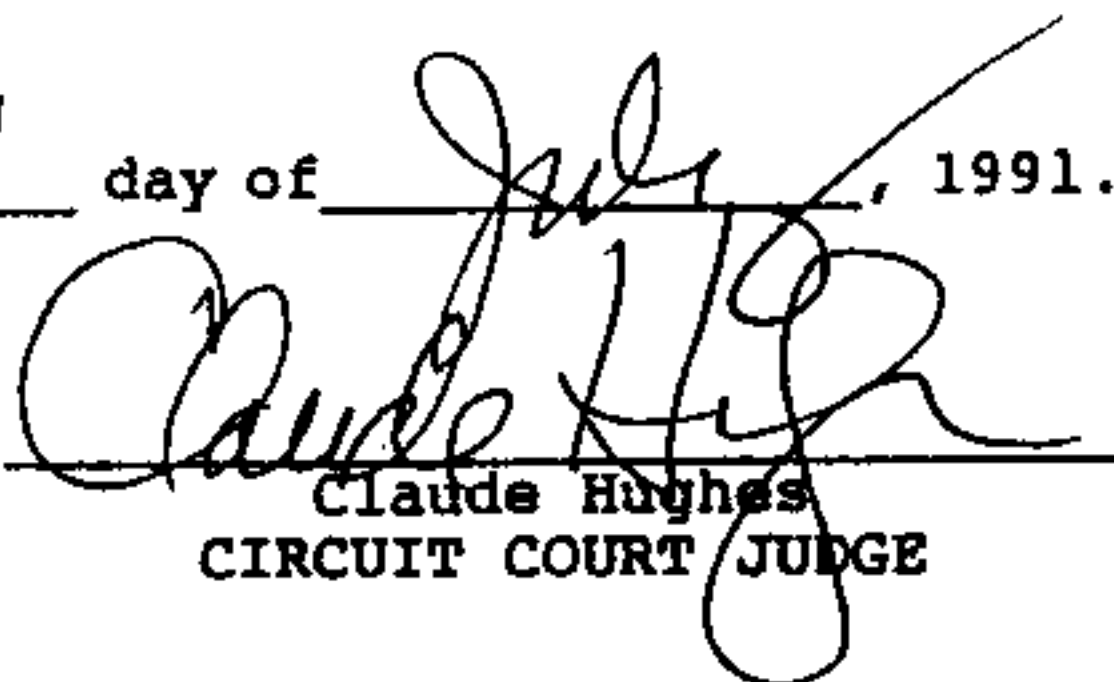
(a) that Molton (now known as J. H. Berry & Molton Property Company, Inc.) pay to Darden the cash amount of \$20,300.00; and

(b) that this Court declares that Darden is entitled to one-half of any and all amounts received by Molton after January 1, 1991, in connection with the May 8, 1986 Commission Agreement between Taylor & Mathis V, and Molton concerning the Bruno's, Inc. lease for a Food World at Inverness Plaza, and also for the May 8, 1986 Commission Agreement between Taylor & Mathis V and Molton concerning the AmSouth lease at Inverness Plaza. Copies of these Commission Agreements are attached hereto as Exhibits A & B.

4. There being no just cause for delay, let execution issue thereon.

5. This Court shall retain continuing jurisdiction to enforce all rights of the parties herein.

DONE and ORDERED this 11 day of July, 1991.


Claude Hughes
CIRCUIT COURT JUDGE

COMMISSION AGREEMENT

WHEREAS, METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation, ("Landlord"), and Bruno's, Inc. ("Tenant"), have entered into a certain lease agreement dated December 19, 1984 (the "Lease"), covering the following described premises, to wit:

See attached Exhibit "A"

and commonly known as Food World at Inverness Plaza (the said premises being hereinafter referred to as the "Premises");

WHEREAS, Taylor & Mathis V ("T&M V"), a Georgia general partnership, is the exclusive leasing agent of the Premises;

WHEREAS, T&M V recognizes that valuable services have been rendered by Molton Realty & Development Corporation in procuring the Lease;

NOW THEREFORE, as compensation for the services rendered by Molton Realty & Development Corporation in procuring the Lease, T&M V agrees to pay to Molton Realty & Development Corporation a commission equal to 50% of the first month's rent paid by Tenant to Landlord under the Initial Lease Term (20 years) and thereafter 2.5% of the monthly rent paid by Tenant to Landlord under the Initial Lease Term (20 years); provided, however, that for purposes of this Agreement, the monthly rent paid by Tenant to Landlord under the Initial Lease Term shall not include any escalation payments, additional rent, increases in rent attributable either to increases in operating expenses or to increases in the consumer price index, or other charges of any nature or type whatsoever paid by Tenant to Landlord; and provided further, however, that T&M V shall have no obligation under this Agreement to pay Molton Realty & Development Corporation any commission whatsoever unless and until T&M V has received from Landlord all commissions to which it is entitled with respect to the monthly rent payable under the Initial Lease Term.

This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal, this 8th day of May, 1986.

MOLTON REALTY & DEVELOPMENT CORPORATION

By: John R. Baker

John R. Baker
President

TAYLOR & MATHIS V, a Georgia general partnership

By: Leo M. Karpel

Leo M. Karpel, Jr., a General Partner

EXHIBIT B

EXHIBIT A

LEGAL DESCRIPTION SITE "A":

Part of the Southeast Quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, more particularly described as follows: COMMENCE at the Southwest corner of said Southeast Quarter, Section 36, Township 18 South, Range 2 West, and run North along the West line of same, 770.80 feet; thence right $119^{\circ}08'28''$ and run Southeasterly 257.26 feet; thence left $90^{\circ}00'$ and run Northeasterly 1,496.00 feet to a point on the Southwesterly right-of-way of U.S. Highway 1280; thence right $89^{\circ}57'31''$ and run Southeasterly along said right-of-way 59.50 feet to the point of beginning of herein described Site "A"; thence continue along the described course 286.0 feet; thence right $90^{\circ}00'$ and run Southwesterly 91.52 feet to the point of curve of a curve to the right, having a radius of 49.50 feet, and a central angle of 50° ; thence run Southwesterly and along arc of said curve 43.20 feet to the point of tangent; thence continue Southwesterly along tangent 80.03 feet to the point of curve of a curve to the right, having a radius of 124.50 feet, and a central angle of $40^{\circ}00'$; thence run Westerly along the arc of said curve 86.92 feet to the point of tangent; thence run Northwesterly along said tangent 87.62 feet to the point of curve of a curve to the right, having a radius of 39.50 feet and a central angle of $90^{\circ}02'29''$; thence run Northwesterly along arc of said curve 62.07 feet to the point of tangent; thence run Northeasterly along tangent 170.47 feet to the point of beginning. Contains 1.240 acres.

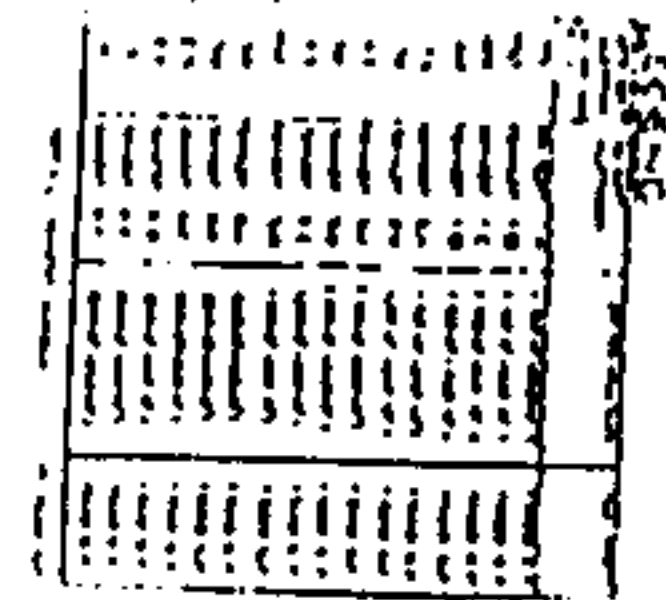
According to my survey this the 5th day of September, 1984.

BETHEL W. WHITSON COMPANY, INC.
4120 Third Avenue South
Birmingham, AL 35222

EXHIBIT A

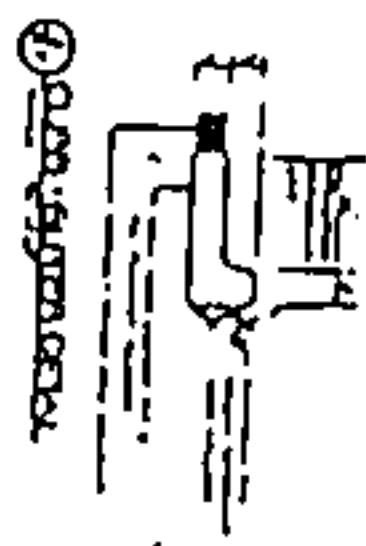
1. Floral Tax	
2. Vase Tax	15.00
3. Delivery Charge	3.00
4. Sales Tax	
5. Gratuity (10%)	1.00
6. Total	19.00

OGRAM ARCHITECTS INC JHJ
[illegible]
[illegible]

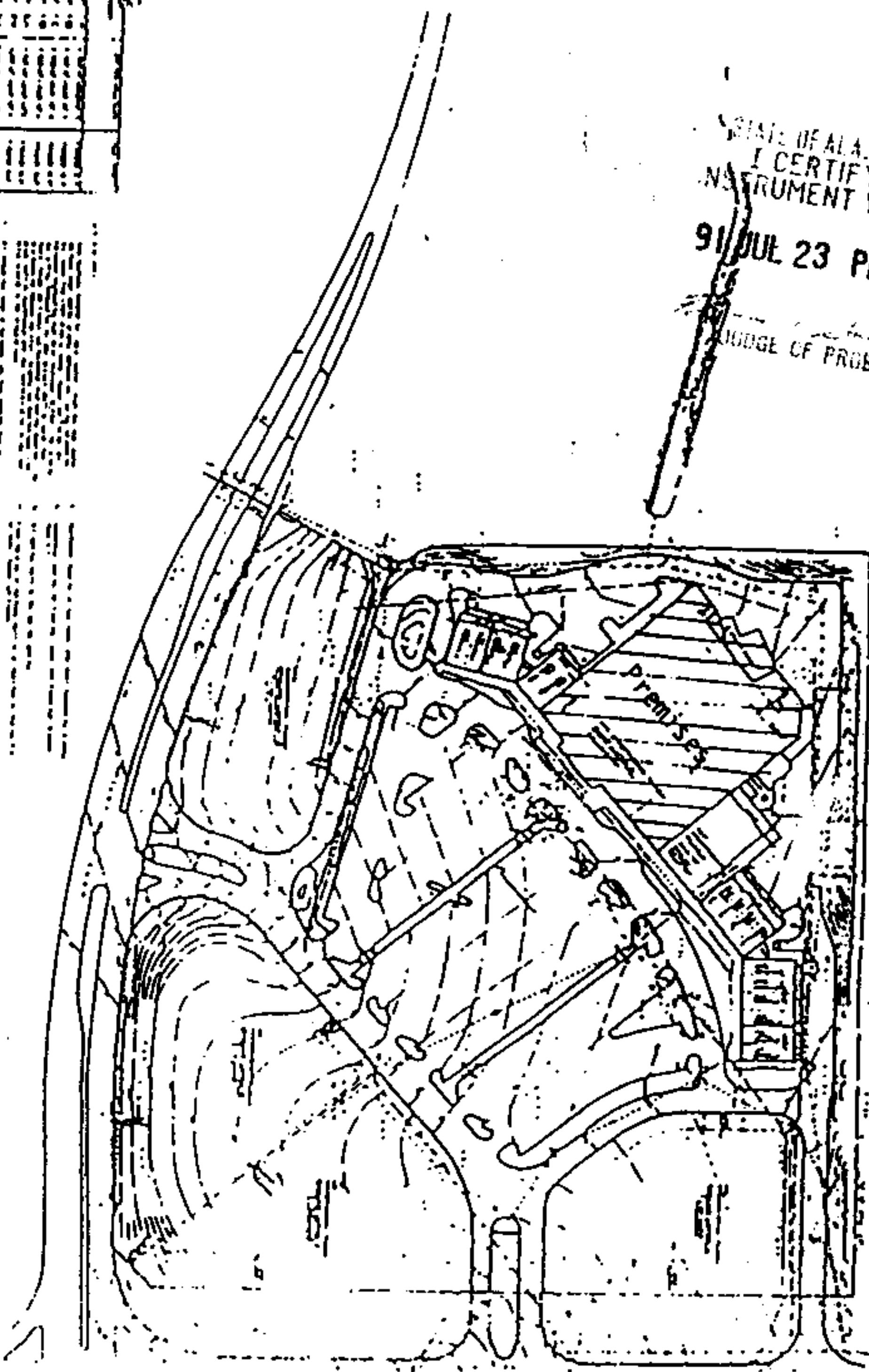


STATE OF ALA. SHERIFF
I CERTIFY THIS
INSTRUMENT WAS FILED
91 JUL 23 PM 11:00

JUDGE OF PROBATE



⊗ PLEASE PAY
WORTH



PROGRAM ARCHITECTS, INC. 10815A Highway 101, Suite 200, San Diego, CA 92121-1081 (619) 594-1081