

After Recording please return to:
Steven Schwartz
Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110



3k: 44989 Pg: 554 Doc: AGR
Page: 1 of 19 04/13/2005 01:18 PM

LOCAL INITIATIVE PROGRAM

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS
FOR RENTAL PROJECT

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this 11th day of April, 2005 by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development (the "DHCD") pursuant to Chapter 204 of the Acts of 1996, the Town of Lexington (the "Municipality"), a municipality having an address of 1625 Massachusetts Avenue, Lexington, MA 02420 and AvalonBay Communities, Inc., a Maryland corporation, having an address at 1250 Hancock Street, Suite 804N, Quincy, MA 02169, and its successors and assigns (the "Project Sponsor").

Avalon at Lexington Square, Lexington

219

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 45.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and Guidelines for Communities have been issued thereunder (the "Guidelines");

WHEREAS, the Project Sponsor intends to construct a rental housing development known as "Avalon at Lexington Square" at an approximately 23 acre site in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total number of 387 rental dwellings (the "Units") and twenty-five percent (25%) of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low and Moderate Income Units");

WHEREAS, the Board of Selectmen of the Municipality and the Project Sponsor have made application to DHCD to certify that the units in the Project are Local Initiative Units (as that term is defined in the Regulations) within the LIP Program and that all such Units will be included in the Subsidized Housing Inventory, as that term is described in 760 CMR 31.04(1), for the Municipality; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

STEVE SCHWARTZ, ESQ
GOULSTON & STORRS
400 Atlantic Avenue
Boston, MA 02110-3333
03907.0192

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Project Sponsor hereby agree and covenant as follows:

1. The Project Sponsor agrees to construct the Project substantially in accordance with plans and specifications approved by the Municipality and DHCD (the "Plans and Specifications". The Project Sponsor shall be in compliance with the foregoing sentence if it constructs the Project substantially in accordance with the Definitive Site Development and Use Plan approved by the Lexington Zoning Board of Appeals in a decision for a Special Permit with Site Plan Review filed with the Town Clerk on November 23, 2004, notice of which was recorded with the Middlesex (S.D.) Registry of Deeds (the "Registry of Deeds") in Book 44300, Page 158. In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior, and must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications. 27 of the Low and Moderate Income Units shall be one bedroom Units; 64 of the Low and Moderate Income Units shall be two bedroom Units; and 6 of the Low and Moderate Income Units shall be three bedroom Units.

Low and Moderate Income Units must have the following minimum areas:

one bedroom units - 700 square feet
 two bedroom units - 900 square feet
 three bedroom units - 1100 square feet

During the term of this Agreement, the Project Sponsor covenants, agrees, and warrants that the Project and each Low and Moderate Income Unit will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for the disabled.

2. (a) Throughout the term of this Agreement, each Low and Moderate Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed an amount (the "Maximum Income Amount") equal to eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The "Area" is defined as the Boston PMSA.

(b) The monthly rents charged to tenants of Low and Moderate Income Units shall not exceed the "Affordable Rent" for each such unit. For purposes of this Agreement, the term "Affordable Rent" shall mean, for any Unit, a monthly rental for a Unit of a given size which does not exceed one twelfth (1/12) of thirty percent (30%) of the Maximum Income Amount for an Eligible Tenant in such Unit. In determining the maximum monthly

rent that may be charged for a Low and Moderate Income Unit under this clause, the Project Sponsor shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Adjusted income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low and Moderate Income Units are set forth in Exhibit B attached hereto.

Annually as part of the annual report required under Subsection 2(c) below, the Project Sponsor shall submit to the Municipality and DHCD a proposed schedule of monthly rents and utility allowances for all Low and Moderate Income Units in the Project.

(c) Throughout the term of this Agreement, the Project Sponsor shall certify at least annually to the Municipality whether the tenant of each Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2(e), below. Any Low and Moderate Income Unit occupied by an Eligible Tenant at the commencement of occupancy shall be deemed a Low and Moderate Income Unit so long as (i) such Unit continues to be rent restricted and (ii) the tenant's income does not exceed 140% of the Maximum Income. If the tenant's income exceeds 140% of the Maximum Income at the time of annual eligibility determination, his/her Unit shall be deemed a Low and Moderate Income Unit until the next available Unit with the same or greater number of bedrooms which is not a Low and Moderate Income Unit is rented to an Eligible Tenant.

(d) The Project Sponsor shall enter into a written lease with each tenant of a Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a breach of a material provision of such lease.

(e) Throughout the term of this Agreement, the Board of Selectmen shall annually certify in writing to DHCD that, based on the information provided to the Municipality, each of the Low and Moderate Income Units continues to be Low and Moderate Income Unit as provided in section 2(c) above and that the Project and the Low and Moderate Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

3. Upon the recording of this Agreement with the Registry of Deeds, the Project will be included in the Subsidized Housing Inventory for the Municipality.

4. All of the Units in the Project will be deemed low and moderate income housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor are in default hereunder; (2) the Project and each of the Low and Moderate Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) each Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2(c) above.

5. Prior to the initial marketing or otherwise making available for rental any of the Units, the Project Sponsor must obtain DHCD's approval of a marketing plan (the "Marketing

Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Units and must set forth a plan for affirmative marketing of Low and Moderate Income Units to minority households as more particularly described in the Regulations and Guidelines. The Marketing Plan shall also include a preference for selection of local residents of the Towns of Lexington, Waltham and Belmont for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines and the provisions of the Metropolitan State Hospital Reuse Plan dated June 30, 1994, as amended (the "Reuse Plan"). The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor. A failure to comply with the Marketing Plan by the Project Sponsor or the Municipality shall be deemed a default under this Agreement, the remedies for which default shall be as set forth in the next sentence. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan and the Project Sponsor (or the Municipality, as the case may be) has failed to rectify such failure to comply within thirty (30) days after written notice thereof from DHCD to the Project Sponsor and the Municipality, that the Project Sponsor (or Municipality as the case may be), shall conduct such additional outreach or marketing efforts as shall reasonably be determined by DHCD.

6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin, or any other basis prohibited by law in the selection of tenants; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

7. The Project Sponsor agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Board of Selectmen of the Municipality (or officials, employees or agents of the Municipality that have been identified by the Board of Selectmen by written notice to the Project Sponsor) shall have access during normal business hours to all books and records of the Project Sponsor and the Project in order to monitor the Project Sponsor's compliance with the terms of this Agreement.

8. As soon as possible after the full execution hereof, the Project Sponsor shall cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

9. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (i) is a corporation duly organized under the laws of the State of Maryland, and is qualified to transact business under the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Project Sponsor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Project Sponsor, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

10. (a) The Project Sponsor represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor (subject to the approval of the lender(s) which has provided financing) will use all commercially reasonable efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Project Sponsor shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of any residential rental Unit for any purpose other than rental housing during the term of the Agreement unless required by law.

11. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge Street, Suite 300

Boston, MA 02114

Municipality: Town of Lexington
1625 Massachusetts Avenue
Lexington, MA 02420
Attention: Chairman, Board of Selectmen

with a copy to:

William L. Lahey, Esq.
Town Counsel for Lexington
Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199

Project Sponsor: AvalonBay Communities, Inc.
1250 Hancock Street
Suite 804N
Quincy, MA 02169
Attention:

with a copy to:

Steven Schwartz, Esq.
Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, MA 02110

13. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement is made for the benefit of DHCD and the Municipality, and DHCD and the Municipality shall be deemed to be the holders of the affordable housing restriction created by this Agreement. DHCD and the Municipality have determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual. For the purposes of the foregoing sentence, the term "perpetual" shall mean for so long as the Project is used for multi-family residential housing.

(b) Subject to the provisions of this Section 13(b), the Project Sponsor shall give notice (a "Transfer Notice") to DHCD of its intention to sell or transfer more than a 50% interest in the Development and/or a change in the management agent for the Development, which notice shall identify the proposed transferee and/or management agent. DHCD only (and not the Municipality) shall have the right to disapprove the proposed transferee or substitute management agent based solely on a demonstration that the proposed transferee and/or management agent has a documented history of multiple failures to abide by agreements with

regulatory agencies of the Commonwealth or the federal government relating to (i) the maintenance of multi-family properties in the condition required by such agreements, or (ii) the provision of affordable housing mandated by such agreements. DHCD's right shall be exercised by giving written notice to the Project Sponsor not later than 10 days after receipt of the Project Sponsor's Transfer Notice, accompanied by evidence of the proposed transferee's failures as specified in the preceding sentence. If DHCD fails to respond to the Transfer Notice within such 10 day period, DHCD shall be deemed to have approved the proposed transfer and DHCD shall have no further rights to object to such transfer under this Section 13(b). Further, a Transfer Notice shall not be required, nor shall DHCD have any rights to object to any transfer under this Section 13(b) with respect to the following: (i) the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Development to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Development by deed in lieu of foreclosure), or (ii) any transaction or series of transactions (including, without limitation, by merger or acquisition) in which all or substantially all of the stock of the Project Sponsor or all or substantially all of assets of the Project Sponsor in the Commonwealth of Massachusetts are transferred, or (iii) a transfer to an entity which shall control, be controlled by or be under common control with the Project Sponsor.

(c) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and inure to the benefit of DHCD and the Municipality and the successors and assigns thereof for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall reasonably deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

15. (a) The Project Sponsor and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Project Sponsor or the Municipality hereunder without receiving a Default Notice from Project Sponsor or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD

within thirty (30) days after the giving of the Default notice by the Project Sponsor or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement. Notwithstanding the foregoing, if the nature of the default is such that it cannot reasonably be cured within such 30-day period, then DHCD will forbear from exercising its rights and remedies for so long as the defaulting party has commenced whatever actions as are necessary to cure such default and is diligently prosecuting the cure to completion.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 15, then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Project Sponsor acknowledges that the primary purpose for requiring compliance by the Project Sponsor with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Project Sponsor agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Project Sponsor of its obligations under this Agreement in a state court of competent jurisdiction. The Project Sponsor further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Project Sponsor shall reimburse DHCD only for all costs and attorney's fees associated with such breach.

16. (a) The Municipality may retain a monitoring agent (the "Monitoring Agent"), the identity of which shall be reasonably acceptable to the Project Sponsor, to monitor the compliance of the Project with the requirements contained in this provision relative to the provision of Low and Moderate Income Units, including without limitation, compliance with the Marketing Plan (the "Affordability Requirements"), based on and in accordance with the following:

- (i) Receipt of annual reports from the Developer, within 90 days after the end of each calendar year, with respect to compliance of the Project with the Affordability Requirements, which reports shall include copies of tenant income certifications.
- (ii) Review of (x) the adequacy and completeness of the annual reports and (y) the substantive compliance of the Project with the Affordability Requirements.
- (iii) Preparation annually of a report (the "Annual Compliance Report") within 120 days after the end of each fiscal year of the Project to the zoning enforcement officer of the Municipality and DHCD on the compliance of the Project with the

Affordability Requirements. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action against the Owner.

The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Project and the Developer with the Affordability Requirements. The services hereunder shall not include any construction period monitoring. The services hereunder shall include follow-up discussions with the Developer after an event of noncompliance.

(b) The Monitoring Agent shall receive a fee from the Project Sponsor pursuant to a separate agreement. The Municipality shall have no responsibility for payment of any fee to Monitoring Agent hereunder.

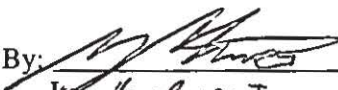
(c) The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without negligence.

(d) In the event that the Municipality elects not to retain a Monitoring Agent, the Municipality shall be entitled to act as the Monitoring Agent hereunder but shall not be entitled to any fee in such case.

17. This Agreement may be signed in counterpart copies, each of which, when executed by all parties hereto, shall be deemed to be an original for all purposes.

Executed as a sealed instrument as of the date first above written.

AVALONBAY COMMUNITIES, INC.


By:  _____
Its Vice President _____

By: _____
Its _____

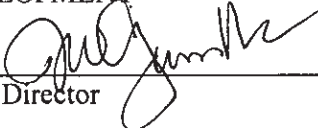
Executed as a sealed instrument as of the date first above written.

AVALONBAY COMMUNITIES, INC.

By: _____
Its _____

By:  _____
Joanne M. Lockridge
Its Assistant Treasurer

DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

By:  _____
its Director

TOWN OF LEXINGTON

By its Board of Selectmen

By: _____

By: _____

By: _____

By: _____

By: _____

Attachments: Exhibit A - Legal Property Description

Exhibit B - Rents for Low and Moderate Income Units

DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

By: _____
its Director

TOWN OF LEXINGTON

By its Board of Selectmen

By: _____

By: Norman B. Cole

By: Richard Payett

By: [Signature]

By: Sam K. Ough

Attachments: Exhibit A - Legal Property Description

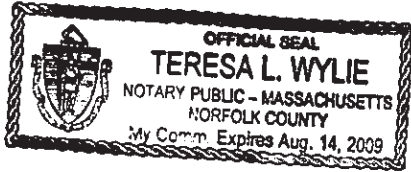
Exhibit B - Rents for Low and Moderate Income Units

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Norfolk, ss.

, 2005

On this 12th day of April, 2005, before me, the undersigned notary public, personally appeared Michael Roberts, proved to me through satisfactory evidence of identification, which was drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as a Vice President for AvalonBay Communities, Inc., a Maryland corporation.



Teresa Wylie
Notary Public
My Commission Expires:

STATE OF CONNECTICUT

COUNTY OF _____, ss.

, 200

On this ____ day of April 2005, before me, the undersigned notary public, personally appeared Joanne M. Lockridge, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Assistant Treasurer for AvalonBay Communities, Inc., a Maryland corporation.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 2005

On this ___ day of April, 2005, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as a Vice President for AvalonBay Communities, Inc., a Maryland corporation.

Notary Public
My Commission Expires:

STATE OF CONNECTICUT

COUNTY OF Fairfield, ss. 4/11, 2005

On this 11 day of April 2005, before me, the undersigned notary public, personally appeared Joanne M. Lockridge, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Assistant Treasurer for AvalonBay Communities, Inc., a Maryland corporation.

Carmen J. Smith

Notary Public
My Commission Expires:

CARMEN J. SMITH
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 31, 2008



COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX, ss.

April 12, 2005

On this 12th day of April, 2005, before me, the undersigned notary public, personally appeared Jeanne K. Krieger, proved to me through satisfactory evidence of identification, which was Chairman, BUS *, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Chairman of the Board of Selectmen of the Town of Lexington, Massachusetts.

* (personal knowledge)

Lynne A. Pease

Notary public

My Commission Expires:

LYNNE A. PEASE

Notary Public

My Commission Expires November 20, 2009

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Suffolk, ss.

April 12, 2005

On this 12 day of April, 2005, before me, the undersigned notary public, personally appeared Jane Wallis Gumble, proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose, as Director of the Massachusetts Department of Housing and Communities Development.

Michelle Dick

MICHELLE DICK
Notary Public
My Commission Expires
July 18, 2008



EXHIBIT A

Property Description

BEGINNING AT A POINT at the southeast corner of lot 3 and also being a point on Metropolitan Parkway North, said lot and Parkway being as shown on plans entitled "Metropolitan State Hospital Definitive Subdivision Plan, Metropolitan Parkway, Lexington Waltham and Belmont" dated revised October 1, 2002 and endorsed by the Town of Lexington Planning Board on June 19, 2002;

Thence leaving said Parkway South $72^{\circ}41'23''$ West, 226.65 feet to a point on the Lexington-Waltham Town Line thence along said Town Line ; North $66^{\circ}10'16''$ West 816.17 feet; thence leaving said Town Line North $33^{\circ}06'38''$ East, 470.65 feet to a point on a curve ; thence along said curve with a radius of 69.00 feet and an arc of 46.28 feet; thence North $16^{\circ}48'50''$ West , 310.07 feet; thence along a curve to the right with a radius of 125.00 feet, 87.26 feet; thence North $23^{\circ}11'02''$ East, 205.19 feet; thence along a curve to the right with a radius of 95.67 feet and an arc of 82.19 feet; thence North $72^{\circ}24'31''$ East, 208.90 feet; thence along a curve to the right with a radius of 110.00 feet, and an arc of 38.76 feet; thence along a curve to the right with a radius of 328.16 feet and an arc 223.11 feet; thence along a curve to the right with a radius of 260.00 feet and an arc of 134.25 feet; thence South $18^{\circ}16'22''$ East, 278.65 feet; thence along a curve to the right with a radius of 650.00 and an arc of 259.86 feet to a point on a curve on the above mentioned Parkway; thence along said Parkway along the curve with a radius of 230.00 feet and an arc of 88.08 feet; thence South $71^{\circ}00'37''$ West, 59.22 feet; South $18^{\circ}59'23''$ East, 50.00 feet; North $71^{\circ}00'37''$ East, 59.22 feet; thence along a curve to the right with a radius of 280.00 and an arc of 6.01 feet; thence along a curve to the right with a radius of 25.00 feet and an arc of 34.14 feet; thence South $31^{\circ}58'55''$ east, 125.10 feet; thence along a curve to the right with a radius of 150.00 feet and an arc 97.45 feet; thence along a curve to the left with a radius of 145.00 feet and an arc 63.08 feet; thence along a curve to the right with a radius of 150.00 feet and an arc of 97.45 feet; thence South $17^{\circ}32'23''$ West for 99.89 feet; thence along a curve to the left with a radius of 180.00 feet and an arc of 105.46 feet; thence South $16^{\circ}01'41''$ East, 16.61 feet to **THE POINT OF BEGINNING.**

The above metes and bounds description defines the Lexington portion of Lot 3 as said lot is shown on the above mentioned Definitive Subdivision Plan, and contains 22.13 acres or 963,980 square feet more or less.

EXHIBIT B

(Project name) Avalon at Lexington Square
 (City/Town) Lexington, Massachusetts
 (Project Sponsor) AvalonBay Communities, Inc.

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units(*)

	<u>Rents</u>	<u>Utility Allowances</u>
1-Bedroom	\$1,240	\$74
2-Bedroom	\$1,488	\$96
3-Bedroom	\$1,720	\$103

* The maximum rents are based on 80% of the applicable Area median income as published most recently by MassHousing on February 2, 2005 and on MassHousing determinations of household size per apartment size. These initial figures are subject to modification if at the time of first occupancy, the most recently published applicable MassHousing figures shall have changed.


 Susan C. Brown
 Asst. Director of Register