

Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 3/13/2023 12:04:19 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
22929	AGREEMENT		81308/239	03/08/2023	
Property-Street Address and/or Description					
57 CONCORD RD					
Grantors					
AVALON AT GREAT MEADOW INC, BEDFORD TOWN					
Grantees					
References-Book/Pg Description Recorded Year					
44192/1 DECIS 2004					
Registered Land Certificate(s)-Cert# Book/Pg					

123



Bk: 81308 Pg: 239 Doc: AGR
Page: 1 of 12 03/08/2023 09:52 AM



2023 01933263
Bk: 1295 Pg: 71 Cert#: 233026
Doc: AGR 03/08/2023 09:42 AM

BOTH WAYS

REGULATORY AGREEMENT

This Regulatory Agreement (the "Agreement") made this 30 day of December, 2022 by **AVALON AT GREAT MEADOW, INC.**, a Maryland corporation, with an address of 4040 Wilson Boulevard, Suite 1000, Arlington, Virginia 22203 (the "Owner") and **THE TOWN OF BEDFORD (BEDFORD)**, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, acting by and through its Select Board with its offices at 10 Mudge Way, Bedford, Massachusetts 01730 (the "Town").

BACKGROUND:

A. Owner owns and operates a 139 -unit rental development with related amenities and improvements commonly known as "Avalon at Bedford Center" and having an address of 200 Avalon Drive, Bedford, Massachusetts 01730 (the "Development"). The Development is located on land more particularly described on Exhibit A attached hereto (the "Property").

B. The Development was developed pursuant to a comprehensive permit issued under M.G.L. c. 40B and its implementing regulations (collectively, "Chapter 40B") by the Town's Zoning Board of Appeals, which permit is dated as of November 23, 2004 and recorded at the Middlesex (S.D.) Registry of Deeds (the "Registry") in Book 44192, Page 1, and filed with the Middlesex (S.D.) Registry District of the Land Court (the "Land Court") as Document 1605161, (the "Comprehensive Permit").

C. As required by Chapter 40B, Owner and the Massachusetts Housing Finance Agency ("MHFA") entered into an Amended and Restated Regulatory Agreement dated as of June 1, 2012, recorded with the Registry in Book 59380, Page 16, and filed with the Land Court as Document 1605162 (the "MHFA Agreement"). The MHFA Agreement, among other things, set forth certain requirements with respect to low or moderate income housing to be provided as part of the Development. The MHFA Agreement has expired by its terms and is no longer in force and effect.

D. In light of the termination of the MHFA Agreement, the Town and Owner wish to memorialize their understanding as to affordability requirements that will continue to apply to the Development so long as the Development continues to be used as multi-family housing pursuant to the Comprehensive Permit.

NOW THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and the Town hereby agree and covenant as follows:

1. To the maximum extent permitted by law, throughout the term of this Agreement, Owner shall reserve, twenty five percent (25%) of the residential units in the Development, as "low or moderate income housing", as that term is defined in M.G.L. c. 40B, §20 (the "Affordable Units"). The Affordable Units shall be set aside for occupancy by households earning not more than eighty percent (80%) of the applicable area median income ("AMI"), as adjusted for

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household size, as determined by the U.S. Department of Housing and Urban Development (“HUD”). In accordance with the Comprehensive Permit, based on the Development containing a total of 139 units, including 52 one bedroom units and 87 two bedroom units, there will continue to be 13 one bedroom Affordable Units, and 22 two bedroom Affordable Units.

2. For so long as this Agreement is in effect, the annual rental expense for the Affordable Units (equal to the gross rent plus allowances for all tenant-paid utilities, including tenant-paid heat, hot water and electricity) shall not exceed thirty percent (30%) of eighty percent (80%) the AMI, adjusted for household size (the “**Maximum Rentals**”). The Maximum Rentals shall be determined on an annual basis by Owner in accordance with the rental determination regulations adopted by MHFA (or its successor agency), as the same may be amended from time to time, and any policy regulations promulgated thereunder. If MHFA (or its successor agency) ceases to promulgate any such regulations, then the Maximum Rentals from shall be determined based on substitute regulations of a federal or state governmental agency providing subsidies for low or moderate income housing as shall be reasonably determined by Owner, in order to ensure the continued availability of the Affordable Units for the purposes specified herein and in the Comprehensive Permit for the entire term of this Agreement.

3. Annually, as part of the annual reports required under Section 6, Owner shall submit to the Town a proposed schedule of monthly rents and monthly allowances for utilities and services for all the Affordable Units. The rent schedule shall include the maximum rents applicable to the Affordable Units. The submission shall include in its cover letter the following legend in boldface, upper case letters: “**FAILURE BY THE TOWN TO OBJECT TO THE ENCLOSED PROPOSED SCHEDULE OF RENTS AND ALLOWANCES WITHIN THIRTY DAYS OF RECEIPT SHALL BE DEEMED APPROVAL OF SAME.**” The Town’s rights to approve rents shall be limited to compliance of the Affordable Units with the rent-restriction requirements of Section 2. If a response is not received from the Town within thirty (30) days of submission, the proposed rents and allowances will be deemed approved, provided, however, in no event shall rent be increased to exceed thirty percent (30%) of the monthly adjusted income of a Qualifying Household whose gross income equals eighty percent (80%) of the median income for the AMI, with adjustment for the number of bedrooms in the Affordable Unit based on MassHousing determination of household size per apartment size, as provided by HUD. Notwithstanding the foregoing, (i) the Town shall not have the right to disapprove, contest or object to the rent schedule provided that the Owner has proposed a rent schedule that contains rents no higher than the Maximum Rentals, and (ii) increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least sixty (60) days’ prior written notice by Owner to all affected tenants. Owner has the discretion to seek approval of and apply rents that are lower than the maximum allowable rents, or to consider each tenant’s financial circumstances in applying rent increases in order to make sure that the increase is not overly burdensome on the tenant.

4. Owner will advise the Town of any revisions to the designation of any Affordable Units. The Affordable Units will be intermingled with all other dwelling units in the Development. Residents of the Affordable Units will have access to all common facilities of the Development for use and enjoyment equal to that of other tenants.

If, after initial occupancy, the income of a household occupying an Affordable Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such household, Owner shall not be in default hereunder so long as either (i) the household's income does not exceed one hundred forty percent (140%) of the maximum income permitted (in which case the unit in question shall continue to be counted as an Affordable Unit) or (ii) Owner rents the next available unit with the same number of bedrooms at the Development as an Affordable Unit in conformance with Section 1 of this Agreement, or otherwise demonstrates compliance with Section 1 of this Agreement. If a unit that formerly was an Affordable Unit no longer qualifies as an Affordable Unit due to an increase in the income of the household occupying such unit to an amount in excess of one hundred forty percent (140%) of the maximum income permitted hereunder for such household, Owner may charge a market rental rate for such unit.

5. In no event shall this Agreement require Owner to take any action which would result in a violation of the federal Fair Housing Act or any other applicable federal, state or local law, rule, ordinance, regulation or requirement or which is inconsistent with any applicable guidelines, rules or regulations. Without limiting the generality of the foregoing, there shall be no discrimination upon the basis of race, creed, color, religion, disability, sex, sexual orientation, national origin, age or familial status in the lease, use or occupancy of the Development.

6. Owner will obtain, at the time of initial rental and on each anniversary of the rental during the term of such rental, and maintain on file Certifications of Tenant Eligibility with respect to the Affordable Units in substantially the form that were used during the period that the MHFA Agreements were in effect. Such Certifications shall be filed with the Town by attachment to the designation of Affordable Units required by Section 4 above. Owner shall make good faith efforts to verify that the income provided by an applicant in an income certification is accurate.

7. Owner will maintain complete and accurate records pertaining to the Affordable Units, and during reasonable business hours and upon reasonable notice, will permit the Town to inspect the books and records of Owner pertaining to the Affordable Units. The Town shall have the right to engage a third party with the requisite experience in monitoring compliance with the affordability requirements imposed on comparable mixed-income developments such as the Development to act as the Town's agent with respect to monitoring the Owner's compliance hereunder.

8. 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.

9. 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, or by reputable overnight courier (such as Federal Express), or via e-mail, to the parties hereto at the addressee set forth below, or to such other place as a party may from time to time designate by written notice:

To Owner:

c/o AvalonBay Communities, Inc.
Attn: Joanne Lockridge, Senior Vice President - Finance
1499 Post Road
Second Floor
Fairfield, Connecticut 06824
Phone: (203) 319-4926
E-mail: joanne_lockridge@avalonbay.com

with copies to:

c/o AvalonBay Communities, Inc.
Attn: Alan Adamson, Vice President – Associate General Counsel
4040 Wilson Boulevard, Suite 1000
Arlington, VA 22203
Telephone: (703) 317-4767
E-mail: alan_adamson@avalonbay.com

and to:

Goulston & Storrs
Attn: Steven Schwartz, Esq.
400 Atlantic Avenue
Boston, MA 02110
Telephone: (617) 574-4147
E-mail: sschwartz@goulstonstorrs.com

To Town:

Town of Bedford
Town Manager Office
10 Mudge Way
Bedford, Massachusetts 01730
Attn: Sarah Stanton
Telephone: 781-918-4001
e-mail: sstanton@bedfordma.gov

With a copy to:
Anderson & Krieger
Attn: Nina Pickering-Cook
50 Milk Street
Boston, MA 02109
Tel: 617-621-6536
E-Mail: pickering@andersonkreiger.com

10. 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 M.G.L. c. 184, § 31 and as that term is used in M.G.L. c.184, § 26, 31, 32 and 33, in perpetuity. This Agreement is made for the benefit of the Town shall be deemed to be the holder of the affordable housing restriction created by this Agreement. The Town has determined that the acquiring of such affordable housing restriction is in the public interest. Notwithstanding the foregoing, the term of this Agreement shall expire, and this Agreement shall be of no further force and effect, at such time as the Development is no longer used as multi-family housing pursuant to the Comprehensive Permit. Further, this Agreement shall terminate and be of no further force and effect with respect to all the Affordable Units to the extent that the provisions of Chapter 40B (or any amendment or successor statute thereto) no longer require that any of the units in the Development be restricted for low and moderate income housing.

11. Owner intends, declares and covenants on behalf of itself and its successors and assigns, and the parties hereto agree (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Development for the term of this Agreement, and are binding upon Owner's successors in title, (ii) are not merely personal covenants of Owner, and (iii) shall bind Owner, its successors and assigns for the term of the Agreement, and shall inure to the benefit of the parties hereto and their respective successors and assigns. Owner agrees to give the Town notice within thirty (30) days after the sale of the Development. Owner 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 privileges of estate are also deemed to be satisfied in full. Owner shall cause this Agreement to be recorded in the Registry. Owner shall pay all fees and charges incurred in connection with such recording or filing.

12. If any default, violation or breach by Owner is not cured within thirty (30) days after notice to Owner thereof (or such longer period of time as is reasonably necessary to cure such a default so long as Owner is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require Owner to perform its obligations under this Agreement; (b) have access to, and inspect, examine and make copies of all of the books and records of Owner pertaining to the Development; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner under this Agreement.

13. Recognizing that each party may find it necessary to establish to third parties, such as accountants, banks, potential or existing mortgagees, potential purchasers or the like, the then current status of performance hereunder, either party on the request of the other party made from time to time, will promptly furnish to the requesting party a statement of the status of any matter pertaining to this Agreement, including, without limitation, acknowledgments that (or the extent to which) each party is in compliance with its obligations under the terms of this Agreement.

14. Concurrently with the giving to Owner of any notice of Owner's default, breach or violation of this Agreement, Town shall give a duplicate of any such notice by national overnight delivery courier or certified or registered mail, return receipt requested, to Owner's mortgagee addressed as set forth in a notice delivered by such mortgagee to the Town and no notice of default, breach or violation shall be effective unless and until so mailed to any such mortgagee, provided that the Town shall have no obligation to provide notice to any mortgagee who has not provided its address to the Town. The Town acknowledges that any such mortgagee (who has informed the Town of its address) has the right (but not the obligation) to cure any default, breach or violation specified in such notice within a reasonable time after such notice, including a reasonable period of time for the mortgagee to obtain possession of and title to the Property, if mortgagee elects to do so. Any curing of any Owner default, breach or violation under this Agreement by a mortgagee shall be treated as performance by Owner.

(Signatures on following page)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as a sealed instrument as of the date first above written.

OWNER:

Cent =

AVALON AT GREAT MEADOW, INC.,
a Maryland corporation,

By: *Nika Dufour*

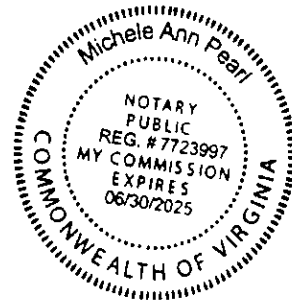
Name: *Nika Dufour*

Title: *Vice President, Capital Markets*

1445158

State of Virginia
County of ARLINGTON

On this 30 day of DECEMBER 2022, before me the undersigned Notary Public, personally appeared NIKA DUFUR the VP, Capital Markets of Avalon at Great Meadow, Inc., a Maryland corporation, and 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 documents, and acknowledged to me that NIKA DUFUR signed it voluntarily for its stated purposes in his capacity as aforesaid.



TOWN:

TOWN OF BEDFORD

By: *[Signature]*
Its Town Manager
Hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS)

) ss:

COUNTY OF MIDDLESEX)

On this 30th day of Nov, 2022 before me, the undersigned notary public, personally appeared *[Signature]*, proved to me through satisfactory evidence of identification, which were MADL, to be the person whose name is signed on the preceding document, as Town Manager of the TOWN OF BEDFORD, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

[Signature]
Notary Public
My commission expires: 09/22/2028

(SEAL)

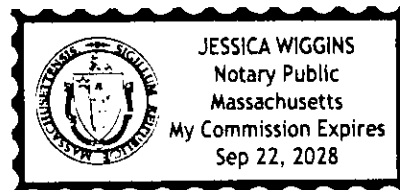


EXHIBIT A

Legal Description

see attached

3
DEED



Bk: 1295 Pg: 71 Cert#: 233026
Doc: DEED 01/20/2005 08:35 AM

QUITCLAIM DEED

We, **William D. Cimino and Lisa G. Cimino**, of Bedford, Middlesex County, Massachusetts

for consideration paid and in full consideration of **Eight Hundred Fifty Thousand and 00/100 (\$850,000.00) Dollars**

grant to **Avalon at Great Meadow, Inc.**, a Maryland corporation, qualified to business in the Commonwealth of Massachusetts and having a principal address of c/o AvalonBay Communities, Inc., 2900 Eisenhower Avenue, Third Floor, Alexandria, Virginia 22314

with **QUITCLAIM COVENANTS**

That certain parcel of land situate in Bedford in the County of Middlesex and said Commonwealth, bounded and described as follows:

- Southerly by Concord Road, two hundred fifty-four and 35/100 feet,
- Westerly one hundred forty-five and 77/100 feet,
- Southerly thirty-three feet,
- Westerly eight hundred forty-one and 38/100 feet,
- Southwesterly one hundred fifty-one and 80/100 feet,
- Southerly three hundred eighty and 58/100 feet,
- Southwesterly thirty-nine and 60/100 feet,
- Easterly two hundred ninety-six and 04/100 feet by land now or formerly of Wallace H. Goldsmith;
- Southwesterly six hundred twenty and 40/100 feet,
- Northwesterly four hundred nine and 20/100 feet,
- Southwesterly three hundred and 75/100 feet by land now or formerly of Charles W. Jenks,
- Northeasterly by land now or formerly of William Barnett, five hundred and ninety-four feet,
- Northwesterly by said Barnett land and by land now or formerly of Margaret Fitzgerald et al., thirteen hundred ninety-two and 60/100 feet,
- Easterly by land now or formerly of Laroy Proctor et al., eleven hundred nine and 93/100 feet.

All of said boundaries are determined by the Court to be located as shown on a plan, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 184, Page 509, with Certificate 28877.

RETURN TO:

Maureen McGunigle
LandAmerica Financial Group
150 Federal Street, 2nd Floor
Boston, MA 02110

C 4148

218785 1224.51

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 01/20/2005 08:35 AM
Ctrl# 045912 233026 Doc# 01352406
Fee: \$3,876.00 Cons: \$850,000.00

Property Address: 57 Concord Road, Bedford, MA

81

QUITCLAIM DEED

I, RICHARD P. MURRAY, of 5 Davis Road, Bedford, Middlesex County, Massachusetts for consideration paid, and in full consideration of Three Million Five Thousand Dollars (\$3,005,000.00)

grant to Avalon at Great Meadows, Inc., a Maryland corporation with a business address of 2900 Eisenhower Avenue, Third Floor, Alexandria, Virginia 22314

with quitclaim covenants

the land together with the buildings now or hereafter placed thereon situated in Bedford, Middlesex County, Massachusetts, being shown as Lot 5 on a plan entitled "Plan of Land in Bedford, Mass." dated December 6, 1990, prepared by the BSC Group, recorded with the Middlesex South Registry of Deeds at Book 21097, Page 154.

Containing 8.75 acres more or less, according to said plan or however otherwise said premises may be bounded, measured or described.

For my title see deed recorded at Book 30311, Page 286.

WITNESS my hand and seal this 14th day of May, 2003

Richard P. Murray
Richard P. Murray



Bk: 39198 Pg: 172

Recorded: 05/15/2003

Document: 00000855 Page: 1 of 1

WEALTH OF MASSACHUSETTS

Middlesex, ss.

May 14, 2003

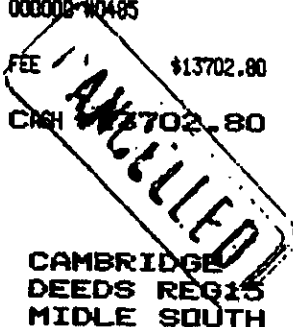
Then personally appeared the above-named Richard P. Murray and acknowledged the foregoing instrument to be his free act and deed, before me,

Lorraine A. Lewis
Notary Public:
My Commission Expires: 12/27/07

05/15/03 3:56PM 01
00000855

FEE \$13702.80
CASH \$13702.80

MTV/bc
43207/13
773994.1



5 DAVIS ROAD,
Bedford, MA
05115-0303
EXCISE TAX: 13792.80 ***
955 :25.00