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KATAHDIN WOODS

REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT made and entered into as of August 11, 1987, by and between Katahdin Woods Limited Partnership (the "Developer"), a Massachusetts limited partnership, all successors and assigns and the Massachusetts Executive Office of Communities and Development ("EOCD");

*Now owned and executed by Katahdin Woods Partners
by their General Partner Acton Life Insurance Company*
W I T N E S S E T H:

WHEREAS, EOCD is authorized by Executive Order No. 271 signed by Governor Michael S. Dukakis to administer the Low-Income Tax Credit Ceiling, as defined in Section 42 of the Tax Reform Act of 1986 in connection with the allocation and administration of the low-income housing tax credits established pursuant to said Act (the "Low-Income Tax Credit"); and

WHEREAS, EOCD has adopted certain Low-Income Housing Tax Credit Guidelines on May 1, 1987 and certain Guidelines on the Dividend Limitation contained in the Low-Income Rental Housing Tax Credit Program, dated August 5, 1987 (collectively, the "Guidelines") which provide, among other things, that any project receiving an allocation of tax credits be subject to a Regulatory Agreement providing certain restrictions on the use of the project; and

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WHEREAS, on April 9, 1987, EOCD reserved \$216,192 of the low-income housing tax credit available in 1988 for the Developer for construction of 128 residential apartments, community buildings, pool and deck (the "Project") to be located on 11.69 acres of land on Hartwell Avenue and Wood Street, Lexington, Massachusetts, as more fully described in a deed dated June 18, 1987 and recorded with the Middlesex South Registry District of the Land Court as Document Number 748289 and noted on Certificate of Title Number 180346 (the "Land"); and

Recorded Book 19329 Pg 242

WHEREAS, the Developer shall be a Limited Dividend Organization; and

WHEREAS, the parties hereto desire to enter into this Regulatory Agreement in order to set forth the terms as required in the Guidelines, as defined below.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, EOCD and the Developer do hereby agree as follows:

Section 1. Definitions. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Agreement:

"Agreement" means this Regulatory Agreement, as it may from time to time be amended.

"Building" means a discrete edifice or other man-made construction consisting of an independent foundation, outer walls and a roof.

"Capital Source" means the investing financial entity, as lender to or partner of, the Developer providing all or substantially all of the capital necessary to finance the Project. The initial Capital Source shall be Aetna Life Insurance Company ("Aetna") or a portfolio account managed by Aetna, all successors and assigns.

"Code" means the United States Internal Revenue Code of 1986, as heretofore amended and (unless the context shall clearly indicate a contrary intent), as it may hereafter be amended from time to time.

"Comprehensive Permit" means the permit issued to the Developer by the Zoning Board of Appeals of the Town of Lexington pursuant to Massachusetts General Laws Chapter 40B, Section 20 through 23, as said permit has been amended from time to time through December 31, 1988, which provides for construction of the Project, a copy of which is attached hereto as Exhibit A.

"Mortgage" means any and all liens of record affecting the Land which secure repayment of funds provided by a Capital Source to finance the construction and permanent operation of the Project, which funds are secured by a mortgage on the Land.

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"Gross Rent" means the total amount received from a tenant as a rental payment, excluding any payment under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance (with respect to such unit or the occupants thereof) and including any utility allowance under Section 8 of the aforementioned Act.

"Median Gross Income" means median gross income as determined under the rules and regulations governing the Low-Income Tax Credit of Section 42 of the Code, adjusted for family size.

"Project" means the multi-family rental housing development known as Katahdin Woods and located in Lexington, Massachusetts, to be developed on the site described in Exhibit B to this Regulatory Agreement, which shall contain 128 rental dwelling units, 20% of which shall be Low-Income Units.

"Event of Default" means the occurrence of an event of default as described in Section 6 hereof.

"Income Certification" means a certification as to income executed by a tenant of the Project.

"Limited Dividend Organization" means a corporation, partnership, or other organization, other than a public agency, which by its governing articles of organization or partnership agreement prohibits distribution with respect to any one year of operation of more than 10% on said entities' equity in the Project; equity in the Project shall be the difference between

the amount provided by the Capital Source to the Project and the total cost of the Project, including a Builder's and Sponsor's Risk Allowance equal to twenty percent (20%) of the total project cost determined prior to such Allowance.

"Low-Income Units" means those units in the Project set aside from time to time during the Lock-In-Period for occupancy by Low-Income Tenants, subject to temporary changes in the unit mix during said Lock-In-Period pursuant to the terms of the Comprehensive Permit, incorporated herein by reference. For purposes of the provisions of this Regulatory Agreement relating to restrictions on units with respect to conversion thereof to condominiums or cooperative form of ownership, the term "Low-Income Units" shall mean eight (8) one-bedroom units, (12) two-bedroom units and six (6) three-bedroom units, as provided in the Comprehensive Permit.

"Low-Income Tenant" means the occupants of a housing unit in the Project whose income on admission to the Project, as computed in accordance with the rules and regulations governing the Low-Income Tax Credit under Section 43 of the Code, does not exceed fifty percent (50%) of the Median Gross Income for the Area adjusted for family size.

"Low-Income Rent" means the Gross Rent paid by a Low-Income Tenant in an amount not to exceed 30 percent of 50 percent of the Median Area Gross Income for the area, adjusted for family size.

"Moderate Income" means income between one hundred and ten percent (110%) and one hundred and twenty percent (120%) of Median Gross Income for the area, adjusted for family size.

"Low-Income Tenant Rental Period" or "Lock-In-Period" means the period beginning the first day on which the Low-Income Units in the Project are first placed in service, and ending on the date which is 15 years after the date on which the Low-Income Units in the Project are first placed in service.

"Developer" means Katahdin Woods Limited Partnership, a limited partnership organized and existing under the laws of the Commonwealth of Massachusetts.

"State" means The Commonwealth of Massachusetts.

"Unit(s)" means residential accommodations containing separate and complete living facilities.

Section 1.2. Interpretation. Words importing any gender include all genders. Words importing persons include firms, associations and corporations.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Agreement; the term "heretofore" means before the date of this Agreement; and the term "hereafter" means after the date of this Agreement.

Articles and Sections mentioned by number only are the respective Articles and Sections of this Agreement so

numbered. Reference to "this Article," "this Section" or "this subsection" shall refer to the particular Article, Section or subsection in which such reference appears. Any captions, titles or headings preceding the text of any Article or Section herein and any table of contents or index attached to this Agreement or any copy hereof are solely for convenience of reference and shall not constitute part of this Agreement or affect its meaning, construction or effect.

Section 2. Representations, Covenants and Warranties of the Developer. The Developer represents, warrants and covenants that:

(a) It will maintain the Project as multi-family rental housing consisting of Buildings containing one or more similarly constructed Units which are used on other than a transient basis, which meet the other requirements set forth herein and which are available to members of the general public. The Project will not be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park or court for use on a transient basis.

(b) If the Project consists of multiple Buildings, such Buildings will have similarly constructed Units, will be located on a single tract or continuous tracts of land and will be financed pursuant to a common plan of financing.

(c) In accordance with the Guidelines and the Code,

Low-Income Tenants shall occupy no less than 20% of the total number of Units of the Development at all times during the Low-Income Tenant Rental Period.

(d) During the Low-Income Tenant Rental Period, the Project may be converted to a condominium or cooperative form of ownership, provided: (i) the Low-Income Units shall not be so converted; (ii) Low-Income Tenants in the Project are notified of their right to continue to reside in the Project on the same terms and conditions under which they are currently reside; (iii) EOCD is notified in writing that the Units are being so converted and the Developer submits a plan for managing the units occupied by Low-Income Tenants to EOCD for approval; and (iv) ten percent (10%) of the Units are sold to Moderate Income families at reasonable prices, as determined by EOCD in accordance with reasonable underwriting standards. A copy of the notice to be sent to the Low-Income Tenants pursuant to subparagraph (d)(ii) hereof shall be forwarded to EOCD for review ten (10) days prior to the date such notice is forwarded to the Low-Income Tenants. EOCD shall review only the language of such notice and shall have the right to recommend alternative language in the event it so desires.

(e) The Developer shall not discriminate on the basis of race, creed, color, sex, age, national origin or any other basis prohibited by law in the lease, use, or occupancy of the Development or in connection with the employment or application for employment of persons for the operation and management of the Project.

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(f) All tenant lists, applications, and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Developer which is unrelated to the Project and shall be maintained, as required by EOCD, in a reasonable condition for proper audit and subject to examination during business hours by representatives of EOCD.

(g) All Low-Income Tenant leases shall contain provisions, among others, wherein each individual lessee: (i) certifies the accuracy of the statements made in the Income Certification and (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of his tenancy, that he will comply promptly with all requests for information with respect thereto from the Developer or the EOCD, and that his failure to provide such information, misrepresentation of information or refusal to comply with a request for information on the income certification form which results in a material (intentional or unintentional) error or omission or misrepresentation as to financial or other eligibility requirement shall be deemed a violation of a substantial obligation of his tenancy and constitute cause for immediate termination thereof. The Developer shall provide EOCD with a copy of the form of Low-Income Tenant leases thirty (30) days prior to execution of any such lease. EOCD shall have the right to review and approve such Low-Income Tenant leases within said thirty (30) days. Leases for Low-Income Tenant units shall be for a

minimum period of one year and no Low-Income Tenant subject to such a lease during the Low-Income Tenant Rental Period shall be evicted for any reason other than a substantial breach of a material provision of such lease or as otherwise permitted under the terms of a standard program lease used in conjunction with public subsidy being provided to a Low-Income Tenant. Such leases shall also contain provisions for changes in rental charges and/or tenant income levels in accordance with the terms of federal regulations governing subsidized rental housing, which changes shall be approved by EOCD.

(h) The Developer shall exercise reasonable diligence to comply with the requirements of this Regulatory Agreement and shall correct any noncompliance with the terms and conditions hereof within thirty (30) days after such noncompliance is first discovered or would have been discovered by the exercise of reasonable diligence.

(i) During the Low-Income Tenant Rental Period, the annual rental for a unit leased to a Low-Income Tenant (unless such Low-Income Tenant fails to continue to qualify as such pursuant to Section 42 of the Code) including the provision for heat, electricity and hot water shall not exceed that permitted for a Low-Income Unit the cost of which is to be included in the basis for determining the amount of Low-Income Tax Credit. Such rental, other than at turnover, shall not be increased more often than once a year and no notice of change in rent to be charged for Low-Income Tenants shall be given prior to

providing the affected tenants with a thirty (30) day opportunity to comment on the increase.

(j) Prior to initial occupancy of any unit in the Project, the Developer shall adopt and implement (i) a tenant selection plan for the Low-Income Units and (ii) an affirmative fair marketing plan for all units consistent with the standards and guidelines in effect and adopted by the EOCD.

(k) During the Low-Income Tenant Rental Period, the Developer's articles of organization or partnership agreement shall require the Developer to be a Limited Dividend Organization. A Capital Source certified by EOCD as meeting the standards of shared appreciation financing specified in the Guidelines need not qualify as a Limited Dividend Organization, as defined above. Subsequent to completion of construction the Developer's accountant shall certify the total cost of the Project which shall include the cost of site acquisition, site preparation, demolition, construction of buildings and all other work in connection therewith, all associated fees and expenses (including, but not limited to, engineering, architectural, legal, accounting and financing fees and expenses), construction interest, marketing rent-up and initial operating deficits, a Developer's Overhead Allowance equal to five percent (5%) of Total Project Cost determined prior to such Developer's Overhead Allowance and a Building and Sponsor's Profit at Risk Allowance ("BSPRA") equal to twenty percent (20%) of Total Project Cost determined prior to such

BSPRA Allowance. The Developer's accountant shall submit the certification of Project cost to EOCD, addressed to the Secretary, registered mail, return receipt requested, for its review and approval. In the event the Developer expends additional funds after completion of construction for costs which may be included in the total costs of the Project (for example, for replacements or improvements) the Developer shall submit a supplementary certification in the same manner as the initial certification. The Developer's accountant's certification(s) shall be deemed approved unless EOCD notifies the Developer in writing within thirty (30) business days of receipt of such certification of any objections of EOCD to such certification. Said accountant's certification(s) shall contain a notice, in bold face type, that it shall be deemed approved unless EOCD notifies the Developer as aforesaid. Distributions of return on equity not made in any one year may be deferred and made in subsequent years. Proceeds of any refinancing or from the sale of any of Developer's assets shall be excluded from the determination of the annual distribution. Any funds available in excess of that permitted to be distributed shall be used, as determined by EOCD, to either increase the number of Low-Income Units or to further reduce rents on the Low-Income Units.

(1) That the Developer shall provide, on a form and in a manner prescribed by EOCD, a notification to each Low-Income Tenant indicating the manner in which the Gross Rent for such Units are determined.

Section 3. Conversion Restrictions. The following conversion restrictions are applicable to the Project:

(a) No tenant in the Project shall be evicted due to conversion to condominium or cooperative form of ownership unless and until said tenant has received the rights and benefits as set forth in Chapter 527 of the Acts of the Commonwealth of Massachusetts 1983, as then currently in effect (the "Conversion Act"), notwithstanding any exemption provided in the third paragraph of Section 2 of the Conversion Act, as then currently in effect.

(b) No Low-Income Tenant residing in a unit designated as a Low-Income Unit during the Lock-In Period shall be evicted due to conversion to condominium or cooperative form of ownership nor shall a unit occupied by a Low-Income Tenant be converted to conventional rental housing (which shall mean housing having an annual rental greater than that permitted for Low-Income Units under the federal Low-Income Credit rules and regulations) unless and until the following restrictions have been met and completed with respect to such unit;

(i) the Low-Income Tenant residing in a unit designated as a Low-Income Unit during the Lock-In Period shall be given prior written notice of intent to convert to condominium or cooperative form of ownership or to convert to conventional rental housing (the "Notice Period") of at least four years, such Notice Period beginning on a date no sooner than four years prior to the expiration of the Low-Income

Rental Period. The notice of intent shall include notice of the tenant's rights, provided that, if a right of first refusal is required by the Conversion Act or other law as then currently in effect, the notice of intent shall include notice of a right of first refusal, as set forth in paragraph (iii) of this Section 3(b), consistent with the provisions of said Act. Only Low-Income Tenants residing in a unit designated as a Low-Income Unit during the Lock-In Period shall be entitled to receive the additional rights enumerated in this paragraph (b). EOCD shall be provided with a copy of the formal notice for review at least ten (10) days before such notice is sent to the Low-Income Tenant;

(ii) every Low-Income Tenant given, or entitled to be given the notice of intent shall receive an extension of their lease or rental agreement, with substantially the same terms, subject to permissible rental increases, during the Notice Period;

(iii) in the event the Developer intends to convert the Project to the condominium or cooperative form of ownership, not later than two (2) years prior to the expiration of the Notice Period, an affected Low-Income Tenant shall receive a written right of first refusal for purchase of the Unit accompanied by a copy of a purchase and sale agreement for the Unit, which right shall last for a period of not less than six (6) months; if and only if the Town of Lexington, the Lexington Housing Authority or their designees indicate an

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intention not to exercise their right to purchase Units pursuant to the Comprehensive Permit, during this period, the Unit (herein meaning a unit designated as a Low-Income Unit during the Lock-In Period) shall be offered to the tenant at a discount of at least ten percent (10%) from the market offering price for the unit, and if the Town of Lexington, the Lexington Housing Authority or their designees do indicate an intention to exercise said right to purchase, during this period the Unit shall first be offered to the Low-Income Tenant at the market offering price for the unit; these terms shall not apply to a Low-Income Tenant after a notice of intent has been given with respect to such Unit or to any Tenant occupying a Unit not designated as a Low-Income Unit during the Lock-In Period; if the tenant of an affected Unit and the Town of Lexington, the Lexington Housing Authority or their designees choose not to purchase the Unit, the unit shall be offered for purchase to the EOCD or its designee for an additional period of at least ninety (90) days at the same price the Unit was offered to the tenant;

(iv) all tenants given, or entitled to be given the notice of intent who are unable or choose not to exercise their right to purchase or to remain and to pay the conventional rental shall be entitled to relocation benefits in accordance with the Conversion Act.

Section 4. Successors Bound. This Regulatory Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Developer and its successors and assigns, any owner of all of the Project or any interest therein and EOCD and its successors and assigns, all for the Low-Income Rental Period.

Section 5. Enforcement of Terms. The benefits of this Agreement shall inure to, and may be enforced by EOCD for the Low-Income Rental Period.

Section 6. Defaults; Remedies. If the Developer shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed, then and in such event, EOCD shall be entitled and in addition to all other remedies provided by law or in equity to compel specific performance by the Developer of its obligations under this Regulatory Agreement, it being recognized that the beneficiaries of the Developer's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Developer's default. In the event of such a breach, the Commonwealth shall be reimbursed for all attorneys' fees and all court costs.

Section 7. Subordination to Mortgage. This Agreement and the rights of EOCD hereunder shall be and are hereby declared to be subordinate in all respects to the terms of any Mortgage on the Project and the rights of the holder of the mortgage note thereunder.

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Section 8. Notices. All notices, certificates or other communications shall be sufficiently given and shall be deemed to be given on the second day following the date on which the same shall have been mailed by certified mail, postage prepaid, addressed as follows:

To the EOCD: Executive Office of
Communities and Development
100 Cambridge Street
Boston, Massachusetts
Attn: Amy Anthony, Secretary

To the Developer: Katahdin Woods Limited
Partnership
c/o Robert M. Kargman
151 Tremont Street
Boston, Massachusetts

EOCD and the Developer may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 9. Amendments. This Regulatory Agreement may not be amended, changed, modified, altered or terminated except with the written consent of EOCD.

Section 10. No Conflict with Other Documents. The Developer warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

Section 11. Termination of this Agreement. The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement, and each and all of the terms hereof, shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by foreclosure of the lien of any Mortgage the terms of which are approved by EOCD or delivery of a deed in lieu of foreclosure, fire, seizure, requisition, or condemnation or a similar event; provided, however, that the preceding provisions of this sentence shall not apply or shall cease to apply and the restrictions contained herein shall remain in force or be reinstated, as the case may be, if, at any time subsequent to the foreclosure of the lien of the Mortgage or the delivery of a deed in lieu of foreclosure fire, seizure, requisition, or condemnation or a similar event, the Developer or any related entity or person has or obtains a legal or beneficial interest in the Project. Upon termination of all and several of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

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Section 12. No Personal Liability. No partner of Developer shall be personally liable for the obligations of Developer hereunder and in the event of default by the Developer the parties shall look solely to the assets of Developer for satisfaction.

Section 13. Severability. The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties have caused this Regulatory Agreement to be signed as of the date first written above.

Katahdin Woods Limited Partnership

By: Arthur D. Ullian
Arthur D. Ullian, as General Partner

By: Robert M. Kargman
Robert M. Kargman, as General Partner

Executive Office of Communities
and Development

By: Amy S. Anthony ✓

Feb. 17, 1989
Approved For Registration
As to limited Partnership,
Clerk & members of
Recorder

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

January 17, 1989

Then personally appeared the above-named Robert M. Kargman as general partner of Katahdin Woods Limited Partnership and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said entity before me.

Donna T. Murphy
Notary public
My commission expires: Aug 2, 1992

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

January 17, 1989

The personally appeared the above-named Arthur D. Ullian as general partner of Katahdin Woods Limited Partnership and acknowledged the foregoing instrument to be his free act and deed and the the free act and deed of said entity before me.

Donna T. Murphy
Notary Public
My commission expires: Aug 2, 1992

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

~~January~~ ^{February} 3, 1989

Then personally appeared the above-named Amy S. ANTHONY the Secretary of the Executive Office of Communities and Development, and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of said entity before me.

Caroline Lempica
Notary public
My commission expires: _____

My Commission Expires Sept. 23, 1991

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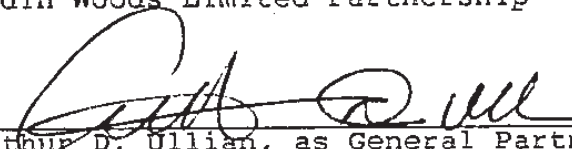
ACKNOWLEDGEMENT

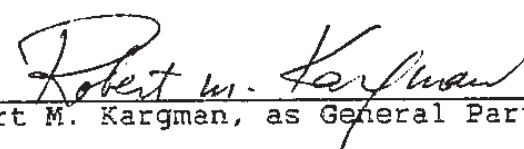
The undersigned hereby acknowledges, agrees to be bound by and accepts the terms of that certain Regulatory Agreement, dated as of August 11, 1987, by and between Katahdin Woods Limited Partnership and the Massachusetts Executive Office of Communities and Development, a true copy of which is attached hereto and incorporated herein by reference.

Executed this 18th day of April ¹⁹⁸⁸ as a sealed instrument.


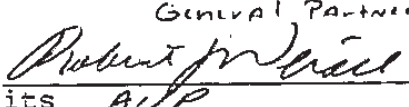
Katahdin Woods Partners
a Massachusetts General Partnership

By: Katahdin Woods Limited Partnership

By: 
Arthur D. Ullian, as General Partner

By: 
Robert M. Kargman, as General Partner

By: Aetna Life Insurance Company
General Partner

 By:  ^{✓ 5 Te 86}
its AJP hereunto duly authorized. ₆₆₂₂₈₆

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COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

April 18, 1989

Then personally appeared the above-named Arthur D. Ullian, as General Partner of Katahdin Woods Limited Partnership, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said entity before me.

Shirley J. Markie
Notary Public
My commission expires: 5/30/91

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

April 18, 1989

Then personally appeared the above-named Robert M. Kargman, as General Partner of Katahdin Woods Limited Partnership, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said entity before me.

Shirley J. Markie
Notary Public
My commission expires: 5/30/91

STATE OF CONNECTICUT

Hartford, ss.

April 18, 1989

Then personally appeared the above-named Robert J. Weiss, Asst. V.P. as aforesaid, and acknowledged the foregoing to be his/her free act and deed and the free act and deed of Aetna Life Insurance Company, before me.
General Partner

Lillian S. Mullett
Notary Public
My commission expires: 3-31-93

TOWN OF LEXINGTON
BOARD OF APPEALS
DECISION

Subject Property: Land located at intersection of Wood Street and
Hartwell Avenue
Map 74, Lots 1C and 2 and Map 73, Lot 10B

Applicant: Katahdin Woods Limited Partnership

Hearing Dates: January 23, 1986, February 27, 1986

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on January 9 and 16, 1986, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, and mailed to all Town Meeting Members, the Lexington Housing Authority and LEXHAB, a public hearing was held on January 23, 1986, continued to February 27, 1986, in Estabrook Hall, Cary Memorial Building, on the application of Katahdin Woods Limited Partnership, filed on December 30, 1985, for a comprehensive permit, pursuant to Massachusetts General Laws, Chapter 40B, Sections 20 through 23 (the "Act"), authorizing the Applicant to construct and operate a residential development to be known as "Katahdin Woods Apartments" on approximately 11.97 acres of land located at the intersection of Wood Street and Hartwell Avenue, shown on Town Property Map 74, Lots 1C and 2, and Map 73, Lot 10B (the "Project").

Acting on the petition were: Chairman Thomas G. Taylor, Vice Chairman Natalie H. Riffin, Anne R. Scigliano, and Associates Susan Beck and Mary Miley. Prior to the hearing, the application and supporting data were reviewed by the Board of Selectmen, Planning Board, Town Engineer, Conservation Administrator, Building Commissioner, Health Director, Fire and Police Departments, Chairman of the Lexington Housing Authority, and other officials. Communications, reports and recommendations were received from the Board of Selectmen, Planning Board, Town Engineer, Conservation Commission, Lexington Historical Commission, Fire Department and Lexington Housing Authority, and interested citizens. The Board viewed the Project site and examined its location, layout and physical characteristics, and the surrounding neighborhood.

At the January 23, 1986 hearing, the Applicant (represented by

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its General Partner, Arthur Ullian and his attorney, Erik Lund) and its consultants (Charles Tseckares, Childs, Bertman, Tseckares & Casentino, Inc., principal architect; William Carlson, BSC Engineering, traffic engineer; David Crispin, BSC Engineering, wetlands and drainage engineer) presented the proposal to the Board. Mr. Tseckares began with an overview of the project site plan indicating the proposed locations of the five 2-1/2 story walk-up buildings and eight 2-1/2 story townhouse buildings and parking areas. Of the total of 128 units, 40 will be one-bedroom units, eight to be occupied by low- or moderate-income families; 80 will be two-bedroom units, 12 to be occupied by low- or moderate-income families; and eight will be three-bedroom townhouses, six to be occupied by low- or moderate-income families. The breakdown of low- and moderate-income units has been modified from that which was included in the Application, Exhibit H, in order to provide for a greater percentage of affordable units suitable for larger families. Mr. Tseckares followed with a presentation of several plans detailing the proposed front, side and rear building elevations which included many details reflective of traditional New England design. In addition, Mr. Tseckares noted that the interior roadways were designed to accommodate the expected traffic flow while minimizing the need to change the topography.

Mr. Crispin then discussed the design of the surface water drainage system and the Applicant's proposal to alter the size of the metal plate in the drainage control structure at the retention basin to allow for the added run-off from the Project. Projected traffic impacts both onto Wood Street and Hartwell Avenue were discussed by Mr. Carlson, with particular emphasis on those impacts during the morning and afternoon peak hour periods.

An open discussion followed the presentations with many Town residents raising questions concerning a number of aspects of the Project, including traffic impacts, the proposed building heights, and overall project density. At the conclusion of the meeting, the Board voted to continue the hearing until February 27 in order to receive recommendations from the Board of Selectmen, the Conservation Commission and the Planning Board. Written responses were received from the Boards prior to the February 27 meeting, each of which recommended approval of the application for a comprehensive permit with conditions. Representatives of Town boards spoke at the February 27 hearing.

In addition to the plans filed with the Application, Applicant submitted to the Board on January 29, 1986 a series of engineering plans (Site Analysis Plan, dated January, 1986; Site Layout Plan, dated January, 1986; Profile Plan (not official title), dated January, 1986; Site Details Plan, dated January, 1986, and Preliminary Drainage Plan, dated October 30, 1985, as revised on November 11, 1985 and December 27, 1985) and supporting Site Analysis Data report, dated January 23, 1986. On January 30, 1986, Applicant submitted an Illustrative Site Plan dated January

1986 and on February 27, 1986, a plan showing the location of the proposed footpath. (All of the above-described plans, including the plans filed with the Application, will be referred to as the "Plans".)

After hearing all the facts and evidence presented at the public hearings, the Board makes the following findings:

I. FINDINGS

Applicant has applied for a comprehensive permit, pursuant to the provisions of the Act, to facilitate the construction of 128 apartments on approximately 12 acres at the intersection of Wood Street and Hartwell Avenue, twenty percent (20%) of the units being reserved for low- and moderate-income households (hereinafter called "affordable units"), together with a community building, pool, parking and landscaped areas, all as more particularly set forth in the Application, and as shown on the plans submitted to the Board as part of the Application.

Applicant has received preliminary site approval by the Massachusetts Housing Finance Agency (see Application, Exhibit D). In addition, Applicant has expressed the intention of filing a request for Official Action Status with the Lexington Housing Authority, under the guidelines of the TELLER Program as administered by the Executive Office of Communities and Development (EOCD). If the Project is so financed under the guidelines of the TELLER Program by the Lexington Housing Authority, such change shall not be considered a substantial or material alteration from the Application as submitted. Applicant now has the Project site under an Option Agreement with Spaulding & Slye Company, which has an Option Agreement with the present owners of the site (See Application, Exhibit C).

The number of affordable housing units presently existing in Lexington is below the standards of Section 20 of the Act. Currently, EOCD estimates that the Town of Lexington has an unmet need of 164 elderly units and 1,168 low- to moderate-income family units as set forth in Applicant's Application (page 15). The addition of the Project to the Lexington rental market, including a number of affordable three-bedroom townhouse units designed for larger families, would help alleviate this unmet need.

The design of the Project has been carefully planned with input from the Planning Board to follow the slope of the site, thereby decreasing the apparent height of the buildings as viewed from the abutting properties. Each of the parking areas has been planned in a delineated cluster with vegetated partitions to provide adequate screening and avoid the massing of a large number of vehicles in any one area. The building exteriors feature wood clapboard siding, and outdoor terraces and balconies, the combination of which is expected to create an aesthetically pleasing environment in which to live. Applicant has submitted a

detailed professional traffic analysis (see Application, Exhibit J), which indicates that the additional traffic generated by the Project will not significantly impact the existing level of service experienced in the area. The Project is designed to protect the health and safety of the occupants and to promote better and appropriate site and building design in relation to the areas surrounding the Project Site.

The Lexington Historical Commission and many residents expressed concern about the preservation of the "Cutler" farmhouse, one of the few remaining pre-revolutionary era dwellings in Lexington, and presently located on the Project site. The Cutler house belongs to the Cosgrove family, which is the present owner of the Project site. The Board received a letter from a member of the Cosgrove family stating that the family has made arrangements to move the house to another lot on Wood Street owned by the family. At the hearing, the Applicant indicated its willingness to facilitate the removal and preservation of the Cutler house.

A major concern of the residents of the neighborhood is the traffic impact of the Project on Wood Street and Hartwell Avenue. Traffic generated by Hanscom Air Force Base and the commercial development on Hartwell Avenue now causes very severe peak hour congestion. The Town has been working with the State for several years on plans to alleviate congestion through road improvements at the Bedford Street-Hartwell Avenue intersection. The Project will clearly contribute to traffic problems in the area, but based on the conclusions in the BSC Traffic Analysis, it appears that the impact from the Project is not of such magnitude as to justify denying a permit. Serious reservations were voiced by members of the Board, by representatives of Hartwood Limited Partnership and by the Planning Board over the proposal of the Applicant to connect to and use as a regular access to Hartwell Avenue the driveway on property of Hartwood Limited Partnership. To the extent that occupants of the Signatron building use the Project driveways for access to Wood Street, there will be a violation of Section 5.6 of the Zoning By-Law. And, safety concerns are raised about the use by Project residents of a driveway designed to serve a commercial building. Because of these concerns, the Applicant has agreed by letter dated March 11, 1986 to modify its proposal to eliminate use of this access except for emergency vehicles.

Based on all of the materials presented, the Board finds that the conditions for granting the Comprehensive Permit have been met:

1. Applicant is a "limited dividend organization" within the meaning set forth in the Act and the regulations promulgated in connection therewith, as indicated by the Partnership Agreement, an amended version of which is set forth in the Application, Exhibit B.
2. Applicant is proposing to construct low- and moderate-

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income housing to be financed through the Massachusetts Housing Finance Agency or the Lexington Housing Authority.

3. The granting of the Comprehensive Permit is "reasonable and consistent with local needs", as that term is used in the Act. The Project is reasonable and consistent in view of the need for low- and moderate-income housing for Lexington residents and the need to protect the health or safety of the occupants of the Project.
4. The Board is of the opinion that all the conditions that are required for the granting of a Comprehensive Permit pursuant to the provisions of the Act have been met.

II. DECISION

The Board unanimously grants to the Applicant only, a comprehensive permit to construct and operate the Project in accordance with the Application and the Plans and grants all local permits and approvals necessary to facilitate such construction, subject to the following conditions:

III. CONDITIONS OF PERMIT

1. The affordable units shall be 8 one-bedroom units, 12 two-bedroom units, and 6 three-bedroom units, or such higher number as may be required by the Lexington Housing Authority pursuant to the TELLER or other applicable subsidy program (hereinafter called the "Affordable Units").
2. Upon the expiration of the period during which Applicant will be required under any applicable subsidy program to rent at least twenty-six (26) units in the Project to low- and moderate-income households, as defined under the guidelines established by the regulations of the applicable subsidizing agency (the "lock-in period"), the Applicant (which term shall include any successor to Applicant as owner of the Project) shall offer to sell at least twenty-six (26) units (comprised of eight (8) one-bedroom, twelve (12) two-bedroom and six (6) three-bedroom units) to the Lexington Housing Authority or to the Town of Lexington or its designee. The price of each unit shall be a proportionate share of the total development costs of the Project determined by a fraction having as its numerator the square-foot area of the unit and as its denominator the total square-foot area of all units in the Project. The development costs shall be those costs as established by the Lexington Housing Authority pursuant to the TELLER Program regulations, or established under any other applicable subsidy program, plus (a) the costs of making the units ready for sale including conversion of the Project to condominiums, and (b) any federal and state income taxes assessed against

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the Applicant as a consequence of the sale. Federal and state income taxes shall be determined on the basis of the tax laws in effect as of the date of this permit. The Applicant shall within six (6) months of the date on which all units in the Project are occupied furnish to the Town Manager financial data showing the initial development costs. The financial records of the Project shall be available for inspection by such individuals as designated by the Town Manager. The Town Manager and the Applicant shall establish the purchase price for each unit or unit type to which this provision relates.

3. If the Applicant elects to continue operation of the Project as rental housing beyond the expiration of the lock-in period, the affordable units shall be maintained as affordable units during such period and the Applicant shall not be required to offer the units to the Town as required by Paragraph 2 above; provided, however, that the Town or an agency it designates may purchase the units at the price defined in Paragraph 2 above whenever they are offered for sale by the Applicant.
4. All site improvements, landscaping and access ways shall be constructed in accordance with the Plans, or such other revised Plans as this Board may subsequently approve. The construction details of the buildings may be different from those shown on the Plans, but they must conform to the State Building Code. The buildings shall be in the approximate locations as shown on the Plans and the general appearance of the dwelling units with respect to massing, exterior materials and detailing as shown on the Plans shall be maintained. Any change in the number, size and type of dwelling units, and any changes in building type shall be considered a substantial change and shall require an amendment of this permit.
5. ~~The Applicant shall contribute to the Town of Lexington a sum of not less than \$25,000.00 to be used by the Town for engineering, design and construction costs for public improvements in the vicinity of the Project for pedestrian and vehicular safety.~~
6. The Applicant shall construct to Town specifications a pedestrian sidewalk on its property along Wood Street from the intersection of Hartwell Avenue to Applicant's southeasterly property line. Construction of the sidewalk shall be completed prior to occupancy of the Project.
7. The Applicant shall improve the existing bridle path as a footpath from the interior drive to the Katahdin Woods Conservation Area, as shown on the Plans. Prior to the issuance of any occupancy permits for the Project, the

Applicant shall grant to the Town a conservation and public walking easement in form acceptable to Town Counsel.

8. Prior to the issuance of any occupancy permits for the Project, the Applicant shall grant to the Town a conservation restriction over the wetlands and adjacent buffer area, as shown on the Plans, in form acceptable to Town Counsel.
9. Prior to the commencement of any earthwork on the site, the Applicant shall erect a snow fence at the limit of work which will be maintained throughout construction. Applicant will protect the trunks of all trees six (6) inches in diameter or larger which are intended to be saved within the limits of work with boards strapped to the trunk.
10. Sodium chloride and potassium chloride shall not be used on the site for road de-icing purposes.
11. It is the intention of the Board that rent levels for the Affordable Units shall be the lowest levels permissible. Where the regulations for the applicable subsidy program permit a range of rent levels for an Affordable Unit, the rent levels shall be set at the lowest levels permitted by the regulations. In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program, such regulations shall control to the exclusion of this condition.
12. The Applicant shall offer the Affordable Units to low- and moderate-income households. Vacant units shall be offered first to:
 - a. Qualified persons holding Section 8 or Section 707 certificates or comparable rent supplement certificates, low-income households on a list maintained by the Lexington Housing Authority, or, in the case of dwelling units in the moderate-income range, to moderate-income households on a list maintained by LEXHAB, and then to
 - b. Low-income or moderate-income households who apply directly to the Applicant provided the Applicant furnishes documentation satisfactory to the Lexington Housing Authority and LEXHAB and such agency makes a determination that the household qualifies as either low-income or moderate-income. In addition, the Applicant shall apply directly, or request the Lexington Housing Authority to apply, to the state for additional certificates if necessary to fill the available units.

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In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program, such regulations shall control to the exclusion of this condition.

- 13. The project shall conform to the provisions of subsection 9.3.2 of the Lexington Zoning By-Law requiring two means of access to the Project for emergency vehicles. The proposed access road through abutting land of Hartwood Limited Partnership shall not be used as an access road by residents of the Project, but shall be limited to use for fire and other emergency vehicles. A locked barrier, the design and operation of which shall be approved by the Fire Chief, shall be installed to prevent use of the road by the public. Prior to the issuance of a Building Permit, Applicant shall provide evidence, satisfactory to the Town Counsel, that it has the right to construct and use an access road across land of Hartwood Limited Partnership.
- 14. This permit shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months of this date; however, for cause, one or more extensions of time, for periods not exceeding six months each, may be granted. Work under this permit must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances.

Dated this second day of April, 1986.

Thomas G. Taylor
[Signature]
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Susan S. Beck
[Signature]

LEXINGTON, MASS. JUN 2 1987

A TRUE COPY ATTEST:

Mary Anne Harr

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LEXINGTON BOARD OF APPEALS DECISION

Hearing date: 10/23/66

This constitutes the record of the Board of Appeals Decision relative to:

Subject Property: Wood Street & Hartwell Avenue

Petitioner/s: Katardin Woods Apartments

BOARD OF APPEALS OF LEXINGTON (Acting under the Lexington Zoning By-law, Lexington General Town By-laws, and the General Laws of Massachusetts, Chapter 40A)

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TOWN CLERK
LEXINGTON, MASS

[Signature]

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[Signature]
Chairman

I, Elinor Greenway, Administrative Clerk of the Board of Appeals, certify that copies of the decision have been filed with the Town Clerk of Lexington and the Planning Board.

[Signature]

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In accordance with Mass. G.L., Ch. 40A, 5511, no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the city or town clerk and no appeal has been filed or that if such appeal has been filed, it has been dismissed or denied, is recorded in the registry or deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

LEXINGTON, MASS.
A TRUE COPY ATTEST:

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TOWN OF LEXINGTON
DECISION OF THE BOARD OF APPEALS

Subject Property: Wood Street and Hartwell Avenue
Applicant: Katahdin Woods Limited Partnership
Hearing Date: October 23, 1986

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on October 9 and 16, 1986 and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, a public hearing was held on October 23, 1986, in the Town Office Building on the petition of Katahdin Woods Limited Partnership, filed on October 1, 1986, for a six-month extension of the comprehensive permit granted April 2, 1986, to construct and operate a residential development to be known as Katahdin Woods Apartments at the intersection of Wood Street and Hartwell Avenue.

Acting on the petition were: Chairman Natalie H. Riffin, Vice-Chairman Robert W. Gary, Anne R. Scigliano, Clarence D. Turner, and Associate Member Robert V. Whitman. Prior to the hearing the petition and supporting data were reviewed by the Building Commissioner, Conservation Administrator, Town Engineer, Health Director, Planning Board and Board of Selectmen. The Planning Board recommended that the applicant be granted only one extension of not more than six months, in the interest of getting the development, with its affordable housing, underway as soon as possible.

Petitioner submitted a request to extend the comprehensive permit for six months because of the suspension of all tax exempt revenue bond financing on a national level due to uncertainties surrounding the provisions of the Tax Reform Act of 1986. With the passage of the Act, they expect to obtain the required financing and to commence construction within the next few months.

Prior to the hearing a letter was received from William Casper of Boston Investment and Development Company requesting a postponement of the hearing until November 13, 1986, due to a scheduling conflict of the partners of Katahdin Woods. At the hearing Jeff Goodman represented B.I.D.C to request the postponement. James McLaughlin, Chairman of the Lexington Housing Authority spoke in opposition to the postponement and in favor of granting the extension. He said that the Lexington Housing Authority is anxious to get the project underway. Attorney Francis Kiley representing the owners of the property, Mr. and Mrs. James Cosgrove, also spoke in opposition to the postponement and in favor of granting the extension.

Finding and Decision

The Board unanimously denied the request for postponement to November 13, 1986, and decided to consider extending the comprehensive permit for six months.

In a decision of the Board of Appeals dated April 2, 1986, the Board unanimously granted a comprehensive permit to construct and operate the

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Hood Street and Hartwell Avenue, Katahdin Woods Limited Partnership

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Katahdin Woods project. This permit would be deemed abandoned and invalid unless the work authorized by it shall have been commenced by October 2, 1986, six months after the granting of the permit. However, Condition No. 14 allowed, for cause, one or more extensions of time for periods not exceeding six months each. It was the unanimous opinion of the Board that the Katahdin Woods Limited Partnership had shown good cause why the financing and construction had been delayed.

The Board, by unanimous vote, granted the six-month extension to the comprehensive permit requested, starting on October 2, 1986. The six-month extension will expire on April 2, 1987.

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TOWN OF LEXINGTON
DECISION OF THE BOARD OF APPEALS

JUN 9 1987

Subject Property: Wood Street and Hartwell Avenue
Applicant: Katahdin Woods Limited Partnership
Hearing Date: March 19, 1987

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on March 5 and 19, 1987, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, a public hearing was held on March 19, 1987, in the Town Office Building on the petition of Katahdin Woods Limited Partnership ("Applicant"), filed on March 3, 1987, (1) for an additional six-month extension, to October 2, 1987, of the comprehensive permit granted April 2, 1986, to construct and operate a residential development to be known as Katahdin Woods Apartments at the intersection of Wood Street and Hartwell Avenue, (2) to approve a change in the subsidy program and (3) to approve revisions to the plans.

Acting on the petition were: Chairman Natalie H. Riffin, Anne R. Scigliano, Thomas G. Taylor, Clarence D. Turner and Associate Member Mary W. Miley. Prior to the hearing, the petition and supporting data were reviewed by the Building Commissioner, Conservation Administrator, Town Engineer, Health Director, Planning Board, Board of Selectmen and Fire Department. The Planning Board had no objection to the request for a six-month extension. They had no comment on the plan revisions proposed as they were unable to determine from the information submitted the extent of change from what was originally approved in the comprehensive permit. The Conservation Commission requested that the Board not approve changes in the site plan until both the Conservation Commission and other interested boards could review the plans with the developer and in the field.

Applicant submitted with the application a letter dated March 2, 1987, explaining the revisions to the design, a copy of Executive Order No. 270 entitled "Allocation of Low Income Rental Housing Tax Credit Cap," and architectural and site drawings dated 2/26/87. A letter was received from Hartwood Limited Partnership, the closest abutter, objecting to the proposed revisions.

The Applicant was represented at the hearing by Arthur Ullian, Robert Kargman and William Casper of Boston Investment & Development Company, Richard Brimley of Eisenberg/Haven Associates, David Crispin of BSC Engineering and Attorney Erik Lund. The Applicant submitted a letter from Amy Anthony, Secretary of the Executive Office of Communities & Development, dated 3/8/87, expressing interest in their application to receive a reservation of the 1988 Tax Credit Cap. The hearing was continued to April 9, 1987, to allow Applicant to submit revised grading and site plans.

LEXINGTON, MASS. JUN 9 1987
A TRUE COPY ATTEST:

Bonnie H. Fackel

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Katahdin Woods Limited Partnership, Wood Street & Hartwell Avenue 2

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Prior to April 9, 1987, revised site and grading plans dated 3/27/87 and a letter from Ron Lawson of BSC detailing the revisions were submitted by the Applicant. The Planning Board requested that the Board not make a decision on April 9th and continue the hearing to a later date. They expressed concern with the new financing source and said that the changes to the plans would require thorough analysis by the Planning staff and Conservation Commission. The Conservation Commission held a hearing on April 21, 1987, with the Applicant and requested the Board of Appeals continue their hearing until Conservation could provide the Board with their input. The Fire Chief reviewed the plans and is in agreement with the 12-foot wide emergency roadway and gate to the rear of the complex via the Signatron driveway. He emphasized that the roadways and gate be kept clear of snow during the winter. The Health Director said that pool facilities need complete Board of Health approval and that the results of any 21E study need to be submitted to the Health Department. The Engineering Department did not have a chance to review the revised plans before the April 9th hearing. A letter was received from William Spencer, a member of the Lexington Housing Authority, dated March 26, 1987, expressing concerns about the changes in the financing mechanism. A copy of Erik Lund's letter of April 2, 1987, replying to the Spencer letter was sent to the Board.

At the hearing on April 9 Applicant submitted a letter from Amy Anthony, EOCB, dated April 9, 1987, informing Applicant that \$216,192 of the low-income housing tax credit available in 1988 is being reserved for the project and outlining the conditions. A letter from Erik Lund dated April 9, 1987, responding to the Planning Board concerns was given to the Board. As requested by the Conservation Commission and the Planning Board and with the concurrence of the Chairman of the Lexington Housing Authority, the hearing was continued to Thursday, April 23, 1987, to allow for these boards and the Town Engineer to review and report on the revised plans.

Prior to the April 23rd hearing two reports dated 4/14/87 and 4/15/87 were received from the Town Engineer objecting to the new grading proposed for the front of the buildings and requesting an additional manhole on the 8" sewer line. Revised plans were submitted by Applicant with a letter dated 4/16/87 in response to the Town Engineer's concerns. In a memorandum dated 4/17/87 the Town Engineer stated that the plans with a revision date of 4/15/87 satisfied the requests contained in the reports cited above. The Planning Board submitted recommendations dated April 21, 1987, including an analysis of the revised site development plans. They recommended certain conditions to be included in the Board of Appeal's approval or extension of the comprehensive permit. The Conservation Commission's report dated April 23, 1987, determined that the proposed changes will have no impact on wetlands and agreed to allow the changes without amendment to the Order of Conditions. They did, however, oppose two non-wetland issues: 1) the moving of the roadway and grading adjacent to Katahdin Woods conservation area and 2) the enlarging by one third of the footprints of the four small units near the community building. The latest information on the Tax Credit

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A TRUE COPY ATTEST:

Bruce H. Fitch

Cap, Executive Order No. 271, and the final draft of the EOCD Low-Income Housing Tax Credit Guidelines dated 3/4/87 were received by the Board.

At the hearing on April 23 Applicant submitted a letter from the Executive Office of Communities & Development dated 4/13/87 committing Chapter 707 rental assistance subsidies to 26 low income units at Katahdin Woods. The following revised plans were reviewed by the Boards of Appeals at the hearing on April 23, 1987: PLANTING PLAN (Drawing No. LA1) as revised 2/26/87, ELEVATIONS dated 2/26/87, COMMUNITY CENTER dated 2/26/87, BUILDING "A" (Drawing No. 201) dated 2/12/87, BUILDING "B" "C" "D" (Drawing No. 203) dated 2/25/87, BUILDING "E" (Drawing No. 205) dated 2/20/87, TYPICAL FLOOR PLAN dated 2/26/87, TOWNHOUSE PLANS AND ELEVATIONS (Drawing No. 207) dated 2/26/87, UNIT PLANS (Drawing No. 301) as revised 2/26/87, UNIT PLANS (Drawing No. 302) as revised 2/26/87, GRADING PLAN (Sheet 101) as revised 4/15/87, SITE UTILITY PLAN (Sheet 102) as revised 4/15/87, SITE LAYOUT PLAN (Sheet 103) as revised 3/26/87, ROADWAY PROFILE (sheet 104) as revised 4/15/87, and CIVIL SITE DETAILS (Sheet 105) as revised 2/26/87.

I. FINDINGS

Applicant requests the following amendments to and extension of time with respect to its comprehensive permit dated April 2, 1986:

(1) A determination that, if the Project is financed through the use of the Low Income Rental Housing Tax Credit Cap referenced in Executive Order No. 270 of the Governor of the Commonwealth of Massachusetts dated January 26, 1987, such change shall not be considered a substantial or material alteration from the original application as submitted (the "Application").

(2) A further six-month extension of the comprehensive permit granted April 2, 1986, pursuant to paragraph 14, page 8 of the permit, which is necessary because the Commonwealth's program to allocate low income tax credit cap authority pursuant to the Tax Reform Act of 1986 has only recently been promulgated.

(3) A determination that the revisions to the plans submitted with the Application shall not be considered a substantial or material alteration from the plans previously approved; or, in the alternative, an approval of the revised plans, titled as follows:

- (a) Planting Plan (Dwg.No. LA1) as revised February 26, 1987;
- (b) Elevations dated February 26, 1987;
- (c) Community Center dated February 26, 1987;
- (d) Building "A" (Dwg.No.201) dated February 12, 1987;

LEXINGTON, MASS. JUN 9 1987

A TRUE COPY ATTEST:

Russell H. Furbish

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- (e) Building "B" "C" "D" (Dwg.No.203) dated February 25, 1987;
 - (f) Building "E" (Dwg.No.205) dated February 20, 1987;
 - (g) Typical Floor Plan dated February 26, 1987;
 - (h) Townhouse Plans and Elevations (Dwg.No.207) dated February 26, 1987.
 - (i) Unit Plans (Dwg.No.301) as revised February 26, 1987;
 - (j) Unit Plans (Dwg.No.302) as revised February 26, 1987;
 - (k) Grading Plan (Sheet 101) as revised April 15, 1987;
 - (l) Site Utility Plan (Sheet 102) as revised April 15, 1987;
 - (m) Site Layout Plan (Sheet 103) as revised March 26, 1987;
 - (n) Roadway Profile (Sheet 104) as revised April 15, 1987;
 - (o) Civil Site Details (Sheet 105) as revised February 26, 1987.

The Board makes the following findings with respect to each of the Applicant's requests:

(1) The Board finds that financing the project through the Low Income Rental Housing Tax Credit Program established by Executive Order No. 270 of the Governor of the Commonwealth dated January 26, 1987, will not constitute a substantial or material alteration from the Application submitted for the comprehensive permit. The Tax Reform Act of 1986 has made the financing programs contemplated in the original Application no longer feasible.

(2) The Applicant has been forced to postpone the start of construction because of the effects of the Tax Reform Act of 1986 on the financing of projects such as this. The delay has not been due to any fault by Applicant. Town officials and boards are still anxious to have the Project completed, and no detriment to the Town will result from extending the construction start date for another six months.

(3) The revised plans submitted by the Applicant have been reviewed extensively by the Planning Board, Town Engineer, Fire Department, Conservation Commission and other interested boards and officials. The changes in the building design and site development are necessitated by the need to reduce the costs of the Project to make it financially feasible. The Applicant again has been cooperative with Town boards and officials in making changes to satisfy comments and criticisms. The Board finds that none of the proposed changes in the plans constitute a substantial or material alteration of the plans previously approved.

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Ratahdin Woods Limited Partnership, Wood Street & Hartwell Avenue 5

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II. DECISION

Subject to the conditions set forth below, the Board unanimously grants a six-month extension of the comprehensive permit to October 2, 1987; determines that the financing of the Project through the Low Income Rental Housing Tax Credit Program of the Commonwealth of Massachusetts does not constitute a substantial or material alteration from the Application as originally submitted for the comprehensive permit; and determines that the revised plans described above do not constitute a substantial or material alteration from the plans approved with the comprehensive permit.

III. CONDITIONS OF PERMIT

These conditions shall be in addition to, and not in substitution for, the conditions contained in the comprehensive permit.

1. In accordance with the Low-Income Housing Tax Credit Guidelines issued by the Executive Office of Communities and Development (EOCD) on March 4, 1987, if market rate units are converted to home ownership during the 15-year "lock-in" period, 10% of the units to be sold must be sold to moderate-income families at affordable prices in accordance with EOCD's Homeownership Opportunity Program ("HOP"). This condition deals with that 10% of the market rate units sold during the lock-in period. Prior to offering for sale any market rate unit, Applicant shall first notify in writing the Town Manager and LEXHAB. LEXHAB shall have the option to purchase some or all of the units at the maximum price, as hereinafter defined, provided LEXHAB notifies the Applicant within sixty (60) days of its intention to do so. With respect to any such unit which LEXHAB elects not to purchase, LEXHAB shall have the right within the 60 day period to select a qualified buyer for such unit. With respect to any unit which LEXHAB neither elects to buy nor for which LEXHAB selects a buyer, the Applicant may sell such unit to qualified buyers in accordance with the HOP program. The term "maximum price" shall mean the maximum price at which, under applicable HOP rules, regulations or guidelines, the unit could be sold (a) to a one-person household, such person to be in the lowest income category provided for under said rules, regulations or guidelines, or (b) in the case of a multi-bedroom unit, to a household of the minimum size qualifying for purchase of such unit under said rules, regulations or guidelines and in the lowest income category.

In the event of sales of units other than to LEXHAB, long-term affordability shall be preserved by means of restrictions to be inserted by the Applicant in the deeds for such sales, the restrictions to incorporate all of the limitations on equity realization and all of the requirements for qualification of subsequent purchasers as are contained in applicable HOP rules, guidelines and regulations. LEXHAB shall screen every proposed buyer in order to confirm for the benefit of the Town of Lexington that such limitations and requirements with respect to resale price and buyer qualification are being

LEXINGTON, MASS.
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Katahdin Woods Limited Partnership, Wood Street & Hartwell Avenue 6
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observed and that a certificate from LEXHAB or its assignee evidencing such confirmation be a requirement for each such subsequent conveyance.

If at the time of any sales governed by this condition, the HOP program is not then in existence, the sale of such units shall be governed by the regulations of the HOP program in existence as of the date of this decision. In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program to which the Project is subject, such regulations shall control to the exclusion of this condition.

2. When low-income units are rented to persons not holding Section 8, Chapter 707, or comparable rental assistant certificates, the Applicant shall enter into a one-year lease in a form approved by EOCOD, or if applicable regulations do not require EOCOD approval, in a form approved by the Lexington Housing Authority. Such lease shall provide that the Applicant shall not increase the rent for such low-income units more frequently than once a year except in the event of the termination of a lease and the commencement of a new tenancy. In the event that this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program to which the Project is subject, such regulations shall control to the exclusion of this condition.

3. No tenant in the Project shall be evicted because of conversion to condominium or cooperative form of ownership unless the tenant has received the rights and benefits as set forth in Chapter 527 of the Acts of 1983, as then in effect, notwithstanding that said Chapter may not then be in effect in the Town of Lexington.

4. The Applicant shall provide an annual report to LEXHAB and to the Lexington Housing Authority certifying that the terms of the comprehensive permit are being complied with.

5. The Applicant may alter the layout of the roadway and grading adjacent to the Katahdin Woods conservation area from that shown on the revised plans in order to comply with the first request contained in the letter of April 23, 1987, from the Conservation Commission to the Board of Appeals.

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LEXINGTON BOARD OF APPEALS DECISION

Hearing date: March 13, 1987
April 9, 1987

April 23, 1987

This constitutes the record of the Board of Appeals Decision relative to:

Subject Property: Wood St & Hartwell Avenue

Petitioner/s: Katahdin Woods Limited Partnership

BOARD OF APPEALS OF LEXINGTON (Acting under the Lexington Zoning By-law, Lexington General Town By-laws, and the General Laws of Massachusetts, Chapter 40A)

Thomas B. Taylor

Thomas B. Taylor

Mary W. Feilley

Mary W. Feilley

Richard H. Griffin
Chairman

I, Elinor Greenway, Administrative Clerk of the Board of Appeals, certify that copies of the decision have been filed with the Town Clerk of Lexington and the Planning Board.

Elinor Greenway

In accordance with Mass. G.L., Ch. 40A, SS11, no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

LEXINGTON, MASS. JUN 9 1987
A TRUE COPY ATTEST:
[Signature]

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COAST PROP. MGMT

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Walden Woods
Wood Street and Hartwell Avenue

DECISION OF THE LEXINGTON BOARD OF APPEALS

After hearing on the request of the petitioner for a modification of the special permit, modification is hereby granted with the following conditions:

1. That change in mix is temporarily allowed as requested with the understanding that 4 of the 3 bedroom units will remain suitable for inclusion in subsidized housing. These 4 units upon vacancy will be made available by way of first refusal to the Housing Authority so that these units may be put to their original purpose providing there is a 2 bedroom unit with residents qualifying for a subsidized 3 bedroom unit and the 2 bedroom unit may be given back to the petitioner or, should there be a qualified family for a subsidized 3 bedroom unit and a vacancy in a 2 bedroom unit suitable for being returned to the petitioner.
2. The temporary change in mix is granted providing that at the time of converting to condominiums, the mix, as originally approved, remains and as six 3 bedroom units, twelve 2 bedroom units and eight 1 bedroom units being offered to the town for purchase.
3. All market rents leases on the designated 3 bedroom units shall contain a clause indicating that that unit is subject to being offered to the Town of Lexington at the time of conversion as required in the special permit.
4. If, in spite of the inclusion of such a clause in the lease, the petitioner is not able to offer all of said 3 bedroom units to the Town because of the then existent Condominium Conversion Law, then a 2 bedroom unit may be substituted for those 3 bedroom units that are not available.

LEXINGTON BOARD OF APPEALS

BY: 

May 18, 1988

B 1 9 7 7 4 P 0 6 4

7 9 7 5 Exhibit B

DESCRIPTION

PARCEL I

That certain parcel of land on Hartwell Avenue in Lexington, Mass., known as Lot 1 as shown on a plan entitled "Lot 4 Plan of Land, Lexington, Mass.", prepared by Harry R. Feldman, Inc., dated May 27, 1987 as recorded with the Middlesex Registry of Deeds on June 19, 1987 as Plan 831 of 1987.

PARCEL II

That certain parcel of land on Hartwell Avenue and Wood Street in Lexington, Mass., known as Lot 35 as shown on a plan entitled "Subdivision Plan of Land in Lexington" dated January 13, 1984 and filed with the Middlesex South Registry District of the Land Court as Plan No. 6686Y.

PARCEL III

That certain parcel of land on Hartwell Avenue and Wood Street in Lexington, Mass., known as Lot 24 as shown on a plan entitled "Subdivision Plan of Land in Lexington" dated December 15, 1961 and filed with the Middlesex South Registry District of the Land Court as Plan No. 6686T.

PARCEL IV

That certain parcel of land on Wood Street in Lexington, Mass., shown as Lot 4 on a plan entitled "Lot 4 Plan of Land, Lexington, Mass.", prepared by Harry R. Feldman, Inc., dated May 27, 1987 as recorded with the Middlesex Registry of Deeds on June 19, 1987 as Plan 831 of 1987.

The above Lots 1 and 35 have the benefit of the Access and Driveway Easements as set forth in Paragraph 1.A. of an Instrument entitled Easement Agreement dated September 28, 1984, recorded in Book 15818, Page 84 and filed as Document No. 668931, as affected by Amendment to Easement dated January 6, 1987 and recorded as Instrument No. 1038 on June 19, 1987 and filed as Document No. 748988, as further affected by Amendment to Grant of Easement dated January 6, 1987, recorded as Instrument No. 1039 on June 19, 1987 and filed as Document No. 749557.