



AFFORDABLE HOUSING RESTRICTION (RENTAL)

from **Lexington Housing Assistance Board, Inc.**

to the **Town of Lexington**

dated April 9, 2009

The **Lexington Housing Assistance Board, Inc.**, a Massachusetts non-profit corporation, with an address of 4 Militia Drive, Suite 3, Lexington, Massachusetts 02421 (the "Grantor"), grants with quitclaim covenants to the **Town of Lexington**, a municipal corporation acting by and through its Board of Selectmen, having a mailing address of 1625 Massachusetts Avenue, Lexington, Massachusetts 02420 (the "Municipality"), exclusively for the purpose of ensuring retention of housing for occupancy by low income persons and families, this Affordable Housing Restriction on Units 4, 7 and 107 (the "Units" or the "Premises") in the Parker Manor Condominium (the "Condominium") located at 314 Bedford Street, Lexington, Massachusetts, said parcel and units being more particularly described in **Exhibit A** attached hereto.

WHEREAS, on or about October 29, 2007, the Grantor purchased the Units;

WHEREAS, the Municipality is providing a grant of funds to the Grantor under the Community Preservation Act ("CPA") as financial assistance for the Grantor's acquisition of the Units;

WHEREAS, as a condition to the Municipality providing CPA funds to the Grantor, the Grantor has agreed to restrict the amount of rent it will charge tenants of the Units during the term of this Restriction and to only rent the Units to low income persons and families; and

WHEREAS, the Municipality has determined that the rights and restrictions granted herein to the Municipality serve the public's interest in the creation and retention of affordable housing for persons and families of low income and in the restricting of rents of property in order to assure its affordability by future low income tenants.

Patricia S. Nelson
Attorney at Law
Seven Hartwell Avenue, Suite 2
Lexington, MA 02421

RESTRICTION

NOW, THEREFORE, for good and valuable consideration received, the Grantor grants this Affordable Housing Restriction to the Municipality, upon the following terms, in accordance with G.L. c. 184, §§ 31-33 and as otherwise authorized by law:

1. The purpose of this Affordable Housing Restriction is to assure that the Premises will be retained as affordable housing for occupancy by income-eligible households (as defined below).
2. The Grantor intends, declares and covenants, on behalf of itself and its successors and assigns, that the covenants and restrictions set forth in this Affordable Housing Restriction regulating and restricting the use, occupancy and transfer of the Units (a) shall be and are covenants running with the Units, encumbering the Units in **PERPETUITY**, binding upon the Grantor's successors in title and all subsequent owners of the Units, (b) are not merely personal covenants of the Grantor, and (c) shall bind the Grantor and its successors and assigns (and the benefits shall inure jointly and severally to the Municipality and to any present or prospective tenant of the Units).
3. The Grantor shall operate the Premises in accordance with the CPA Grant Agreement executed by and between the Grantor and the Municipality of even date herewith. The Grantor hereby covenants and agrees that each Unit shall for the term of this Affordable Housing Restriction comply with all applicable federal, state and local health, safety, building, environmental and other laws, codes, ordinances and regulations.
4. Commencing on the date of this Affordable Housing Restriction, and thereafter in perpetuity, the Units shall be made available exclusively for rental, and shall be exclusively occupied by households whose annual incomes are less than eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). Throughout the term of this Affordable Housing Restriction, the rent for the Units shall not exceed 30% of the adjusted income of a household whose annual income equals 70% of the median income for the Area, as determined by HUD, with adjustments for the number of bedrooms in the unit.
 - (b) The "Area" is defined as "Boston-Cambridge-Quincy Metropolitan Statistical Area" which includes the Municipality, as may be amended by HUD. A household's annual income shall be the anticipated total income from all sources received by the household's head and spouse (even if temporarily absent) and by each additional member of the household (other than children under the age of 18 years), including all net income derived from assets for the 12-month period following the effective date of certification of income. Annual income specifically includes and excludes certain types of income as set forth in, and shall be determined in accordance with, 24 C.F.R. 92.203 (or any successor regulations). A "Family" or "Household" is defined as one or more individuals occupying a Unit and meeting the requirements of 24 C.F.R. 5.403 (or any successor regulation thereto).

(c) In determining the maximum monthly rent that may be charged for a Unit under this section, the Grantor shall include a reasonable allowance for utilities and services to be paid by the resident (excluding telephone). Monthly adjusted income shall equal one-twelfth of adjusted income. Adjusted income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation thereto) using assumptions provided by HUD.

(d) Tenants who no longer qualify as income-eligible households as a result of increased income (an "over-income tenant"), must pay as a monthly rent the lesser of (i) the maximum amount payable by the Household under the laws of the Municipality or the Commonwealth of Massachusetts or in the absence of such laws, or (ii) thirty percent (30%) of the household's monthly adjusted income (as defined above) as recertified annually until said Household vacates the unit, at which time the unit shall be leased to an income-eligible household. Within sixty (60) days after the end of each calendar year, the Grantor shall remit to the Municipality any rent collected by the Grantor during the preceding calendar year from "over-income tenants" that exceeds the rent that would have been collected, pursuant to Section 4(a) above, had the tenant(s) not been "over-income," which shall be deposited in the Municipality's affordable housing trust fund or as otherwise designated by the Municipality.

(e) Regardless of changes in fair market rents and in median income over time, the maximum rents for the Units are not required to be lower than the approved rent limits for the Units in effect as of the date of this Affordable Housing Restriction.

5. The Grantor represents, warrants and covenants that the determination of whether a Household meets the income requirements set forth herein shall be made by Grantor at the time of leasing of each Unit and thereafter at least annually on the basis of the current income of such Household. Grantor shall maintain as part of its records copies of all leases for Units and all initial and annual income certifications by tenants. Within sixty (60) days after the end of each calendar year, the Grantor shall provide to the Municipality annual reports consisting of certifications regarding the annual and monthly gross and adjusted income of each Household occupying each Unit. With respect to Households who moved to the Units in the prior year, the annual report shall also include certifications regarding the annual and monthly gross and adjusted incomes of such Households at the time of their initial occupancy at the Project. The annual reports shall be in a form approved by the Municipality and shall contain such supporting documentation as the Municipality shall reasonably require. In addition to the foregoing, Grantor shall keep such additional records and prepare and submit to the Municipality such additional reports as the Municipality may deem necessary to ensure compliance with the requirements of this Affordable Housing Restriction.

6. As part of the annual reports required under Section 5 above, the Grantor shall submit to the Municipality a proposed schedule of monthly rents and monthly allowances for utilities and services for the Units. Rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Grantor to all affected tenants.

7. The Grantor shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by law in the lease, the use and occupancy of the Units, or in connection with the employment or application for employment of persons for the operation and management of the Premises, except as otherwise permitted by law. The Grantor shall not discriminate against, or refuse to lease, rent or otherwise make available the Units to a holder of a certificate under the Federal Rental Certificate Program or a rental voucher under the Federal Rental Voucher Program (24 C.F.R. Part 982) or a holder of a comparable document evidencing participation in any state or federal tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate, rental voucher or comparable tenant-based assistance document.

8. All leases of Units shall be for terms of not less than one (1) year, unless by mutual agreement between the tenant and the Grantor, and shall require tenants to provide information required for the Grantor to meet its reporting requirements hereunder. The Grantor may not terminate the tenancy or refuse to renew the lease of an occupant of a Unit that is elderly, handicapped or 18 years old or younger except (a) for serious or repeated violation of the terms and conditions of the lease; (b) for violations of applicable federal, state or local law; or (c) for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by the Grantor's service on the tenant of a written notice specifying the grounds for the action.

9. The Grantor shall not, during the term of this Affordable Housing Restriction, demolish any part of the Units except in conjunction with renovation or rehabilitation of the Units, in either case subject to the prior written consent of the Municipality, which consent may be granted or withheld in its sole judgment.

10. Subject to a vote of the unit owners under Section 17 of Chapter 183A of the Massachusetts General Laws not to rebuild the Condominium following a casualty loss, the Grantor represents, warrants and agrees that if the Units, or any part thereof, shall be damaged or destroyed, the Grantor will use its best efforts to repair and restore, or cause the Condominium association to repair and restore, the Units to substantially the same condition as existed prior to the event causing such damage or destruction, and the Grantor represents, warrants and agrees that the Units shall thereafter continue to be subject to the terms of this Affordable Housing Restriction. The Grantor represents and warrants that for so long as this Affordable Housing Restriction remains in effect it shall never vote its interest in the Condominium at any meeting of the Condominium association or otherwise to terminate the Condominium or withdraw the Condominium from Chapter 183A of the Massachusetts General Laws without the prior written consent of the Municipality, which may be withheld in the Municipality's sole and absolute discretion.

11. The Grantor may not sell, transfer, mortgage or exchange all or any portion of the Units and shall not transfer or pledge in the aggregate a majority of the beneficial ownership or

control of the Grantor without the prior written consent of the Municipality, which consent may be granted or withheld in its sole judgment.

12. Any use of the Premises or activity thereon which is inconsistent with the purpose of this Affordable Housing Restriction is expressly prohibited. Grantor shall carry out each activity provided for in this Agreement in compliance with all applicable federal and state laws and regulations, including but not limited to compliance with the Community Preservation Act.

13. Grantor hereby grants to the Municipality and its respective duly authorized representatives the right to enter the Units (i) at reasonable times and in a reasonable manner for the purpose of inspecting the Premises to determine compliance with this Affordable Housing Restriction or any other agreement between Grantor and the Municipality, and (ii) after 30 days prior written notice, to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Affordable Housing Restriction.

14. The rights hereby granted shall include the right of the Municipality to enforce this Affordable Housing Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition prior to any such violation (it being agreed that the Municipality will have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality. Grantor covenants and agrees to reimburse the Municipality all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Affordable Housing Restriction or in taking reasonable measures to cure any violation hereof, provided that a violation of this Affordable Housing Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. By its acceptance of this Affordable Housing Restriction, the Municipality does not undertake any liability or obligation relating to the condition of the Premises. If any provision of this Affordable Housing Restriction shall to any extent be held invalid, the remainder shall not be affected.

15. The Municipality is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Affordable Housing Restriction; and the Grantor on behalf of itself and its successors and assigns appoints the Municipality its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree to execute any such instruments upon request. The benefits of this Affordable Housing Restriction shall be in gross and shall be assignable by the Municipality. The Grantor and the Municipality intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

16. (a) This Affordable Housing Restriction is intended to be construed as an affordable housing restriction as defined in Section 31 of Chapter 184 of the Massachusetts

General Laws which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law. The Grantor shall obtain any government approvals necessary for the perpetual enforcement of this Affordable Housing Restriction, including but not limited to the approval of the Director of the Department of Housing and Community Development (“DHCD”) as provided under G.L. c. 184, § 32. In the event that this Affordable Housing Restriction in its current form is not acceptable to DHCD for purposes of said approval, the Grantor shall cooperate with the Municipality in making any and all modifications that are necessary to obtain said approval, and hereby appoints the Municipality its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. This Affordable Housing Restriction shall also be deemed an “other restriction held by any governmental body” as that term is used under G.L. c. 184, § 26 notwithstanding DHCD’s approval or disapproval of this Restriction.

(b) The Grantor hereby agrees that any and all requirements of the laws of The Commonwealth of Massachusetts to be satisfied in order for this Affordable Housing Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are intended to be satisfied, or in the alternative, that an equitable servitude has been created to insure that this Affordable Housing Restriction runs with the land. The Grantor represents and warrants that all persons having any interest in the Premises, including without limitation the holders of all outstanding mortgages of the Premises, have consented to this Affordable Housing Restriction and subordinated their interests in the Premises to this Affordable Housing Restriction.

17. The Grantor hereby represents, covenants and warrants as follows:
 - (a) The Grantor (i) is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of Massachusetts, (ii) has the power and authority to own properties and assets and to carry on its business as now being conducted, and (iii) has full legal right, power and authority to execute and deliver this Affordable Housing Restriction.
 - (b) The execution and performance of this Affordable Housing Restriction by the Grantor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note or other instrument to which the Grantor is a party or by which it or the Premises is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.
 - (c) The Grantor will, at the time of execution and delivery of this Affordable Housing Restriction, have good and marketable title to the Units free and clear of any lien or encumbrance, subject to the encumbrances created pursuant to this Affordable Housing Restriction, or other permitted encumbrances listed below.

- (i) The terms and conditions of the recorded Unit Deed for each of the Units;
 - (ii) The terms and conditions of the Master Deed of the Parker Manor Condominium recorded in the Middlesex South Registry of Deeds (the "Registry") in Book 14628, Page 502;
 - (iii) The terms and conditions of the Declaration of Trust of the Parker Manor Condominium Trust recorded in the Registry in Book 14628, Page 528, as amended to date;
 - (iv) The access easement shown on the Site Plan dated February 22, 1982 and recorded in the Registry as Plan No. 515 (A of 3) of 1982 and in Book 14628, Page 502;
 - (v) The terms and conditions set forth in the Deed dated March 2, 1981 and recorded in the Registry in Book 14493, Page 77, as affected by a Release recorded in the Registry in Book 14632, Page 150; and
 - (vi) The terms and conditions of the Decision of the Board of Selectmen of the Town of Lexington recorded in the Registry in Book 14493, Page 84.
- (d) The undersigned officer of the Grantor corporation has the full legal right, power and authority to execute and deliver this Affordable Housing Restriction on behalf of the Grantor.

18. Each and every contract, deed or other instrument hereafter executed conveying the Premises or portion thereof shall expressly provide that such conveyance is subject to this Affordable Housing Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Premises or portion thereof provides that such conveyance is subject to this Affordable Housing Restriction.

19. Any notice, request or other communication which either party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Grantor:

Chairman
 Lexington Housing Assistance Board, Inc.,
 4 Militia Drive
 Lexington, Massachusetts 02421

If to the Municipality:

Town of Lexington
Attention – Planning Director
1625 Massachusetts Avenue
Lexington, Massachusetts 02420

With a copy to:

William Lahey, Town Counsel
Anderson & Kreiger LLP
One Canal Park, Suite 200
Cambridge, MA 02141

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by registered or certified mail shall be deemed given two (2) days after mailing; a notice delivered by hand shall be deemed given upon receipt.

20. This Affordable Housing Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written consent of the Municipality.

No documentary stamps are required as this Affordable Housing Restriction is not being purchased by the Municipality.

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Executed under seal this 9th day of April, 2009.

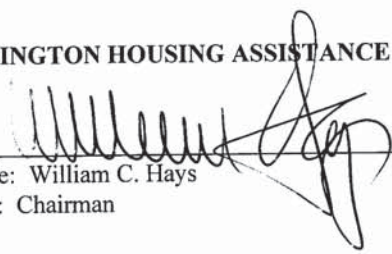
GRANTOR:

LEXINGTON HOUSING ASSISTANCE BOARD, INC.

By: _____

Name: William C. Hays

Title: Chairman



COMMONWEALTH OF MASSACHUSETTS

Middlesex ss.

On this 9th day of APRIL, 2009, before me, the undersigned notary public, personally appeared William C. Hays, proved to me through satisfactory evidence of identification, which was MA LICENSE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Chairman of Lexington Housing Assistance Board, Inc.



Cindy Gene Papa
Notary Public
My commission expires: 6/1/2012

Exhibit A - Property Description

EXHIBIT A

PROPERTY DESCRIPTION

UNITS 4, 7 & 107, PARKER MANOR CONDOMINIUMS, LEXINGTON,
MASSACHUSETTS

Unit Nos. 4, 7 and 107 ("Units") in Parker Manor Condominiums, a condominium ("Condominium"), established by John R. Clark & Associates, Inc., as declarant, pursuant to Massachusetts General Laws, Chapter 183A by Master Deed dated May 26, 1982, recorded with Middlesex County (South) Registry of Deeds in Book 14628, Page 502 ("Master Deed"), which Units are shown on the set of floor plans entitled "Parker Manor Condominiums, 314 Bedford Street, Lexington, Mass.," prepared by Russell F. Burditt dated March 2, 1982 ("Floor Plans") recorded simultaneously with the Master Deed as Plan Number 515 (B of 3 and C of 3) of 1982. The Units are also shown on the copy of the portion of the Floor Plans attached to the first Unit Deed for each of the Units, to which is affixed the verified statement of a registered architect in the form required by Section 9 of Chapter 183A.

The post office addresses of the Units are: 314 Bedford Street, Unit 4, Lexington,
Massachusetts 02420

314 Bedford Street, Unit 7, Lexington,
Massachusetts 02420

314 Bedford Street, Unit 107, Lexington
Massachusetts 02420

Each of the Units was conveyed together with:

1. An interest in the common areas and facilities ("Common Elements", "Common Areas" or "Common Areas and Facilities") of the Condominium described in the Master Deed attributable to the Unit as the same may be amended from time to time.
2. The sole and exclusive appurtenant right and easement to use the parking space and storage area set forth and more fully described in the current Unit Deed for each Unit (described below).
3. An easement for any and all encroachments and their maintenance so long as they exist, by the Unit upon the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements.

4. An easement in common with the owners of the other units to use any and all pipes, wires, ducts, flues, cables, conduits, public, utility lines, and other Common Elements located in any of the other units and serving the Unit.

5. Rights and easements in common with other Unit Owners as described in the Master Deed.

Each of the Units was conveyed subject to:

1. Easements in favor of adjoining units and in favor of the Common Elements for any encroachments and their maintenance so long as they exist, by the said adjoining units and Common Elements upon the Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements.

2. An easement in favor of the other units to use the pipes, wires, ducts, flues, conduits, cables, public utility lines, and other Common Elements located in the Unit and serving such other units.

3. Exclusive rights in favor of the owner of any unit to use the storage areas and parking areas assigned to that unit by the declarant under the Master Deed.

4. The provisions of the Unit Deed for each Unit, the Master Deed, the Declaration of Trust of Parker Manor Condominiums Trust and the Floor Plans, as the same may be amended from time to time by instrument, recorded in Middlesex County (South) Registry of Deeds, which provisions together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in any of the Units, his family, employees, and visitors, as though such provisions were recited and stipulated at length herein.

5. All easements, agreements, restrictions and conditions of record, insofar as the same are now in force and applicable.

The Units are intended only for residential purposes, or other uses provided for in said Master Deed, and no other use may be made of the Units.

For title to Unit 4, see Deed recorded in the Middlesex County (South) Registry of Deeds in Book 50169, Page 439.

For title to Unit 7, see Deed recorded in the Middlesex County (South) Registry of Deeds in Book 50169, Page 445.

For title to Unit 107, see Deed recorded in the Middlesex County (South) Registry of Deeds in Book 50276, Page 395.

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REGISTRY OF DEEDS
SOUTHERN DISTRICT
ATTEST:
Eugene C. Brune
REGISTER