

DECLARATION OF RESTRICTIONS

Mill Square Partnership, a Massachusetts partnership with a usual place of business at 9 Pond Lane, Concord, Middlesex County, Massachusetts (hereinafter the "Grantor") is the owner of a certain parcel of land containing approximately 8 acres and shown on a plan entitled "Plan of Land in Concord, Mass.," by David W. Perley, Civil Engineers, Concord, Mass., dated July 7, 1989, owned by Mill Square Partnership, to be recorded with the Middlesex South District Registry of Deeds herewith (hereinafter the "Premises").

The Grantor intends to develop the Premises as a Planned Residential Development comprised of sixteen (16) residential units and related amenities to be known as Westvale Meadow, pursuant to and in accordance with the Decision of the Town of Concord Board of Appeals, dated April 11, 1989, and recorded with the said Registry on May 5, 1989, in Book 19802 at Page 488.

A condition of the Decision is the imposition by the Grantor of a deed restriction setting forth the conditions and restrictions set forth in Paragraphs 4(c) and (d) and in Paragraph 5 of the Decision. Consistent with the Decision, the Grantor wishes to impose restrictions on the Premises, as set forth herein.

The Grantor for good and valuable non-monetary consideration, the receipt and sufficiency of which are hereby acknowledged, grants to the Town of Concord, a Massachusetts municipal corporation, situated in Middlesex County, having an address of 22 Monument Square, Concord, Massachusetts

Plan No # 289
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(hereinafter the "Grantee" or the "Town") the following restrictions, and to that end, the Grantor, for itself and its successors and assigns forever, hereby agrees, specifies, provides, covenants with the Grantee, and grants as follows:

1. Grantor shall not apply for, and shall not authorize others to apply for, any building permit, including a foundation permit, for any construction of the project authorized by the Decision until a lease agreement shall have been signed between the Grantor and the Concord Housing Authority regarding one of the 1-bedroom units on the Premises providing for leasing to the Concord Housing Authority of such unit for a period of not less than forty (40) years or for such lease period as the Concord Housing Authority shall deem acceptable, with option on the part of Concord Housing Authority to renew the lease for successive periods aggregating no less than forty (40) years on terms consistent with the State Rental Assistance Program, as the same shall be constituted from time to time (hereinafter the "lease term"). The lease shall also provide that if the development is condominiumized or converted to a cooperative or similar form of ownership during the lease term, the Concord Housing Authority shall have not only the right to continue to lease the unit (which unit shall be designated in the Unit Deed as the unit administered by the Concord Housing Authority, pursuant to paragraph 1 of this Declaration of Restrictions) for the remainder of such forty (40) year period but also the right of first refusal exercised within a reasonable period of time (but

not less than ninety (90) days) to purchase the unit during the lease term at a purchase price as shall be authorized by Commonwealth of Massachusetts Executive Office of Communities and Development or its successor agency and subject to funding by Commonwealth of Massachusetts Executive Office of Communities and Development or its successor agency. Grantor acknowledges that any building permit, including a foundation permit, issued prior to the satisfaction of all of the foregoing provisions shall be void.

2. (a) The four (4) units which are designated in the Decision as moderate-priced housing (the "Protected Units") shall be made available for rental for a minimum of forty (40) years, unless sooner condominiumized or converted to a cooperative or similar form of ownership, pursuant to paragraph 2(c) of this Declaration of Restrictions. The Protected Units shall be made available to households with incomes between one hundred ten percent (110%) and one hundred fifty percent (150%) of the median income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development (the "Median Income"). The Grantor will verify the household income of prospective tenants of the Protected Units by requiring prospective tenants to provide the Grantor with: (1) a conformed copy of their U.S. income tax return for the last calendar year, (2) a recent weekly/monthly earnings summary provided by their employer, (3) a statement executed under the pains and penalties of perjury relative to their household

income, and (4) other documents reasonably requested by the Grantor (collectively herein the "verification documents"). The maximum annual rent for each of the Protected Units shall not exceed thirty percent (30%) of the household income of the tenants as established by the verification documents.

(b) On an annual basis, the Grantor shall furnish to the Town Manager of the Town of Concord or to such other person as may be designated by the Town Manager (the "Town Manager"):

- (1) copies of the rent checks for each Protected Unit received by the Grantor during the prior twelve (12) months for such Protected Unit,
- (2) a certificate from the Grantor that the verification documents indicate household incomes between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income, and
- (3) a copy of the most recent Median Income for the Boston Metropolitan Area calculation, as prepared by the U.S. Department of Housing and Urban Development.

Upon receiving a request from the Town Manager, in his sole and exclusive direction, for any of the verification documents, the Grantor shall forthwith cause same to be delivered to the Town Manager, who shall be responsible for keeping said documents and information confidential and private, except as may be otherwise required by applicable law or court order.

(c) If the project authorized by the Decision, or any portion thereof, is condominiumized or converted to a cooperative or similar form of ownership prior to the expiration of the said forty (40) year term, then the Grantor shall notify the Town

Manager of same and provide copies of the condominium or conversion documents to the Town Manager prior to the recording of the Condominium Master Deed or its equivalent. Furthermore, the Grantor shall make the Protected Units available for sale to households with incomes between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income. Each Protected Unit shall be deed restricted, such that its resale at any time during the forty (40) year term shall be limited, such that it will be resold only to a buyer whose household income is between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income. Such deed restriction for each Protected Unit shall remain in effect for the forty (40) year term. Within the forty (40) year term, the sale and resales of each Protected Unit shall be monitored and managed by the Town Manager as follows. Any prospective purchaser shall submit to the Town Manager the verification documents. The Town Manager shall make the evaluation as to whether or not the prospective purchaser's household income is between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income. In making this evaluation, the Town Manager may request a prospective purchaser to provide additional information. The Town Manager, upon being satisfied that the prospective purchaser has a household income between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income, shall issue in writing a certificate of eligibility, which certificate must be recorded in the Middlesex South District Registry of

Deeds as a condition precedent to the prospective purchaser's purchase of a Protected Unit. Any purported conveyance of a Protected Unit during the forty (40) year term prior to the issuance of a certificate of eligibility for the purchaser shall be void. The Town Manager shall keep all documents and information submitted to him relative to the finances of all prospective purchasers confidential and private except as may be otherwise required by applicable law or court order.

(d) If any agency or index referred to in this Declaration of Restrictions shall be discontinued, then the successor agency or most nearly similar index, as determined by the Town Manager, shall be deemed substituted therefor. The Grantor shall give access to Grantor's books and records to the Town Manager to the extent required by the Town Manager to verify compliance with the Decision and this Declaration of Restrictions.

(e) The Grantor represents that he will, to the fullest extent possible and consistent with the Declaration of Restrictions, administer the Protected Units so as to comply with the affordable housing goals, as determined by the Town of Concord, and as same may be amended from time to time during the forty (40) year term. The Grantor shall not discriminate against any household, with an income between one hundred ten percent (110%) and one hundred fifty percent (150%) of the Median Income, based upon the household's income, or any other basis prohibited by law.

3. Part of the Premises is business zoned. All portions of the Premises shall be used only for those uses permitted by the Concord Zoning By-Law in the residential zones of the Town. No portion of the Premises shall be used for any business use not permitted in a residential zone, even if such business use would otherwise be allowed on that portion of the Premises by the Concord Zoning By-Law.

The forty (40) year term referred to in Sections 1 and 2 of this Declaration of Restrictions shall expire on April 11, 2031, unless:

(a) prior to April 11, 1991, Grantor records with the Middlesex South District Registry of Deeds a certificate, signed by the Town Manager, specifying the date by which all of the units referred to in said Sections 1 and 2 have received a certificate of occupancy, in which event said forty (40) year term shall expire forty (40) years from the date specified in such certificate; or

(b) the Town of Concord records with the Middlesex South District Registry of Deeds a certificate stating that all of the units referred to in said Sections 1 and 2 had not received a certificate of occupancy by April 11, 1991, and specifying the date by which all such certificates of occupancy had been received, in which event, the forty (40) year term shall expire forty (40) years from the latter date specified in such certificate.

The undersigned, William H. Sullivan, Jr., hereby represents

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that he is a general partner of Mill Square Partnership, that he has the full authority and has been authorized by all general partners of said Mill Square Partnership to enter into this Declaration of Restrictions on behalf of said Mill Square Partnership in the usual course of business, and that his signature of this Declaration of Restrictions serves to bind said Mill Square Partnership to all of the terms hereof.

This Declaration of Restrictions shall be enforceable by the Town of Concord through its Board of Selectmen and in addition the provisions of paragraph 1, shall be enforceable by the Concord Housing Authority. No modification or amendment may be made to this Declaration of Restrictions without the prior written approval of the Town of Concord Board of Selectmen, which approval shall be granted in the sole discretion of said Board.

WITNESS my hand and seal this 12th day of July, 1989.


MILL SQUARE PARTNERSHIP
By: 
WILLIAM H. SULLIVAN, JR., its
General Partner

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS:

Date: July 12, 1989

Then personally appeared before me the above named WILLIAM H. SULLIVAN, JR., General Partner of MILL SQUARE PARTNERSHIP as aforesaid, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said MILL SQUARE PARTNERSHIP.


NOTARY PUBLIC
My Commission Expires: 12-19-1989
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