

Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

September 18, 2003

Catherine L. Farrell, Assistant City Solicitor
City of Newton
City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Re: Your request for G.L. c.184, §32 approval; 18-20 Cambria Road

Dear Ms Farrell:

With regard to the above property, this agency has reviewed the following documents that you submitted to us:

1. "Declaration of Affordable Housing Covenants" made and declared by Citizens for Affordable Housing in Newton Development Organization, Inc., dated 8/19/03.
2. Letter of Daniel J. Rogers, Housing Development Planner, dated 9/9/03.
3. Plans for "Basement," "First Floor," "Second Floor," "Front" and "Side" of the property at 18-20 Cambria Road.
4. City of Newton "Consolidated Strategy and Plan – FY 2001-2005: Housing Strategies."

We have reviewed the above information under the standards contained in G.L. c.184, §32. Please be aware that we have not reviewed the documents to ascertain their legal effectiveness nor for any other purpose.

The affordable housing restriction contained in the above documents is hereby approved, and the Certificate of Approval required by G.L. c.184, §32, para.4 is enclosed.

Sincerely,

 *Jane Wallis Gumble*, authorized signatory for

Jane Wallis Gumble
Director

Certificate of Approval
Affordable Housing Restriction
G.L. c. 184, §32

The undersigned Director of the Massachusetts Department of Housing and Community Development hereby certifies that the Affordable Housing Restriction made and declared by Citizens for Affordable Housing in Newton Development Organization, d/b/a/ CAN-DO, and recorded with the Middlesex South Registry of Deeds as Instrument #617 of September 3, 2003, or filed with the _____ Registry District of the Land Court as Document No. _____, noted on Certificate of Title No. _____, with respect to land in the City / Town of Newton described in deed to Citizens for Affordable Housing in Newton Development Organization d/b/a CAN-DO recorded with the Middlesex South Registry of Deeds at Book 37427, Page 581, or filed with the _____ Registry District of the Land Court as Document No. _____ noted on Certificate of Title No. _____, is hereby declared to be in the public interest and is approved pursuant to the provisions of Massachusetts General Laws chapter 184, section 32.

Date: 9-18-03

COMMONWEALTH OF MASSACHUSETTS

By: Fred Habib, authorized signatory
for Jane Wallis Gumble,
Director, Department of Housing
and Community Development

Commonwealth of Massachusetts

Suffolk, ss.

Date: 9-18-03

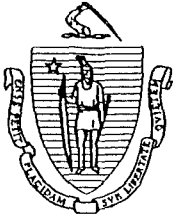
Then personally appeared before me the above named Fred Habib, authorized signatory for Jane Wallis Gumble, Director of the Department of Housing and Community Development, and acknowledged the foregoing to be her free act and deed.

Candace Lempert

Notary Public

My commission expires:

My Commission Expires
September 12, 2008



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

**Designation of Acting Director
Delegation of Decision-Making Power**

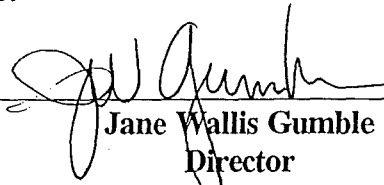
I, Jane Wallis Gumble, Director of the Department of Housing and Community Development, hereby delegate to

Fred Habib

decision-making authority and signatory power with respect to any or all of the powers, responsibilities or duties of the Director during my absence on any days during the following dates:

January 2, 2003 to December 31, 2003

Said delegate shall be the Acting Director of the Department of Housing and Community Development during my absence.


Jane Wallis Gumble
Director

Department of Housing and Community Development

Dated: 3/19/03



CITY OF NEWTON, MASSACHUSETTS
Department of Planning and Development
Michael J. Kruse, Director



David B. Cohen
Mayor

September 9, 2003

Department of Housing and Community Development
Attn: Harriet C. Moss, Counsel
One Congress Street
Boston, MA 02114

RE: G.L. c. 184 ss. 31 and 32, Approval of an Affordable Housing Restriction

Dear Ms. Moss:

Please find the enclosed information, per request of DHCD, regarding the approval of an affordable housing restriction under G.L. c. 184 ss. 31 and 32 for 18-20 Cambria Road in Newton, Massachusetts.

The *Cambria Road Development Project* is a two-unit structure that will include one three-bedroom and one four-bedroom rental unit, for Section 8 certificate holders. These rental units are subject to federal Section 8 and Community Development Block Grant program guidelines and restrictions, ensuring occupancy by households at or below 80% of area median income. Also ensured by CDBG and Section 8 program guidelines are affordable rents, set by the U.S. Department of Housing and Urban Development. The current *Declaration of Affordable Housing Covenants*, recorded on September 3, 2003, ensures that the property will be retained as affordable housing for occupancy by low and moderate income families for thirty (30) years, upon completion. The project is currently under construction and has an anticipated completion date of October 2003.

Consistent with the goals and objectives identified in Volume 1 of the FY 2001-2005 Consolidated Strategy and Plan for the City of Newton, the *Cambria Road Development Project* reflects the City's commitment to providing safe and affordable housing for persons and households at or below 80% of area median income.

As the current affordable housing inventory of Newton approaches 5%, every effort made by the city to further ensure that units remain affordable, greatly assists Newton in achieving its goal of having over 10% of our housing units affordable. Having the Department of Housing and Community Development approve the current *Declaration of Affordable Housing Covenants* as an affordable housing restriction under G.L. c. 184 ss. 31 and 32 for the *Cambria Road Development*

Housing & Community Development Division
492 Waltham Street, West Newton, Massachusetts 02465
Telephone (617) 796-1150 Telefax (617) 796-1157
www.ci.newton.ma.us

Project, thus prolonging the affordability of those units, would be of great assistance. Your consideration of approval is appreciated, the City looks forward to your response. If you have any further questions, please contact me at (617) 796-1146.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. J. Rogers', written over the printed name.

Daniel J. Rogers
Housing Development Planner

Enc.

DECLARATION OF AFFORDABLE HOUSING COVENANTS

Citizens for Affordable Housing in Newton Development Organization, Inc., d/b/a CAN-DO, a nonprofit corporation organized under the laws of the Commonwealth of Massachusetts, having an address of 1075 Washington Street, West Newton, Massachusetts 02465, and owner in fee simple of property known as 18-20 Cambria Road in Newton, Massachusetts, acting by and through its Executive Director pursuant to a Certificate of Vote recorded herewith (the "Owner") hereby covenants and agrees for itself, its successors, heirs and assigns, that the parcel described in Exhibit A, attached hereto and incorporated herein, (hereinafter the "Property") shall be subject to the following restrictions for the benefit of the Newton Community Development Authority, having a mailing address of Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts, 02459 (the "NCDA"), its successors and permitted assigns.

The consideration for this Declaration of Affordable Housing Covenants (hereinafter "Covenant") is a grant to the Owner from the City of Newton's Community Preservation Committee, dated August 19, 2003, and a loan to the Owner from the Newton Community Development Authority, which is evidenced by a promissory note and secured by a mortgage of the Property dated December 19, 2002 recorded with Middlesex South District Registry of Deeds in Book 37427 Page 602. This Covenant supersedes the Declaration of Restrictive Covenants dated December 19, 2002 and recorded with said Deeds in Book 37427 Page 610.

The terms of this Covenant authorized by Massachusetts General Laws, Chapter 184, §§31-33 and otherwise by law, are as follows:

1. **Purpose.** The purpose of this Covenant is to ensure that the Property will be retained as affordable housing for occupancy by low and moderate-income households as defined by the U.S. Department of Housing & Urban Development's (HUD) Community Development Block Grant (CDBG) Program. This Covenant 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.
2. **Covenants.** The Owner intends, declares and covenants on behalf of itself, its successors and assigns that these covenants, agreements, and restrictions are not merely personal covenants of the Owner and shall run with the land and shall bind the Owner, its successors and assigns and inure to the benefit of the NCDA, and its successors and assigns.
3. **Term.** For the maximum duration permitted by law with the approval of the Commonwealth of Massachusetts, pursuant to General Laws, Chapter 184, Sections 31-33, and in the event such approval is not given, for a period of thirty (30) years from the date of this Covenant and for such further time thereafter (up to 99 years) as this Covenant may be lawfully extended (including without limitation extensions permitted under General Laws, Chapter 184, Section 27-30), the property shall be maintained as affordable housing as defined in paragraph 1 above.
4. **Completion Date.** The date on which all required Certificates of Occupancy for the rental units on the Property are issued and the Owner has provided written notification to the NCDA and the NCDA has verified that all units are fully occupied, as provided in the Loan

Agreement of even date between the NCDA and the Owner. If the units receive Certificates of Occupancy and/or are occupied on different dates, then the Completion Date shall be the date of occupancy of the unit that is occupied last.

5. **Owner's Warranties and Representations.** During the term of this Covenant as defined in paragraph 3 beginning from the Completion Date as defined in paragraph 4 above, (hereinafter "affordability period") the Owner shall comply with the following requirements:

A. The Owner shall provide two units of rental housing at the Property which shall be rented at affordable rents as defined by the Federal Department of Housing and Urban Development. The CDBG-assisted units will comply with the following income and affordable rent requirements:

- (i) Units must be occupied by households with incomes that do not exceed 80% of the area median income for the Boston Metropolitan Statistical Area, adjusted for family size. The actual income limits are determined by HUD and published annually in the Federal Register;
- (ii) Rents, including utilities, may not exceed 30% of the income of the renting household, except as may be permitted or required by a subsidy program with which the Owner or tenant participates, such as the Section 8 program.
- (iii) A tenant whose income met the income limits at the time of initial occupancy, but whose income eventually exceeds 80% of the area median income, may remain in the unit, provided that the rent is adjusted so that the "over-income" tenant is paying not less than 30% of their adjusted monthly gross income for rent and utilities. As soon as the "over-income" tenant vacates the Property, the Owner must re-rent the unit to an income-eligible household.

B. The Owner represents, warrants and covenants that the determination of whether a resident meets the income requirements set forth herein shall be made by Owner at the time of the leasing of the units and thereafter at least annually on the basis of the current income of such resident. The Owner shall maintain as part of its records, copies of all leases governing the rental of the units as may be executed throughout the affordability period and all initial and annual income certification(s) by the tenant(s) of the units. Within 60 days after the end of each calendar year of occupancy of the units, the Owner shall provide to the NCDA annual reports consisting of certifications regarding the annual and monthly gross and adjusted income of each resident occupying the units. With respect to a resident that moved to a unit in the prior year, the annual report shall also include certification regarding the annual and monthly gross and adjusted incomes of any such residents at the time of their initial occupancy of the unit. The annual reports shall be in a form approved by the NCDA and shall contain such supporting documentation as the NCDA shall reasonably require. For residents who have Section 8 certificates, the NCDA may rely on the housing assistance payment contract from the applicable housing authority in lieu of a certification by the Owner. In addition to the foregoing, Owner shall

against any violations, including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that the NCDA will have no adequate remedy at law), and such restoration shall be in addition to, and not in limitation of, any other rights and remedies available to the NCDA. The Owner covenants and agrees to reimburse NCDA all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Covenant or in taking reasonable measures to cure any violation hereof, provided that a violation of this Covenant is acknowledged by Owner or determined by a court of competent jurisdiction to have occurred.

B. Without limitation on any other rights or remedies of the NCDA, its successors and assigns, the NCDA shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Covenant, which shall be the preferred remedy;
- (ii) voiding of any rental arrangement that violates this Covenant;
- (iii) in the case of any rental arrangement where the Owner is found to have violated willfully or in bad faith, then money damages for charges in excess of rents permissible under this Covenant;
- (iv) If any action is brought to enforce this Covenant, the prevailing party shall be entitled to reasonable attorneys' fees and other costs of bringing such action, in addition to any other relief or remedy to which such party may be entitled.
- (v) The Owner hereby grants to the NCDA and its duly authorized representatives the right to enter upon the Property upon reasonable notice for the purpose of enforcing the restrictions contained in this Covenant and to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Covenant. Notwithstanding the definition of Owner hereinbefore contained, the rights of enforcement for violations of this Covenant shall survive any subsequent sale or transfer of the Property.

12. **Certificate.** Any party may rely on a certificate signed by the Owner and the NCDA as to any facts relative to this Covenant.

13. **Governing Law.** This Covenant shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Covenant must be in writing and executed by all of the parties hereto. If any provision of this Covenant shall to any extent be held invalid, the remainder shall not be affected.

keep such additional records and prepare and submit to NCDA such additional reports as the NCDA may deem necessary to ensure compliance with the requirements of this Covenant and of the CDBG Program.

C. Prior to initial occupancy of the units and annually thereafter, the Owner shall submit to NCDA a proposed schedule of monthly rent and monthly allowances for utilities and services for the units. Such schedule shall be subject to the approval of NCDA for compliance with the requirements of applicable HUD regulations. After approval of a schedule of rent and allowances by NCDA, rents shall not be increased without either (a) a specific request by Owner for a rent increase or (b) the next annual schedule of rents and allowances. Notwithstanding the foregoing, 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 Owner to the affected tenant(s).

D. The Owner shall not demolish any part of the Property or substantially subtract from any real or personal property of the Property except in conjunction with renovation or rehabilitation of the Property or construction of a new project on the Property, in either case subject to the prior written consent of the NCDA, which consent shall not be unreasonably withheld. The Owner shall not permit the use of any residential unit for any purpose other than housing.

E. The Owner represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Owner (subject to the approval of the lender(s) which will provide the financing) will use its best efforts to repair and restore the Property to substantially the same condition as existed prior to the event causing such damage or destruction, and the Owner represents, warrants and agrees that the Property shall thereafter continue to operate in accordance with the terms of this Covenant.

F. Any use of the Property or activity thereon which is inconsistent with the purpose of this Covenant is expressly prohibited. The Owner shall carry out each activity provided for in this Covenant in compliance with all applicable federal laws and regulations described in 24 CFR 570, Community Development Block Grant Program, as amended.

6. **Condition of Property.** By its acceptance of this Covenant, NCDA does not undertake any liability or obligation relating to the condition of the Property.

7. **Instruments to Enforce Covenant.** The NCDA is authorized to record or file any notices or instruments appropriate to ensuring the enforceability of this Covenant; and the Owner on behalf of itself and its successors and assigns appoints the NCDA its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Owner and its successors and assigns agree to execute any such instruments upon request. The Owner and the NCDA 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.

8. **Covenants to be Referenced in Deed.** These restrictive covenants shall be contained or referenced in any deed of conveyance of the subject Property or any other instruments conveying a non-leasehold interest in the Property or any part thereof and shall be equally binding on any subsequent owner of the title thereto whether acquired by grant, sale or any other means and such subsequent owner shall comply with this restriction for the remaining duration of said restriction.

9. **Foreclosure.** At least 60 days prior to the foreclosure auction sale by a lender or other transfer in lieu of foreclosure, the lender shall notify the NCDA of its intent to so foreclose and shall allow the NCDA the option/opportunity to assume the mortgage. In the event of such assumption of the mortgage, the Owner shall not further pledge or hypothecate said Property and the Owner's recapture of any equity it may have shall be deferred until such time as the Property is sold. If the option is exercised, the NCDA may direct the sale of the Property at any time during the period of affordability and shall undertake to sell the property within a reasonable period of time after the expiration of the affordability period. In the event of such a sale, the monies received shall be applied first to any and all encumbrances outstanding with respect to the property in order of priority, next to the costs of sale, then to repay the NCDA and/or the City of Newton for any amounts expended on the assumption of the mortgage. Any sums remaining after the above payments shall then be paid to the person or entity which was Owner of record prior to assumption of the mortgage, in full satisfaction of its equity interest in the Property.

In the event the NCDA chooses not to exercise its option to assume the mortgage referenced above, then the affordability restriction created hereunder shall terminate upon foreclosure or by instrument in lieu of foreclosure, provided that the holder of the mortgage gives the NCDA not less than 60 days prior written notice of the mortgagee's intention to foreclose upon the Property or to accept an instrument in lieu of foreclosure. Thereafter, if at any time following foreclosure or other transfer in lieu of foreclosure but still during the term of affordability, as defined in paragraph 5, the Owner of Record prior to foreclosure, any subsidiary thereof, or any newly formed entity that includes the former Owner or those with whom s/he or it has had family or business ties obtains ownership interest in the Property, the affordability period shall be revived in accordance with its original term.

10. **Notices.** All notices required under this Covenant shall be deemed to have been received if mailed, postage prepaid to the following:

For the NCDA:

Sole Member
Newton Community Development Authority
City Hall, 1000 Commonwealth Avenue
Newton, MA 02459

For Owner:

Josephine McNeil, Executive Director
CAN-DO
1075 Washington Street
West Newton, MA 02465

11. **Enforcement.**

A. The rights hereby granted shall include the right of NCDA to enforce this Covenant by appropriate legal proceedings and to obtain injunctive and other equitable relief

IN WITNESS WHEREOF the said **CITIZENS FOR AFFORDABLE HOUSING IN NEWTON DEVELOPMENT ORGANIZATION, INC.** has caused its corporate seal to be hereto affixed and these present to be signed, acknowledged and delivered in its name and behalf by Josephine McNeil, its duly authorized representative, this 19 day of August, 2003.

CITIZENS FOR AFFORDABLE HOUSING IN NEWTON DEVELOPMENT ORGANIZATION, INC., d/b/a CAN-DO

By: Josephine McNeil Date 8/19/03
Josephine McNeil, Executive Director

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

August 19, 2003

Then personally appeared the above named Josephine McNeil in her capacity as Executive Director of **CITIZENS FOR AFFORDABLE HOUSING IN NEWTON DEVELOPMENT ORGANIZATION, INC., d/b/a CAN-DO**, and acknowledged the foregoing instrument to be her free act and deed before me.

Stephen Gartrel My Commission Expires: 3/24/06
Notary Public

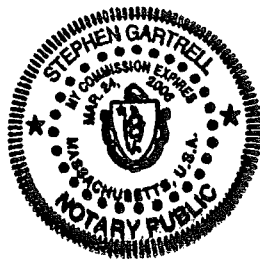
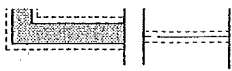


EXHIBIT A

The land, with the buildings thereon, situated in Newton, Middlesex County, Massachusetts, being Lot 161 on plan entitled "Plan of Parmenter Park in Waltham and Newton, MA., property of Thomas A. Joyce Realty Trust", dated May 1923, made by Rowland H. Barnes and Henry F. Beal, C.E.'s, recorded with Middlesex South District Deeds as File Plan 731, bounded and described as follows:

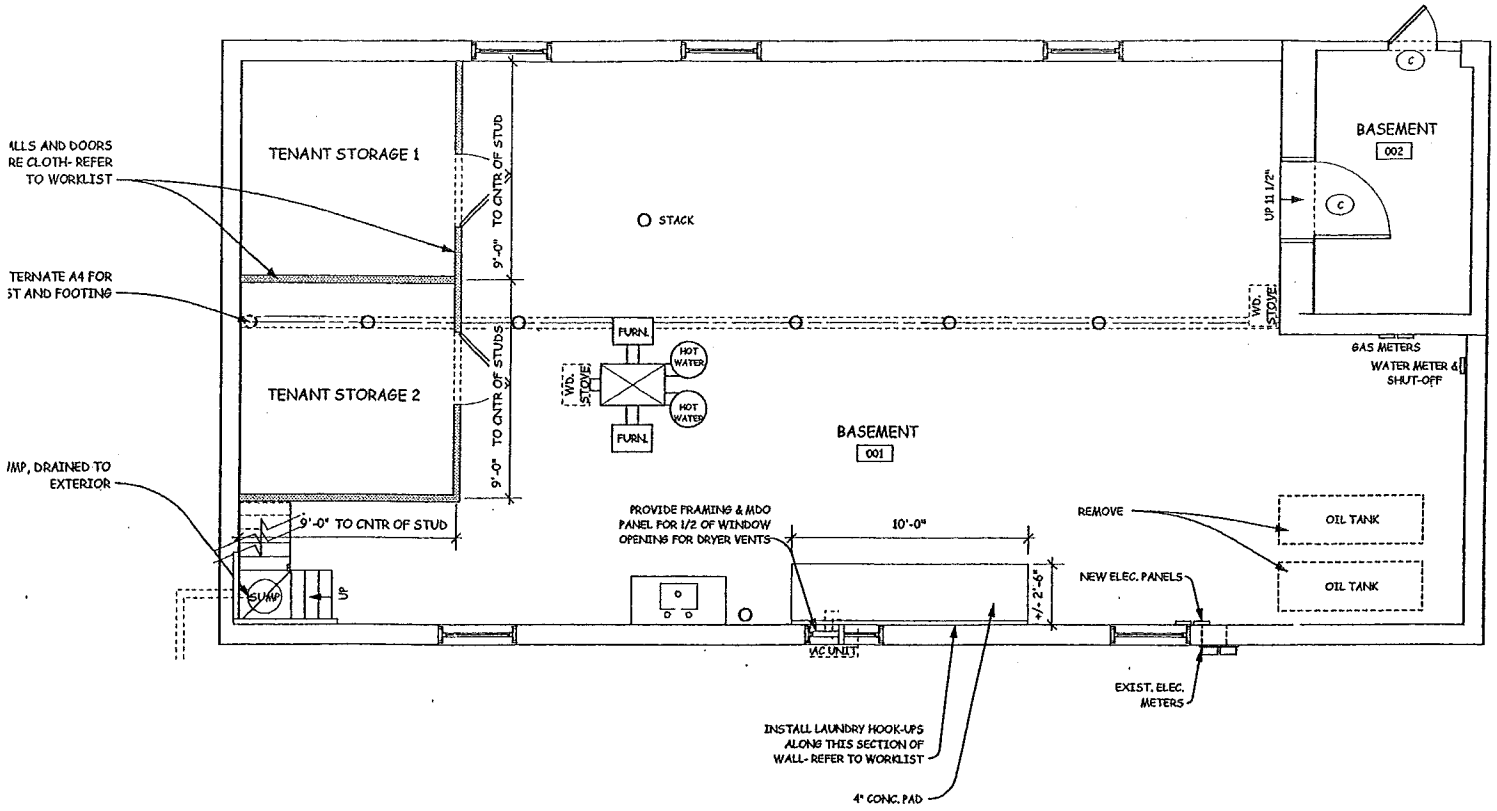
- NORTHEASTERLY by Cambria Road, fifty (50) feet:
- SOUTHEASTERLY by Lot 162 on said plan, One Hundred (100) feet:
- SOUTHWESTERLY by Lot 170 on said plan, fifty (50) feet; and
- NORTHWESTERLY by Lot 160 on said plan, one hundred (100) feet:
Containing 5,000 square feet.

Being the same premises conveyed to Citizens for Affordable Housing in Newton Development Organization, Inc., d/b/a CAN-DO by deed, dated December 19, 2002, of Debra K. Burque (formerly know as Debra K. LeBlanc) and Karen L. Brisette, Trustees of the Brisette-LeBlanc Realty Trust, and recorded with Middlesex South Registry of Deeds, Book 37427 Page 581.



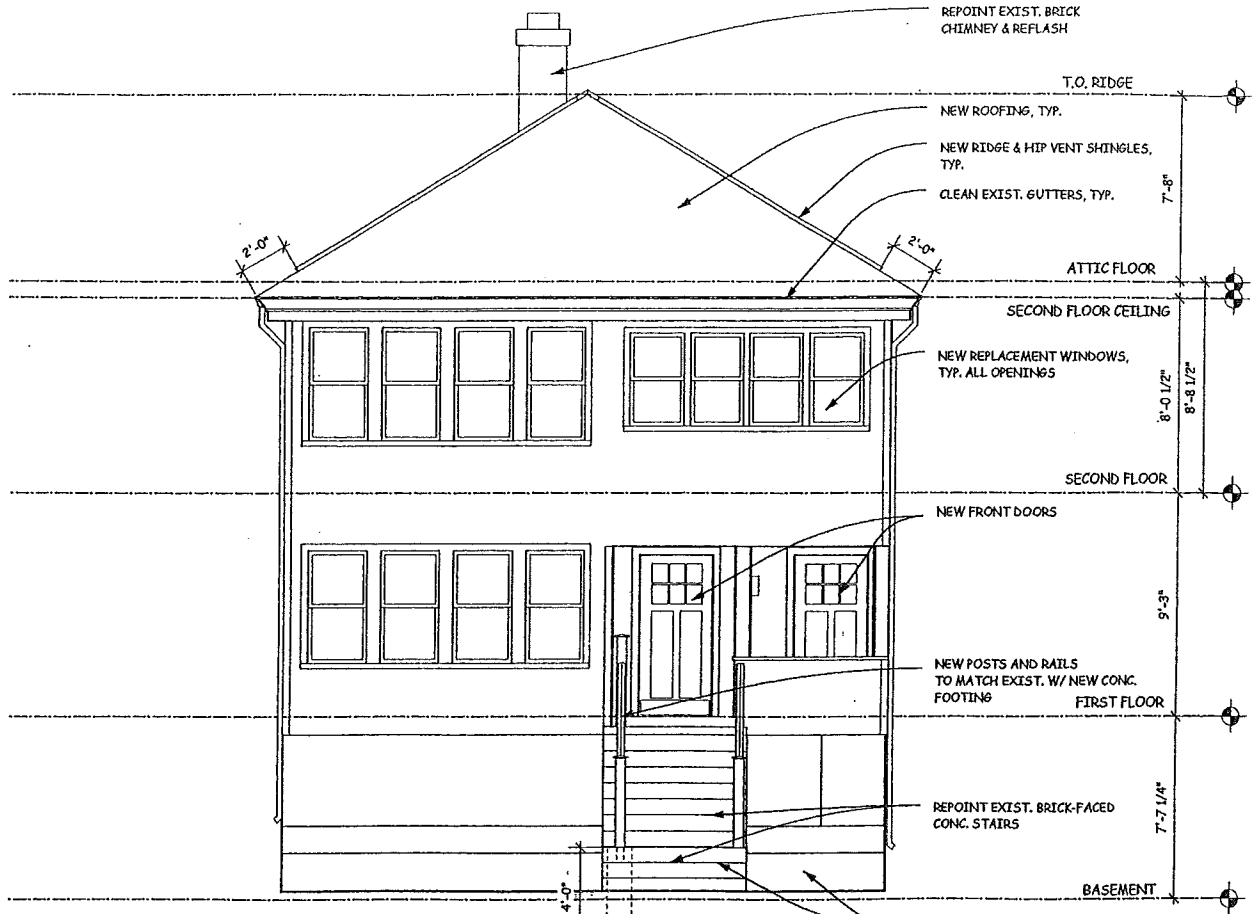
2 ALTERNATE 1 (ADDITION @ FIRST FLOOR)
 A-0 1/4" = 1'-0"

BASEMENT



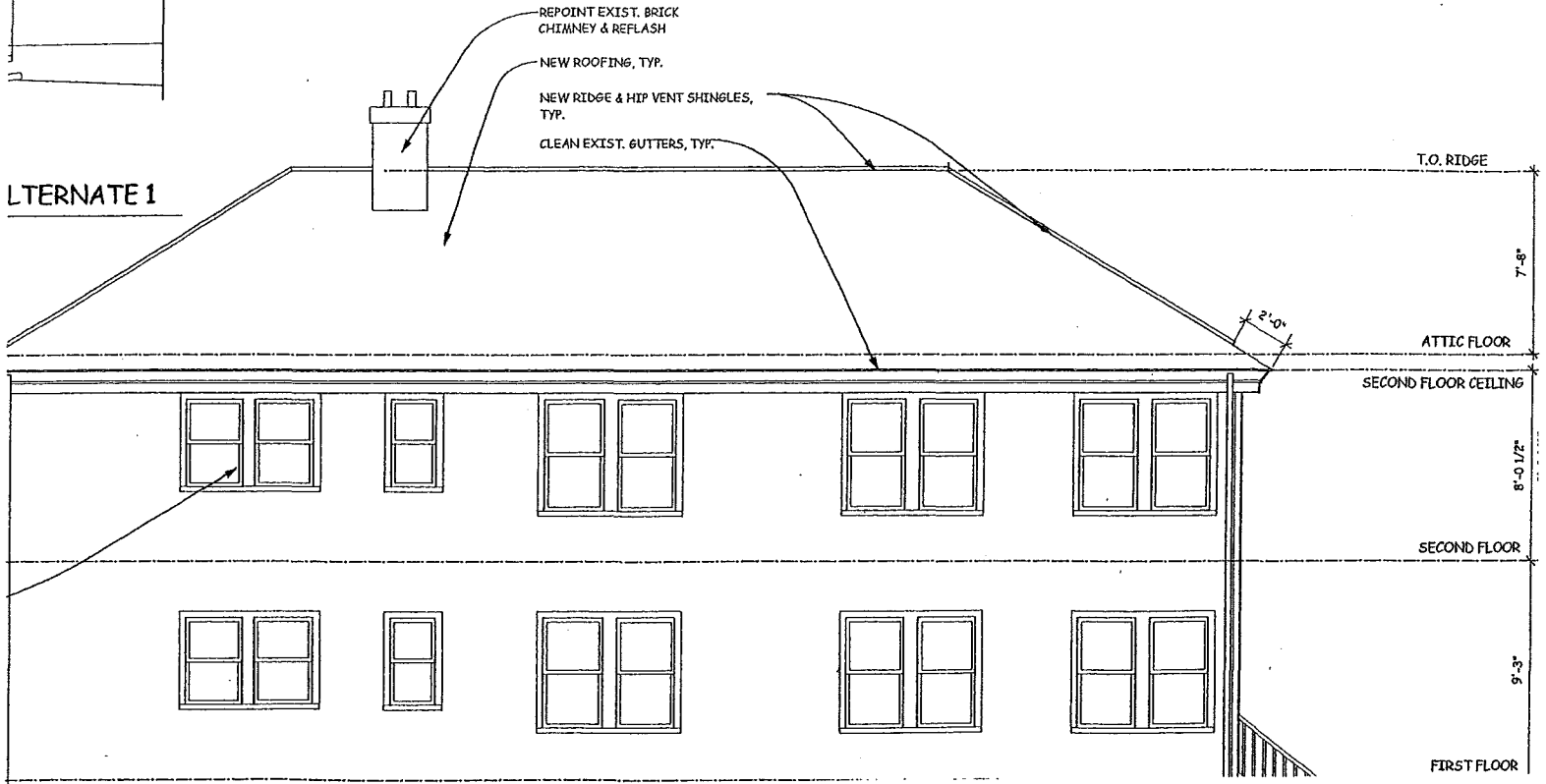
GENE
 1. A
 CLEAN
 2. U

FRONT

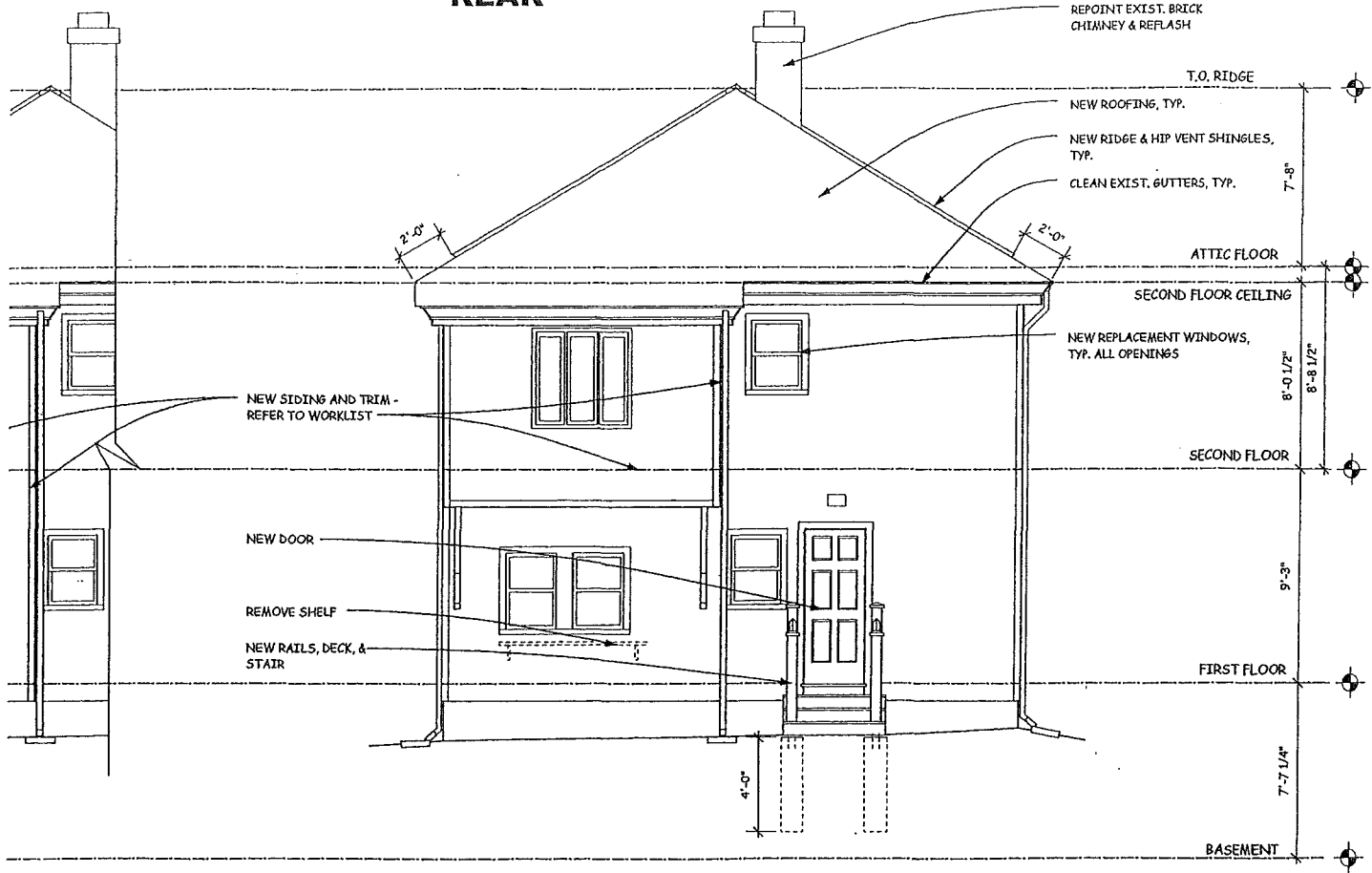


SIDE

ALTERNATE 1



REAR



Information to be Submitted for Chapter 184 Approval

The Affordable Housing Restriction

L-1A

- ✓ A site plan
- ✓ Architectural plans (simple renderings, elevations, or plans which describe the subject housing are sufficient)(photographs, if the building already exists)
- ✓ A cover letter which:
 - addresses the consistency of the subject housing with the public interest in affordable housing and with national, state, regional, and local affordable housing programs;
 - addresses the consistency of the housing with local comprehensive land use planning, including Comprehensive or Master Plans;
 - addresses the consistency of the housing with state, regional, and local land use or development plans; and
 - describes all known proposals by governmental bodies for use of the land, if any, or a statement that no such proposal is known
- A copy of the local Consolidated Plan (formerly the Comprehensive Housing Affordability Strategy or CHAS), if available, or a statement that no such plan exists *(housing section only)*
- ✓ DHCD's Certificate of Approval form (with blanks filled in) for the Director's signature

To be submitted only if the holder of the restriction is not a governmental entity:

- Proof of prior local approval by:
 - Mayor (or City Manager) and City Council
 - OR Selectmen or Town Meeting

To be submitted only if the land was acquired from the municipality:

- Proof of compliance with G.L. c. 30B by:
 - Letter from Town Counsel or City Solicitor certifying compliance
 - OR Copies of advertisement with dates of publication in newspapers and Central Register and of c. 30B, § 10(g) Notice with date of publication

General Policy Guidelines:

- Lock-In Period - ✓ minimum 30 for new construction; minimum 15 years for substantial rehabilitation
- Affordability Ratio - ✓ dependent on local policy, project characteristics, and funding sources
- Income Limit - ✓ maximum of 80% of median
- Sales Prices/Rents/Rates - ✓ generally consistent with DHCD Division of Private Housing, guidelines
- Proportion of Affordable Rental Units to Affordable Ownership Units - generally equal
- Other - ✓ various project specific issues

Certificate of Approval
Affordable Housing Restriction
G.L. c. 184, §32

The undersigned Director of the Massachusetts Department of Housing and Community Development hereby certifies that the Affordable Housing Restriction made and declared by _____ and recorded with the _____ Registry of Deeds in Book _____, Page _____, or filed with the _____ Registry District of the Land Court as Document No. _____, noted on Certificate of Title No. _____, with respect to land in the City/Town of _____ described in deed to _____ recorded with the _____ Registry of Deeds at Book _____, Page _____, or filed with the _____ Registry District of the Land Court as Document No. _____ noted on Certificate of Title No. _____, is hereby declared to be in the public interest and is approved pursuant to the provisions of Massachusetts General Laws chapter 184, section 32.

Date: _____

COMMONWEALTH OF MASSACHUSETTS

By: _____

Director, Department of Housing
and Community Development

Commonwealth of Massachusetts

Suffolk, ss.

Date: _____

Then personally appeared before me the above-named _____, Director of the Department of Housing and Community Development, and acknowledged the foregoing to be her free act and deed.

Notary Public
My commission expires:

Certificate of Approval
Affordable Housing Restriction
G.L. c. 184, §32

The undersigned Director of the Massachusetts Department of Housing and Community Development hereby certifies that the Affordable Housing Restriction made and declared by Citizens for Affordable Housing in Newton Development Organization, d/b/a/ CAN-DO, and recorded with the Middlesex South Registry of Deeds as Instrument #617 of September 3, 2003, or filed with the _____ Registry District of the Land Court as Document No. _____, noted on Certificate of Title No. _____, with respect to land in the City / Town of Newton described in deed to Citizens for Affordable Housing in Newton Development Organization d/b/a CAN-DO recorded with the Middlesex South Registry of Deeds at Book 37427, Page 581, or filed with the _____ Registry District of the Land Court as Document No. _____ noted on Certificate of Title No. _____, is hereby declared to be in the public interest and is approved pursuant to the provisions of Massachusetts General Laws chapter 184, section 32.

Date: _____

COMMONWEALTH OF MASSACHUSETTS

By: _____

Director, Department of Housing
and Community Development

Commonwealth of Massachusetts

Suffolk, ss.

Date: _____

Then personally appeared before me the above named _____, Director of the Department of Housing and Community Development, and acknowledged the foregoing to be her free act and deed.

Notary Public
My commission expires:

DECLARATION OF AFFORDABLE HOUSING COVENANTS

Citizens for Affordable Housing in Newton Development Organization, Inc., d/b/a CAN-DO, a nonprofit corporation organized under the laws of the Commonwealth of Massachusetts, having an address of 1075 Washington Street, West Newton, Massachusetts 02465, and owner in fee simple of property known as 18-20 Cambria Road in Newton, Massachusetts, acting by and through its Executive Director pursuant to a Certificate of Vote recorded herewith (the "Owner") hereby covenants and agrees for itself, its successors, heirs and assigns, that the parcel described in Exhibit A, attached hereto and incorporated herein, (hereinafter the "Property") shall be subject to the following restrictions for the benefit of the Newton Community Development Authority, having a mailing address of Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, Massachusetts, 02459 (the "NCDA"), its successors and permitted assigns.

The consideration for this Declaration of Affordable Housing Covenants (hereinafter "Covenant") is a grant to the Owner from the City of Newton's Community Preservation Committee, dated August 19, 2003, and a loan to the Owner from the Newton Community Development Authority, which is evidenced by a promissory note and secured by a mortgage of the Property dated December 19, 2002 recorded with Middlesex South District Registry of Deeds in Book 37427 Page 602. This Covenant supersedes the Declaration of Restrictive Covenants dated December 19, 2002 and recorded with said Deeds in Book 37427 Page 610.

The terms of this Covenant authorized by Massachusetts General Laws, Chapter 184, §§31-33 and otherwise by law, are as follows:

1. **Purpose.** The purpose of this Covenant is to ensure that the Property will be retained as affordable housing for occupancy by low and moderate-income households as defined by the U.S. Department of Housing & Urban Development's (HUD) Community Development Block Grant (CDBG) Program. This Covenant 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.
2. **Covenants.** The Owner intends, declares and covenants on behalf of itself, its successors and assigns that these covenants, agreements, and restrictions are not merely personal covenants of the Owner and shall run with the land and shall bind the Owner, its successors and assigns and inure to the benefit of the NCDA, and its successors and assigns.
3. **Term.** For the maximum duration permitted by law with the approval of the Commonwealth of Massachusetts, pursuant to General Laws, Chapter 184, Sections 31-33, and in the event such approval is not given, for a period of thirty (30) years from the date of this Covenant and for such further time thereafter (up to 99 years) as this Covenant may be lawfully extended (including without limitation extensions permitted under General Laws, Chapter 184, Section 27-30), the property shall be maintained as affordable housing as defined in paragraph 1 above.
4. **Completion Date.** The date on which all required Certificates of Occupancy for the rental units on the Property are issued and the Owner has provided written notification to the NCDA and the NCDA has verified that all units are fully occupied, as provided in the Loan

keep such additional records and prepare and submit to NCDA such additional reports as the NCDA may deem necessary to ensure compliance with the requirements of this Covenant and of the CDBG Program.

C. Prior to initial occupancy of the units and annually thereafter, the Owner shall submit to NCDA a proposed schedule of monthly rent and monthly allowances for utilities and services for the units. Such schedule shall be subject to the approval of NCDA for compliance with the requirements of applicable HUD regulations. After approval of a schedule of rent and allowances by NCDA, rents shall not be increased without either (a) a specific request by Owner for a rent increase or (b) the next annual schedule of rents and allowances. Notwithstanding the foregoing, 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 Owner to the affected tenant(s).

D. The Owner shall not demolish any part of the Property or substantially subtract from any real or personal property of the Property except in conjunction with renovation or rehabilitation of the Property or construction of a new project on the Property, in either case subject to the prior written consent of the NCDA, which consent shall not be unreasonably withheld. The Owner shall not permit the use of any residential unit for any purpose other than housing.

E. The Owner represents, warrants and agrees that if the Property, or any part thereof, shall be damaged or destroyed, the Owner (subject to the approval of the lender(s) which will provide the financing) will use its best efforts to repair and restore the Property to substantially the same condition as existed prior to the event causing such damage or destruction, and the Owner represents, warrants and agrees that the Property shall thereafter continue to operate in accordance with the terms of this Covenant.

F. Any use of the Property or activity thereon which is inconsistent with the purpose of this Covenant is expressly prohibited. The Owner shall carry out each activity provided for in this Covenant in compliance with all applicable federal laws and regulations described in 24 CFR 570, Community Development Block Grant Program, as amended.

6. **Condition of Property.** By its acceptance of this Covenant, NCDA does not undertake any liability or obligation relating to the condition of the Property.

7. **Instruments to Enforce Covenant.** The NCDA is authorized to record or file any notices or instruments appropriate to ensuring the enforceability of this Covenant; and the Owner on behalf of itself and its successors and assigns appoints the NCDA its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Owner and its successors and assigns agree to execute any such instruments upon request. The Owner and the NCDA 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.

against any violations, including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that the NCDA will have no adequate remedy at law), and such restoration shall be in addition to, and not in limitation of, any other rights and remedies available to the NCDA. The Owner covenants and agrees to reimburse NCDA all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Covenant or in taking reasonable measures to cure any violation hereof, provided that a violation of this Covenant is acknowledged by Owner or determined by a court of competent jurisdiction to have occurred.

B. Without limitation on any other rights or remedies of the NCDA, its successors and assigns, the NCDA shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Covenant, which shall be the preferred remedy;
- (ii) voiding of any rental arrangement that violates this Covenant;
- (iii) in the case of any rental arrangement where the Owner is found to have violated willfully or in bad faith, then money damages for charges in excess of rents permissible under this Covenant;
- (iv) If any action is brought to enforce this Covenant, the prevailing party shall be entitled to reasonable attorneys' fees and other costs of bringing such action, in addition to any other relief or remedy to which such party may be entitled.
- (v) The Owner hereby grants to the NCDA and its duly authorized representatives the right to enter upon the Property upon reasonable notice for the purpose of enforcing the restrictions contained in this Covenant and to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Covenant. Notwithstanding the definition of Owner hereinbefore contained, the rights of enforcement for violations of this Covenant shall survive any subsequent sale or transfer of the Property.

12. **Certificate.** Any party may rely on a certificate signed by the Owner and the NCDA as to any facts relative to this Covenant.

13. **Governing Law.** This Covenant shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Covenant must be in writing and executed by all of the parties hereto. If any provision of this Covenant shall to any extent be held invalid, the remainder shall not be affected.

EXHIBIT A

The land, with the buildings thereon, situated in Newton, Middlesex County, Massachusetts, being Lot 161 on plan entitled "Plan of Parmenter Park in Waltham and Newton, MA., property of Thomas A. Joyce Realty Trust", dated May 1923, made by Rowland H. Barnes and Henry F. Beal, C.E.'s, recorded with Middlesex South District Deeds as File Plan 731, bounded and described as follows:

NORTHEASTERLY	by Cambria Road, fifty (50) feet:
SOUTHEASTERLY	by Lot 162 on said plan, One Hundred (100) feet:
SOUTHWESTERLY	by Lot 170 on said plan, fifty (50) feet; and
NORTHWESTERLY	by Lot 160 on said plan, one hundred (100) feet: Containing 5,000 square feet.

Being the same premises conveyed to Citizens for Affordable Housing in Newton Development Organization, Inc., d/b/a CAN-DO by deed, dated December 19, 2002, of Debra K. Burke (formerly know as Debra K. LeBlanc) and Karen L. Brissette, Trustees of the Brissette-LeBlanc Realty Trust, and recorded with Middlesex South Registry of Deeds, Book 37427 Page 581.