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HISTORIC PRESERVATION RESTRICTION

THIS HISTORIC PRESERVATION RESTRICTION is made this ~~4th~~ day of November, 2005, by and between **Citizens for Affordable Housing in Newton Development Organization, Inc.**, a Massachusetts non-profit corporation, of 1075 Washington Street, Newton, Massachusetts 02465, (hereinafter "CAN-DO") and the **City of Newton**, a Massachusetts municipal corporation (hereinafter "City") acting through the Newton Historical Commission (the "Commission"), with a mailing address of 1000 Commonwealth Avenue, Newton, Massachusetts 02459.

WITNESSETH:

WHEREAS, CAN-DO is the owner of certain real property located at 1093-1101 Chestnut Street in the City of Newton, Commonwealth of Massachusetts by deed of Margaret M. Bibbo et al., dated December 30, 2003 and recorded with the Middlesex South Registry of Deeds at Book 41705, Page 34, and deed of Arthur C. Bosselman and Patricia Bosselman, dated December 23, 2003 and recorded with said Registry at Book 41705, Page 29, which property is more particularly described in Exhibit A attached hereto and incorporated herein (hereinafter "the Property");

WHEREAS, the Property includes a two-and-one-half story, side-gabled, three-by-two bay, Italianate style, mill worker's house built circa 1870, with a central entry with ornate, bracketed, entry hood (hereinafter "the Building"), which is the subject of this Historic Preservation Restriction;

WHEREAS, the Building stands as an architecturally and historically significant example of Italianate architecture associated with the social and economic development of the Newton Upper Falls neighborhood, is included in the Inventory of Historic and Archaeological Assets of the Commonwealth, and is eligible for listing on the National Register of Historic Places as a contributing property within a proposed expansion of the Newton Upper Falls National Register Historic District;

WHEREAS, CAN-DO requested and received Community Preservation Act funding to preserve the Building and to renovate it into a condominium unit, and to develop five additional housing units on the Property, including two new duplex units and a new single family unit, which six unit development will be known as Millhouse Commons;

WHEREAS, two of the units in Millhouse Commons will be sold to households at or below 80% of the area median income; two will be sold to

1093 - 1101 Chestnut Street, Newton

**City of Newton Law Department
1000 Commonwealth Avenue
Newton Centre, MA 02459**

households at or below 100% of area median income; and the other two units will be market rate units;

WHEREAS, CAN-DO proposes to remove a modern addition to the Building, relocate the Building on the Property, and rehabilitate the exterior of the Building, all in accordance with plans dated September 5, 2004 entitled "Millhouse Residences 1093-1101 Chestnut Street Newton MA – Plans & Elevations of Restored 1093 Unit A and New Units C,D,E, & F" and filed with the Newton Historical Commission, which plans were reviewed and approved by the Commission at its September 23, 2004 meeting ("Approved Plans");

WHEREAS, CAN-DO also proposes to construct three new buildings on the Property, two of which will be duplexes, for a total of four buildings on the Property, all in accordance with the Approved Plans, which three new buildings will not be bound by this historic preservation restriction;

WHEREAS, the City is authorized to accept historic preservation restrictions to protect property significant in national and state history and culture under the provisions of M.G.L. chapter 184, sections 31, 32, and 33 (hereinafter "the Act");

WHEREAS, CAN-DO and the City recognize the architectural, historic and cultural values and significance of the Building, and have the common purpose of conserving and preserving certain key features of the Building's exterior, which key features are set forth in Exhibit B attached hereto and made a part hereof (the "Key Features").

WHEREAS, the grant of a preservation restriction by CAN-DO to the City on the Building will assist in preserving and maintaining the Building and its architectural, historic and cultural features for the benefit of the people of the City of Newton, Commonwealth of Massachusetts, and the United States of America; and

WHEREAS, to that end, CAN-DO desires to grant to the City, and the City desires to accept, a preservation restriction in gross in perpetuity on the exterior of the Building on the Property pursuant to the Act; provided, however, that upon sale of the last housing unit on the Property, all of CAN-DO's obligations under this restriction shall terminate and be transferred to the Millhouse Commons Condominium Association, their successors and assigns;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to M.G.L. chapter 184, sections 31, 32, and 33, CAN-DO does hereby voluntarily

grant and convey unto the City this preservation restriction (hereinafter "the Restriction") in gross in perpetuity over the exterior of the Building on the Property.

PURPOSE

1. **Purpose.** It is the Purpose of this Restriction to assure the continued architectural and historical integrity of the exterior Key Features of the Building, and to prevent any changes to the exterior of the Building or the Property that will significantly impair or interfere with the Building's Key Features. Baseline photographs of the Key Features are contained in Exhibit B.

CAN-DO'S COVENANTS

2.1 CAN-DO Covenants:

(a) **Covenant to Rehabilitate.** CAN-DO shall have the right to execute the rehabilitation of the Building and the redevelopment of the Property in accordance with the specifications set forth in the Approved Plans. CAN-DO agrees to obtain the prior approval of the Newton Historical Commission for any proposed changes to the Approved Plans during the course of construction. Upon completion of rehabilitation, CAN-DO shall submit a set of new baseline photographs of the Key Features to each of (1) the Newton Historical Society; and (2) the City of Newton Department of Planning and Development.

(b) **Covenant to Maintain.** CAN-DO agrees at all times to maintain the exterior of the Building in the sound structural condition and good state of repair in accordance with the terms of this paragraph and to maintain the landscape, lawns and plantings surrounding the Building in good appearance. It is CAN-DO's intent that the exterior of the Building and the immediate setting of the Building on the Property shall be maintained in a physical appearance and composition that is as close to its original appearance and composition as is reasonably possible. CAN-DO's obligation to maintain shall require replacement, repair, and reconstruction by CAN-DO whenever necessary to preserve the exterior of the Building in sound structural condition and a good state of repair and to maintain the landscape, lawn and plantings in good, healthy condition. Subject to the casualty provisions of paragraphs 7 and 8, this obligation to maintain shall require replacement, rebuilding, repair, and reconstruction of the Building whenever necessary in accordance with *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (36 C.F.R. 67 and 68), as these may be amended from time to time (hereinafter "the Secretary's Standards").

2.2 CAN-DO's Covenants: Prohibited Activities.

The Building or any part thereof shall not be demolished, removed, or razed (by affirmative action or through neglect or failure to repair and maintain) except as provided in paragraphs 7 and 8. Nothing shall be erected or allowed to grow on the Property which would impair the visibility from street level of the Building; the dumping of ashes, trash, rubbish or any other unsightly or offensive materials is prohibited on the Property.

CAN-DO's CONDITIONAL RIGHTS

3.1 Conditional Rights Requiring Approval by the City. Without the prior express written approval of the City, which approval may not be unreasonably withheld but which may be subject to such reasonable conditions as the City in its discretion may determine, CAN-DO shall not make any changes to the exterior key features of the Building, including the alteration, partial removal, construction, remodeling, or other physical or structural change to the exterior and any change in material or color and the footprint, size, mass, ridgeline and rooflines of the Building. Activities by CAN-DO to maintain the exterior of the Building which are not intended to change the exterior appearance of the Building and which are intended to be performed in accordance with provisions of section 2.1 shall not require the prior approval of the City. CAN-DO shall not place permanent yard structures or signage (excluding a sign stating the address of the property, temporary signage advertising the sale of the property, or a sign required by any of the project funders) on the Property, or undertake substantial permanent topographical changes to the Property without the prior express written approval of the City.

3.2 Archaeological Activities. The conduct of archaeological activities, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by CAN-DO and approved in writing by the City and the State Archaeologist of the Massachusetts Historical Commission (Massachusetts General Laws, chapter 9, section 27C, 950 C.M.R. 70.00).

3.3 Review of CAN-DO's Requests for Approval. CAN-DO shall submit to the City for the City's approval of those conditional rights set out at paragraph 3.1 one copy of information (including plans, specifications and designs), identifying the proposed activity with reasonable specificity. In connection therewith, CAN-DO shall also submit to the City a timetable for the proposed activity sufficient to permit the City to monitor such activity. Within forty-five (45) days of receipt of the City's receipt of any plan or written request for approval hereunder, the City shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the City shall provide CAN-DO with written suggestions for modification or a

written explanation for the City's disapproval. Any failure by the City to act within forty-five (45) days of receipt of CAN-DO's submission or resubmission of plans or requests shall be deemed to constitute approval by the City of the plan or request as submitted and to permit CAN-DO to undertake the proposed activity in accordance with the plan or request submitted.

4. **Standards for Review.** In exercising any authority created by the Restriction to inspect the Property; to review any construction, alteration, repair or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, the City shall apply the Secretary's Standards.

5. **Public Access.** This Restriction does not require public access.

CAN-DO'S RESERVED RIGHTS

6. **CAN-DO's Reserved Rights Not Requiring Further Approval by the City.** Subject to the provisions of paragraphs 2.1, 2.2, and 3.1, the following rights, uses, and activities of or by CAN-DO on, over, or under the Property are permitted by this Restriction and by the City without further approval by the City:

(a) the right to engage in all those activities and uses that: (i) are permitted by governmental statute or regulation; and (ii) are not inconsistent with the Purpose of this Restriction;

(b) the right to maintain and repair the exterior of the Building strictly according to the Secretary's Standards, provided that CAN-DO uses in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Building. Changes in appearance, materials, colors or workmanship from that existing prior to the maintenance and repair requires the prior approval of the City in accordance with the provisions of paragraphs 3.1 and 3.2;

(c) the right to make changes of any kind to the interior of the Building, as long as interior changes have no impact on the exterior view of the Key Features.

CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

7. **Casualty Damage or Destruction.** In the event that the exterior of the Building or any part thereof shall suffer major damage or destruction by fire, flood, windstorm, hurricane, earth movement, or other casualty, CAN-DO shall notify the City in writing within fourteen (14) days of the damage or destruction

or such reasonable time thereafter, depending upon the circumstances of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building and to protect public safety, shall be undertaken by CAN-DO without the City's prior written approval. Within ninety (90) days of the date of damage or destruction, if required by the City, CAN-DO at its expense shall submit to the City a written report prepared by a qualified restoration architect and an engineer who are acceptable to CAN-DO and the City, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Building and/or reconstruction of damaged or destroyed portions of the Building; and
- (c) a report of such restoration/reconstruction work necessary to return the Building to the condition existing as of the date hereof.

8. Review After Casualty Damage or Destruction. If, after reviewing the report provided in paragraph 7 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 9, CAN-DO and the City agree that the Purpose of the Restriction will be served by such restoration/reconstruction, CAN-DO and the City shall establish a schedule under which CAN-DO shall complete the restoration/reconstruction of the Building in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to CAN-DO.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 9, CAN-DO and the City agree that restoration/reconstruction of the Building is impractical or impossible, or agree that the Purpose of the Restriction would not be served by such restoration/reconstruction, CAN-DO may, with the prior written consent of the City, alter, demolish, remove, or raze the Building, and/or construct new improvements on the Property. CAN-DO and the City may then agree to extinguish this Restriction in whole or in part in accordance with the laws of the Commonwealth of Massachusetts and paragraph 21.1 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 9, CAN-DO and the City are unable to agree that the Purpose of the Restriction will or will not be served by such restoration/reconstruction, the matter may be

referred by any party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts's arbitration statute then in effect.

9. **Insurance.** CAN-DO shall keep the Building insured by an insurance company rated "A1" or better by Best's for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Building without cost or expense to CAN-DO or contribution or coinsurance from CAN-DO. CAN-DO shall deliver to the City, within ten (10) business days of the City's written request thereof, certificates of such insurance coverage. Provided, however, that whenever the Property is encumbered with a mortgage or deed of trust, nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

INDEMNIFICATION; TAXES

10. **Indemnification.** Except for any instance of gross negligence or willful misconduct on the part of the City or the City's agent, director, officer, employee, or independent contractor, the following shall apply: CAN-DO hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, the City, its agents, directors, officers, and employees, or independent contractors from and against any and all claims, liabilities, expense, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person as a result of the existence of this Restriction; physical damage to the Property; the presence or release in, on or about the Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance; or other injury, death or other damage occurring on or about the Property; unless such injury, death or damage is caused by the City or any agent, director, officer, employee, or independent contractor of the City. In the event that CAN-DO is required to indemnify the City pursuant to the terms of this paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property.

11. **Taxes.** CAN-DO shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Property unless CAN-DO timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by

law for prosecuting such appeal and any applicable grace period following completion of such action. In place of CAN-DO, the City is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to CAN-DO any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien asserted against the Property. The City may make such payment according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement, or assessment or into the validity of such tax, assessment, sale, or forfeiture. Such payment if made by the City shall constitute a lien on the Property.

ADMINISTRATION AND ENFORCEMENT

12. **Written Notice.** Any notice which either CAN-DO or the City may desire or be required to give to the other party shall be in writing and shall be delivered by one of the following methods – facsimile transmission, or by first class mail postage prepaid, or hand delivery;

if to CAN-DO, at: CAN-DO
 1075 Washington Street
 Newton, MA 02465

and if to the City, at: Newton Historical Commission
 1000 Commonwealth Avenue
 Newton Centre, MA 02459

Each party may change its address set forth herein by a notice to such effect to the other party.

13. **Evidence of Compliance.** Upon request by CAN-DO, the City shall promptly furnish CAN-DO with certification that, to the best of the City's knowledge, CAN-DO is in compliance with the obligations of CAN-DO contained herein or that otherwise evidences the status of this Restriction to the extent of the City's knowledge thereof.

14. **Inspection.** With the consent of CAN-DO, representatives of the City shall be permitted at reasonable times to inspect the Building on an annual basis at the convenience of CAN-DO and the City. CAN-DO covenants not to withhold unreasonably its consent in determining dates and times for such inspections.

15. **The City's Remedies.** The City may, after thirty (30) days' prior written notice to CAN-DO, institute suit(s) to enjoin any violation of the terms of

this Restriction by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Building to the condition and appearance that existed prior to the violation complained of. The City shall also have available all legal and other equitable remedies to enforce CAN-DO's obligations hereunder.

In the event CAN-DO is found to have violated any of its obligations, CAN-DO shall reimburse the City for any reasonable costs or documented expenses incurred in connection with the City's enforcement of the terms of this Restriction, including court costs, and attorney's, architectural, engineering, and expert witness fees.

In the event that CAN-DO is required to reimburse the City pursuant to the terms of this Paragraph, the amount of such reimbursement until discharged, shall constitute a lien on the Property.

Exercise by the City of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

16. Notice from Government Authorities. CAN-DO shall deliver to the City copies of any notice of violation or lien relating to the Property received by CAN-DO from any government authority within five (5) days of receipt by CAN-DO. Upon request by the City, CAN-DO shall promptly furnish the City with evidence of CAN-DO's compliance with such notice or lien where compliance is required by law.

BINDING EFFECT; ASSIGNMENT

18. Runs with the Land. Except as provided in paragraphs 8 and 21.1, the obligations imposed by this Restriction shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Restriction shall extend to and be binding upon CAN-DO and the City, their respective successors in interest and all persons hereafter claiming under or through CAN-DO and the City, and the words "CAN-DO", and "the City" when used herein shall include all such persons. Any right, title, or interest herein granted to the City also shall be deemed granted to each successor and assign of the City and each such following successor and assign thereof, and the word "the City" shall include all such successors and assigns.

CAN-DO agrees to incorporate by reference the terms of this Restriction in any deed or other legal instrument by which CAN-DO transfers any interest in

all or a portion of the Property, including without limitation a leasehold interest for a term greater than one year.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of a bona fide transfer. The restrictions, stipulations, and covenants contained in this Restriction shall be inserted by CAN-DO, by express reference, in any subsequent deed or other legal instrument by which CAN-DO divests itself of either the fee simple title to or any lesser estate in the Property or any part hereof, including by way of example and not limitation, a lease of all or a portion of the Property, but excluding any lease with a term of fewer than ninety (90) days.

19. Assignment. The City may convey, assign, or transfer this Restriction to a unit of federal, state, or local government or to a similar local, state, or national organization that is a "qualified organization" that qualifies under the Act as an eligible donee whose purposes, *inter alia*, are to promote preservation or conservation of historical, cultural, or architectural resources, provided that any such conveyance, assignment, or transfer requires that the Purpose for which the Restriction was granted will continue to be carried out as a condition of the transfer. CAN-DO shall give prior written approval of such conveyance, assignment, or transfer by the City, such approval not to be unreasonably withheld.

20. Recording and Effective Date. The City shall do and perform at its own cost all acts necessary to the prompt recording of this instrument in the land records of Middlesex County. CAN-DO and the City intend that the restrictions arising under this Restriction take effect on the day and year this instrument is recorded in the land records of the Middlesex County.

EXTINGUISHMENT

21.1 Extinguishment. CAN-DO and the City hereby recognize that circumstances may arise that may make impossible the continued ownership or use of the Building in a manner consistent with the purpose of this Restriction and necessitate extinguishment of the Restriction. Such circumstances may include, but are not limited to, partial or total destruction of the Building resulting from casualty. Extinguishment must be the result of a judicial proceeding in a court of competent jurisdiction and shall meet the requirements of the Act for extinguishment. In the event of any sale of all or a portion of the Property (or of any other property received in connection with an exchange or involuntary conversion of the Property), the proceeds of such sale shall be paid to CAN-DO.

21.2 Condemnation. If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, CAN-DO and the City shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. Such recovered proceeds shall be paid to CAN-DO.

INTERPRETATION

22. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction.

(a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Building shall not apply in the construction or interpretation of this Restriction, and this instrument shall be interpreted broadly to effect its Purpose and the transfer of rights and the restrictions on use herein contained.

(b) This instrument may be executed in two counterparts, one of which may be retained by CAN-DO, and the other, after recording, to be retained by the City. In the event of any discrepancy between the counterparts produced, the recorded counterpart shall in all cases govern. In the event of any discrepancy between two copies of any documentation retained by the parties, the copy retained by the City shall control.

(c) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors, and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter thereof.

(d) Nothing contained herein shall be interpreted to authorize or permit CAN-DO to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, CAN-DO promptly shall notify the City of such conflict and shall cooperate with the City and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

AMENDMENT

23. Amendment. If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, CAN-DO and the City may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of the Restriction or the status of the City under the laws of the Commonwealth of Massachusetts. Any such amendment shall be consistent with the protection of the preservation values of the Building and the Purpose of this Restriction; shall not affect its perpetual duration; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural, historic, natural habitat, and open space values protected by this Restriction. Any such amendment shall be effective when the requirements of the Act with respect to amendments have been met and the amendment is recorded in the land records of the Middlesex County. Nothing in this paragraph shall require CAN-DO or the City to agree to any amendment or to consult or negotiate regarding any amendment.

THIS RESTRICTION reflects the entire agreement of CAN-DO and the City. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

TO HAVE AND TO HOLD, the said Historic Preservation Restriction, unto the said City and its successors and permitted assigns forever. This HISTORIC PRESERVATION RESTRICTION may be executed in two counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but both of which together shall constitute one instrument.

IN WITNESS WHEREOF, CAN-DO and the City have set their hands this 4th day of November, 2005.

CAN-DO:
Citizens for Affordable Housing in
Newton Development Organization,
Inc.

THE CITY:
City Of Newton

BY: Josephine McNeil
Josephine McNeil
Executive Director

BY: John Rodman
John Rodman
Chairman
Newton Historical Commission

APPROVED:

David B. Cohen
David B. Cohen, Mayor

Approved as to legal character and
form: [Signature]
Assistant City Solicitor

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

November 4, 2005

On this 4 day of November, 2005, before me, the undersigned notary public, personally appeared the above-named Josephine McNeil, proved to me through satisfactory evidence of identification, which was personally known to me to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Executive Director of Citizens for Affordable Housing in Newton Development Organization, Inc.



Catherine L. Farrell
Notary Public
My Commission expires: Jan. 31, 2008

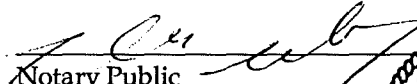
COMMONWEALTH OF MASSACHUSETTS

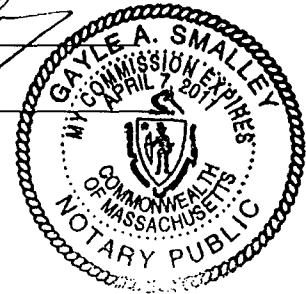
MIDDLESEX, SS.

3 Nov, 2005

On this 3 day of Nov, 2005, before me, the undersigned notary public, personally appeared the above-named David Cohen proved to me through satisfactory evidence of identification, which was personal acquaintance to be the person whose name is signed on

the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Mayor of the City of Newton.


Notary Public
My Commission expires: _____

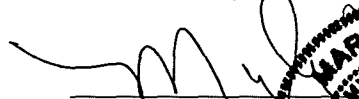


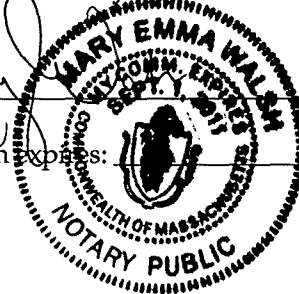
COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

Nov 3, 2005

On this 3rd day of November, 2005, before me, the undersigned notary public, personally appeared the above-named John Rodman, proved to me through satisfactory evidence of identification, which was Mr. Wodnes, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as **Chairman, Newton Historical Commission**, for the City of Newton.


Notary Public
My Commission expires: _____



APPROVAL BY MASSACHUSETTS HISTORICAL COMMISSION
COMMONWEALTH OF MASSACHUSETTS

The undersigned Acting Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that foregoing preservation restriction has been approved pursuant to Massachusetts General Law, chapter 184, section 32.

Date: Nov. 21, 2005

Brona Simon

Brona Simon
Acting Executive Director and Clerk
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

November 21, 2005

On this 21st day of November, 2005, before me, the undersigned notary public, personally appeared the above-named **Brona Simon**, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as **Acting Executive Director and Clerk** for the **Massachusetts Historical Commission**.

Nancy Maude

Notary Public

My Commission expires: January 19, 2012

SCHEDULE OF EXHIBITS

- A. Description of 1093 Chestnut Street and Site Plan
- B. Key Features, including photographs
- C. Subordinations of Lender

EXHIBIT A

1. Property: 1093 and 1101 Chestnut Street, Newton, Massachusetts

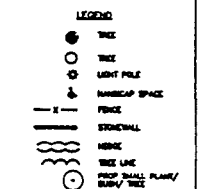
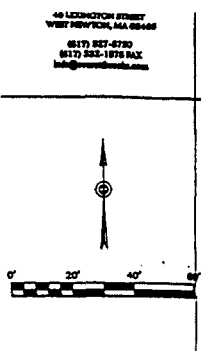
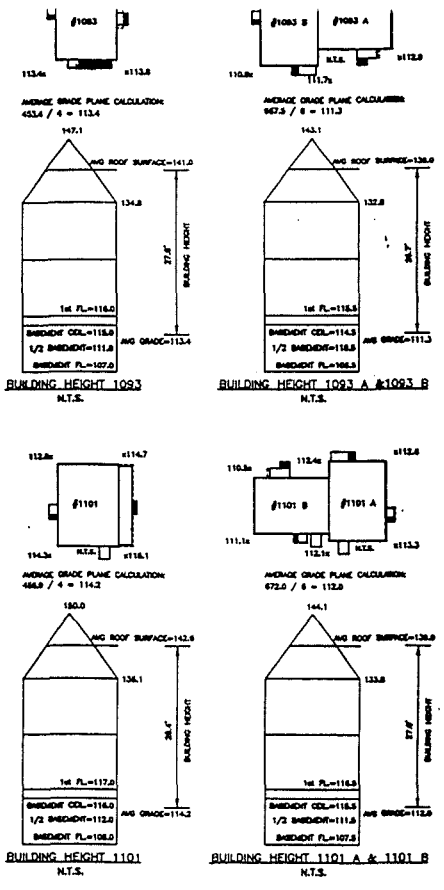
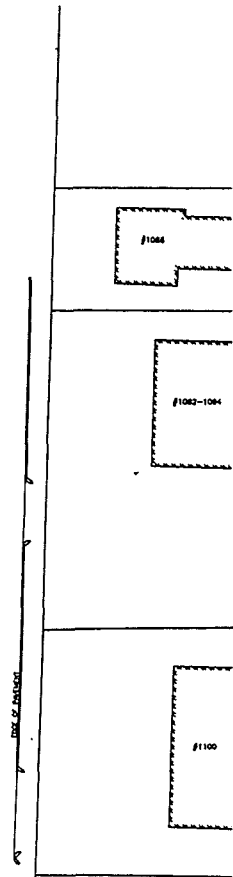
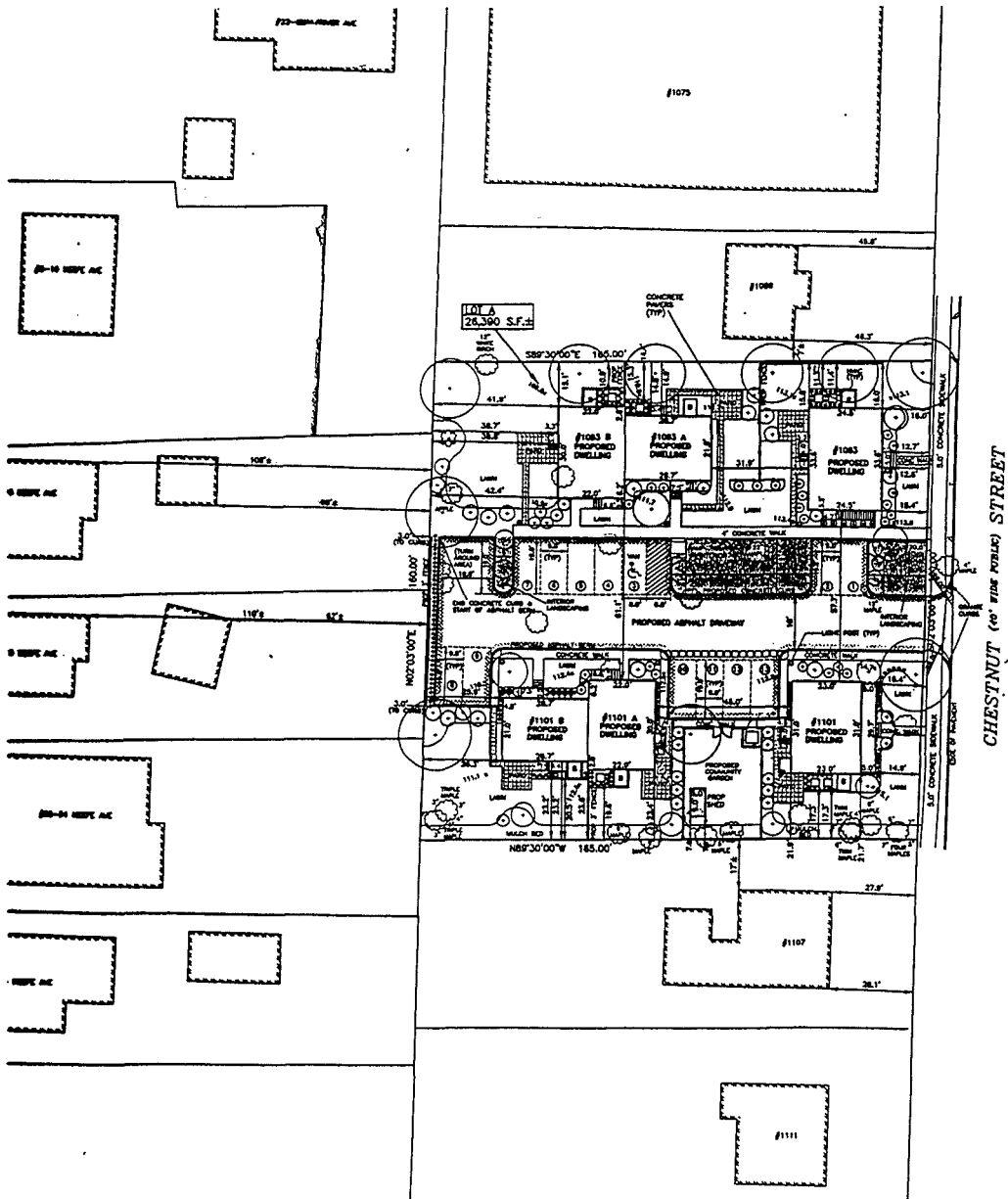
The land with the buildings and improvements thereon located at and known as 1093 and 1101 Chestnut Street, Newton, Middlesex County, Commonwealth of Massachusetts, shown as Lot 1 on a plan entitled "Plan of Land in Newton, MA, 1093 & 1101 Chestnut Street, Scale: 1 in. = 20 ft., Date: August 30, 2005" prepared by Everett M. Brooks Co., recorded with the Middlesex South District Registry of Deeds as Plan No. _____ of 2005, and said Lot 1 being more particularly bounded and described follows:

- EASTERLY: by Chestnut Street, one hundred and sixty (160) feet;
- SOUTHERLY: by land now or formerly of J. Y. John and H. C. Eva Wang, according to said plan, one hundred and sixty-five (165) feet;
- WESTERLY: by four parcels of land now or formerly of Amine A. Sabbagh and Ljiljana L. Radonjic, Huakui Yu and Lixia Gao, Anne C. Schiavone, and Richard J. and Carol A. Demichele, according to said plan, one hundred and sixty (160) feet; and
- NORTHERLY: by land now or formerly of Mary C. and Mark C. Secheyco, according to said plan, one hundred and sixty-five (165) feet.

Said Lot 1 contains 26,395 S.F., more or less, according to said plan.

For title see deed of Margaret M. Bibbo et al. dated December 30, 2003 and recorded with the Middlesex South Registry of Deeds at Book 41705, Page 34, and deed of Arthur C. Bosselman and Patricia Bosselman dated December 23, 2003 and recorded with said Registry at Book 41705, Page 29.

2. Site Plan dated December 2, 2004 and Approved Plans attached hereto.



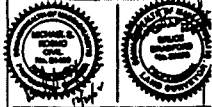
ZONE: MR-1
 DEED REFERENCE:
 BOOK 41705 PAGE 029, 034
 NOTE:
 1. AREAS FOR F.A.R. CALCULATION PROVIDED BY ARCHITECT
 2. ZONING COMPLIANCE IS DETERMINED BY MUNICIPALITY.

COMBINED LOTS:

	EXISTING	PROPOSED	REQUIRED
LOT AREA = 26,300 S.F.±			
BUILDINGS	3,221 S.F.	4,467 S.F.	
STRUCTURES	3,648 S.F.	4,507 S.F.	
DRIVE	1,938 S.F.	2,733 S.F.	
	5,585 S.F.	10,260 S.F.	
BUILD FACTOR	6.1	6.1	20 (MAX)
% INTERIOR LANDSCAPING	0%	5.1%	5% (MIN)
LOT COVERAGE	12.2%	16.9%	30% (MAX)
OPEN SPACE	79%	61.1%	50% (MIN)
F.A.R.	-	0.31	0.4 (MAX)
1st & 2nd FLOOR	-	8,112 S.F.	

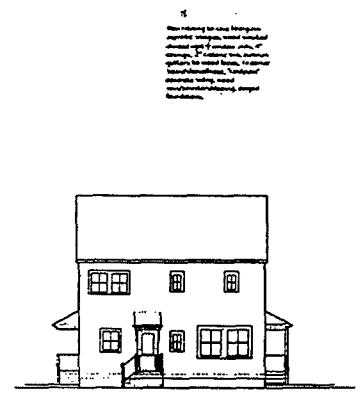
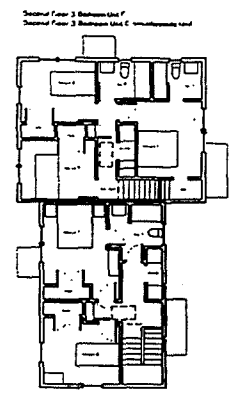
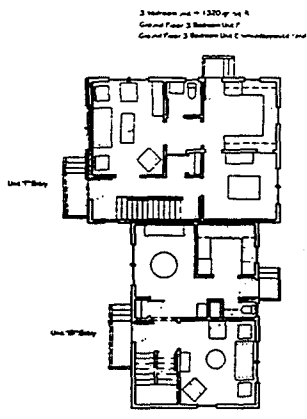
INDIVIDUAL LOTS:

	EXISTING	PROPOSED	REQUIRED
#1093			
LOT AREA = 13,200 S.F.±			
BUILDINGS	1,711 S.F.	2,201 S.F.	
STRUCTURES	1,855 S.F.	2,228 S.F.	
DRIVE	1,452 S.F.	1,854 S.F.	
	3,407 S.F.	4,180 S.F.	
LOT COVERAGE	13.0%	16.7%	30% (MAX)
OPEN SPACE	74%	66.3%	50% (MIN)
#1101			
LOT AREA = 13,195 S.F.±			
BUILDINGS	1,510 S.F.	2,256 S.F.	
STRUCTURES	1,691 S.F.	2,281 S.F.	
DRIVE	487 S.F.	3,299 S.F.	
	2,178 S.F.	6,080 S.F.	
LOT COVERAGE	11.4%	17.1%	30% (MAX)
OPEN SPACE	83%	53.9%	50% (MIN)



SITE PLAN OF LAND IN NEWTON, MA 1093 & 1101 CHESTNUT STREET LAYOUT

SCALE: 1" = 20' PL.	
DATE: DECEMBER 2, 2004	
DRAWN BY: ES	
CHECKED BY: MSK/DB	
REVISIONS:	
#1 COMMENTS	11/8/04
#2 REVISIONS	12/20/04

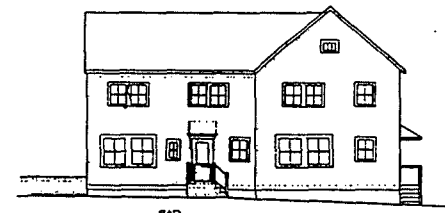
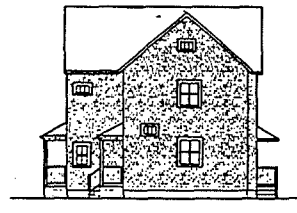


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 Also refer to the following
 specific notes: note 10
 attached copy of contract, note 11
 attached copy of contract, note 12
 attached copy of contract, note 13
 attached copy of contract, note 14
 attached copy of contract, note 15
 attached copy of contract, note 16
 attached copy of contract, note 17
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 attached copy of contract, note 98
 attached copy of contract, note 99
 attached copy of contract, note 100

Ground Floor 2 Bedroom Unit D
 Ground Floor 2 Bedroom Unit C (unimproved lot)
 2 Bedroom unit # 1120 sq. ft.

Second Floor 2 Bedroom Unit D
 Second Floor 2 Bedroom Unit C (unimproved lot)

Side Elevation of 2 Bedroom Unit F
 Side Elevation of 10' over



Exterior Elevation of 2 Bedroom Unit D
 Exterior Elevation of 2 Bedroom Unit C (unimproved lot)

Exterior Elevation of 2 Bedroom Unit C
 Exterior Elevation of 2 Bedroom Unit C (unimproved lot)

Exterior Elevation of 2 Bedroom Unit F
 Exterior Elevation of 2 Bedroom Unit C (unimproved lot)

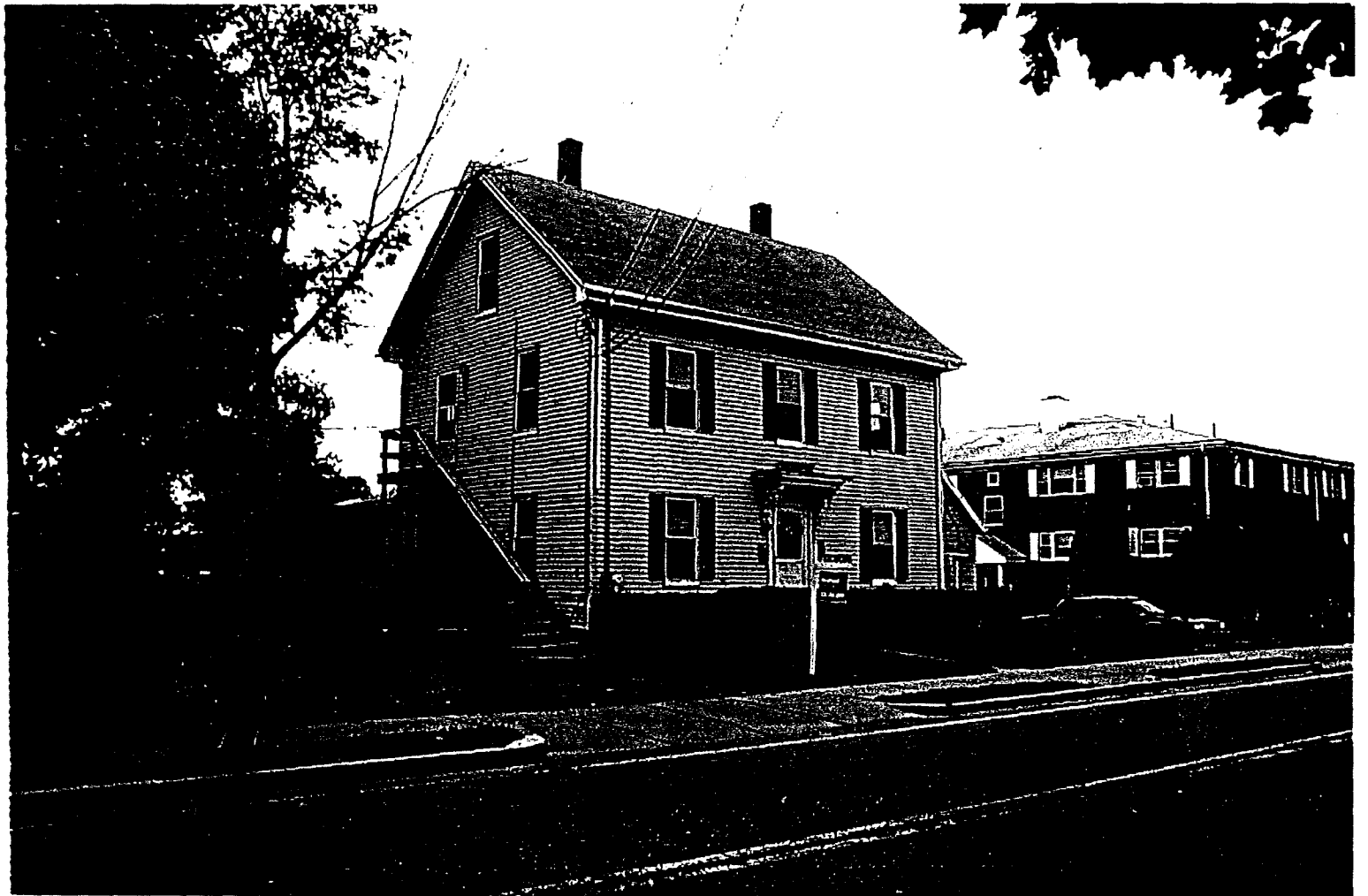
JSR
 MHC
 9/23/04

MILLHOUSE RESIDENCES
 1093/101 Chestnut Street Newton, MA
 for CAN-DO Citizens for Affordable Housing in Newton Development Organization, Inc.
 PLANS & ELEVATIONS OF NEW UNITS CDE&F
 1/4" = 1'
 PROJECTS: MILLHOUSE RESIDENCES
 1093/101 CHESTNUT STREET, NEWTON, MA

EXHIBIT B Key Features

Any changes which would impact the exterior envelope of the Building must be reviewed and approved by the Newton Historical Commission prior to receiving a building permit. The Commission will give special consideration to changes which will impact the key architectural features ("Key Features") of the Building, including the following:

- Bracketed hood over front entrance
- Style, form, and massing of the original ca. 1870s Italianate structure
- Exterior cladding and roof materials
- Exterior door openings
- Double hung windows and window openings
- Architectural elements which are visible from the public view and contribute to the streetscape
- Open front and side yards with plantings



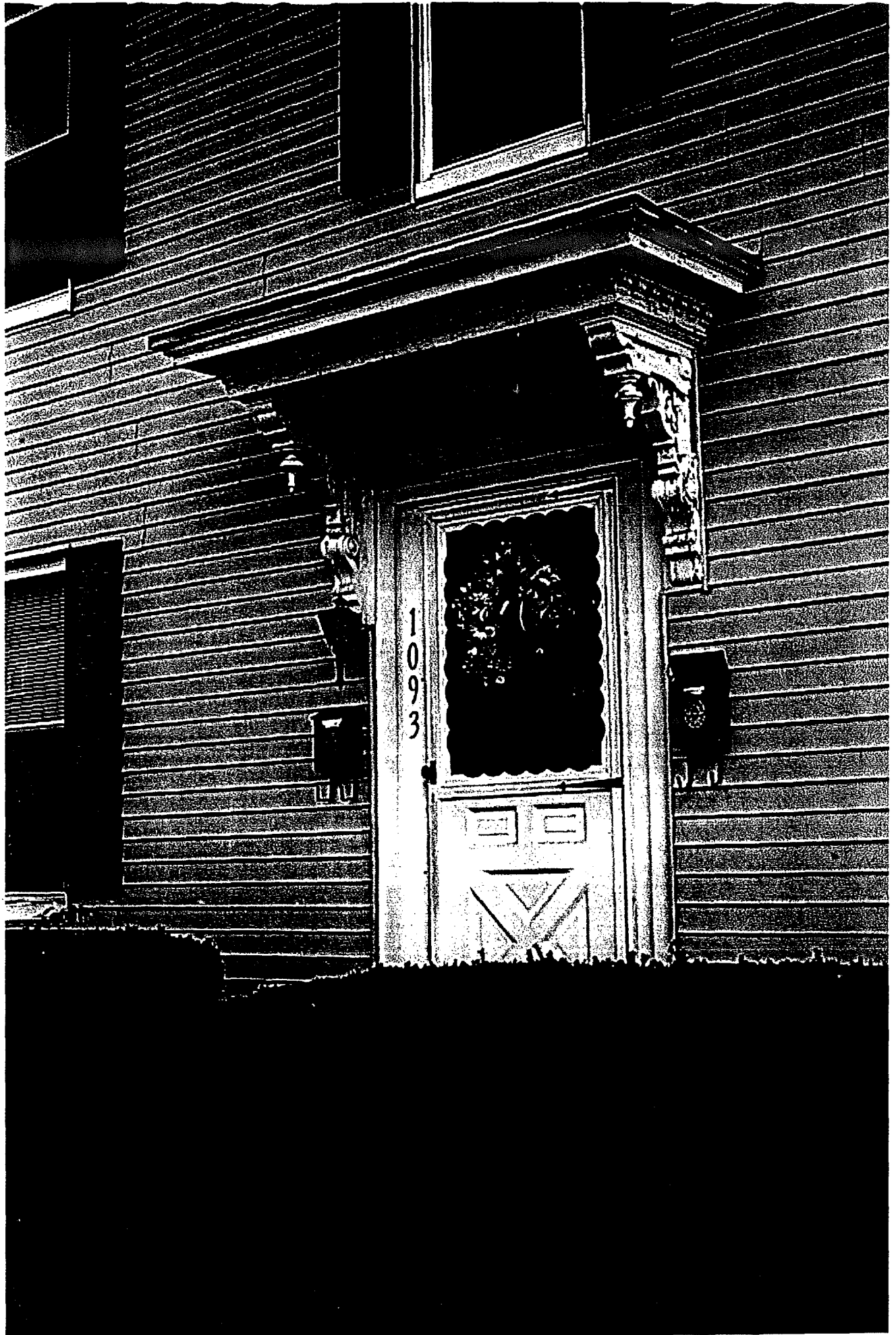




Exhibit C
Subordination of Lenders

SUBORDINATION AGREEMENT

Cambridge Savings Bank, with a principal place of business located at 1374 Massachusetts Avenue, Cambridge, MA 02138, now the holder of the following mortgages and security interests from **Citizens for Affordable Housing in Newton Development Organization, Inc.** of 1075 Washington Street, Newton, Massachusetts 02465:

1. Mortgage dated 12/30/2003, in the original principal amount of Two Million Seven Hundred Seventy-Five Thousand Dollars and No Cents (\$2,775,000) and duly recorded with the Middlesex County (Southern District) Registry of Deeds in Book 41705, Page 36; and
2. Collateral Assignment of Lessor's Interest in Leases, Rents and Profits dated 12/30/2003 and duly recorded with the Middlesex County (Southern District) Registry of Deeds in Book 41705, Page 51;

does hereby subordinate the lien of said mortgages and security interests and the notes and claims secured thereby to a **HISTORIC PRESERVATION RESTRICTION** dated November 4, 2005, recorded herewith, from said Citizens for Affordable Housing in Newton Development Organization, Inc. to the City of Newton, its successors and/or assigns, just as if said mortgages and security interests had been dated, executed, acknowledged, delivered and recorded after the Historic Preservation Restriction.

IN WITNESS WHEREOF the said Cambridge Savings Bank has caused its seal to be hereto affixed and these presents to be signed in its name and behalf by Kyle J. Salvati, its Asst. Vice President, this 2nd day of November, 2005.

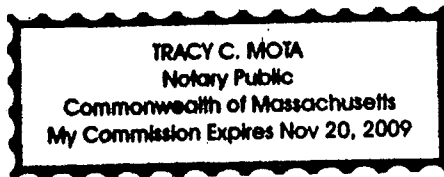
CAMBRIDGE SAVINGS BANK

By: Kyle J. Salvati
Its: Assistant Vice President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 2nd day of November, 2005, before me, the undersigned notary public, personally appeared Kyle Salvati, and proved to me through satisfactory evidence of identification, which were Based on Personal Knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Tracy C. Mota
Notary Public
My commission expires:

SUBORDINATION AGREEMENT

Newton Community Development Authority, with a principal place of business located at 1000 Commonwealth Avenue, Newton, MA 02459, now the holder of the following mortgage from **Citizens for Affordable Housing in Newton Development Organization, Inc.** of 1075 Washington Street, Newton, Massachusetts 02465:

1. Mortgage dated 4/28/05, in the original principal amount of Three Hundred Seventy-Five Thousand (\$375,000.00) Dollars and duly recorded with the Middlesex County (Southern District) Registry of Deeds in Book 45071, Page 459

does hereby subordinate the lien of said mortgage and the notes and claims secured thereby to a **HISTORIC PRESERVATION RESTRICTION** dated November 4, 2005, recorded herewith, from said Citizens for Affordable Housing in Newton Development Organization, Inc. to the City of Newton, its successors and/or assigns, just as if said mortgages and security interests had been dated, executed, acknowledged, delivered and recorded after the Historic Preservation Restriction.

IN WITNESS WHEREOF the said Newton Community Development Authority has caused its seal to be hereto affixed and these presents to be signed in its name and behalf by Michael Kruse, its Sole Member, this 24th day of OCTOBER 2005.

NEWTON COMMUNITY DEVELOPMENT AUTHORITY

By: _____
Michael Kruse, Sole Member

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 24th day of OCTOBER, 2005, before me, the undersigned notary public, personally appeared Michael Kruse, as Sole Member of the Newton Community Development Authority and proved to me through satisfactory evidence of identification, which were PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily in such capacity for its stated purpose.

Barbara Resh
Notary Public
My commission expires:

