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## CITY OF NEWTON, MASSACHUSETTS

### Fair Housing Committee

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## MEETING AGENDA

Date: March 3, 2021

Time: 8:00 a.m.

Place: Virtual (Zoom)

**Zoom Online Meeting:** <https://us02web.zoom.us/j/83069144723>

- Fair Housing Committee, 8:00 a.m. <https://us02web.zoom.us/j/83069144723> or +16465588656,,83069144723#

The Fair Housing Committee will hold this meeting as a virtual meeting on Wednesday, February 3, 2021 at 8:00 am. No in-person meeting will take place at City Hall. To view and participate in this virtual meeting on your smartphone, download the “ZOOM Cloud Meetings” app in any app store or visit [www.zoom.us](http://www.zoom.us). At the above date and time, click on “Join a Meeting” and enter the following:  
**Meeting ID: 830 6914 4723.**

You may also join the meeting from your smartphone by dialing 1(646) 558-8656 and entering 83069144723# For audio only, call 1(646) 558-8656 and enter **Meeting ID: 830 6914 4723.**

To view and participate in this virtual meeting on your computer, at the above date and time, either copy the attached link into your browser or visit [www.zoom.us](http://www.zoom.us), click “Join a Meeting” and enter the following **Meeting ID: 830 6914 4723.**

- 1. Approval of January and February’s meeting minutes**
- 2. 1114 Beacon Street Developer Presentation**
- 3. 429 Cherry Street – Marketing and Lottery**
- 4. Fair Housing Month**
  - a. City Council Resolution/Mayoral Proclamation**
  - b. CPTC/Judy Barrett Training Module**
  - c. Panel of Experts**
  - d. Newton Fair Housing Award**

**e. Realtor Training**

**f. Other Ideas**

**5. Update on First Time Homebuyer Units**

- a. Chairperson's Note: The First Time Homebuyer Program will be on the Agenda for April 7, 2021**

**6. Zoning Redesign**

- a. Chairperson's Note: Brief discussion to decide whether the Committee wants to take up AI Recommendation to review and provide guidance on Zoning Redesign to Affirmatively Further Fair Housing**

**7. Other Business**

**8. Next meeting Wednesday, April 7, 2021**

\*Supplementary materials are available for public review in the Planning Department of City Hall (basement) the Friday before the meeting. For more information contact **Malcolm Lucas at 617.796.1149**. The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711

## **Affirmative Marketing Plan: The Eliot, 429 Cherry St., Newton, MA**

Metro West CD seeks to provide clear, accessible information regarding the sale of this affordable unit. Affirmative marketing efforts are intended to encourage maximum participation from low – moderate income households and members of the region’s traditionally underserved racial and ethnic communities. Metro West CD does not discriminate on the basis of race, color, religion, national origin, disability, familial status, sex, age, marital status, children, sexual orientation, genetic information, gender identify, ancestry, veteran/military status or membership.

Metro West CD will provide marketing, outreach and lottery administration services to inform the public about The Eliot, a 14-unit condominium, containing three deed-restricted unit. Occupancy is expected in January 2021.

### **The Applicants**

Purchaser of the affordable homes at The Eliot at 429 Cherry St. must be first-time homebuyers. First-time homebuyers are individuals who have not held an ownership interest in residential real estate for three years prior to purchasing the affordable home. All members of the household must be first-time homebuyers, except for the households described below.

First time homebuyer exception applies to:

- Displaced homeowners, where the displaced individual while a homemaker (an adult who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family), owned a home with his or her partner or resided in a home owned by the partner;
- Single parents, where the individual owned a home with his or her partner or resided in a home owned by the partner and is a single parent (is unmarried or legally separated from a spouse and either has one or more children of whom the individual has custody or joint custody, or is pregnant);
- Households where at least one household member is 55 or older;
- Households that owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; and
- Households that owned a property that was not in compliance with State, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.

The Affordable home will be developed pursuant to a Special Permit granted by the Newton City Council and is targeted to serve households earning 80% or less of the Area Median Income, adjusted for household size, for the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area as published by the U.S Department of Housing and Urban Development.

## The Units

All three units are 2-bedroom 2-bathroom units.

Unit	Sq. Feet	Price	Condo Fee	Income Limit
4	1,040	\$301,000	\$132	80% AMI
9	1,040	\$301,000	\$132	80% AMI
13	1,040	\$461,000	\$203	120% AMI

- Each unit includes two full baths, one garage parking space, a range oven, microwave, refrigerator, dishwasher, and washer/dryer hookups. Granite countertops.
- COA fees cover common area maintenance, snow removal, landscaping, master insurance, reserves, garage, elevator and management of building.

## Marketing Period

- The marketing period will be for 60 days. Eligible applicants whose completed pre-applications are received (or postmarked) before 5 p.m. on February xx, 2021 will be added to the Initial Applicant Pool.
  - Pre-applications may be emailed or mailed. However, the applicant is responsible for insuring its receipt by Metro West CD.
  - Applicants who submit incomplete pre-applications will be promptly notified in writing of the deficiencies of their pre-application. They may remedy the deficiencies but will not be placed in the Applicant Pool until the pre-application is complete.
  - Applicants deemed ineligible will be notified in writing and given 5 days to appeal the decision. They will remain in the Applicant Pool until the appeal process is complete.
- If there is more than one Eligible Applicant by that deadline, a lottery will be conducted.
- If there are no Eligible Applicants by the February xx, 2021 deadline, or if no one in the Initial Applicant Pool completes the purchase, then the property shall be offered to the first Eligible Purchaser who submits a completed application and is approved by Metro West CD as program eligible. This household will have 3 days to make an offer and have the unit under agreement.

## Marketing Activities

The plan covers a 60-day period – from December XX, 2020 through February XX, 2021. The plan consists of four main components:

- 1) Website Postings: The lottery and relevant information will be listed on the websites listed in the “Affirmative Marketing: Websites” chart.

- 2) Direct Mailings: The agencies listed in the “Affirmative Marketing: Organizations” chart on subsequent pages will receive notification of the unit availability and relevant information.
- 3) Public Information Session for Property will be virtual and accessible on Zoom on December XX, 2020 at 5:00 pm. Link: \_\_\_\_\_
- 4) Print Advertisements: The publications listed in the “Affirmative Marketing: Advertisements” chart on subsequent pages will advertise the unit.

All notices and advertising will include the U.S. Department of Housing and Urban Development’s logo, which represents the symbol for equal housing opportunity.

Pre-applications will be available at the Newton City Hall, on the Metro West CD website ([www.metrowestcd.org](http://www.metrowestcd.org)) and via mail by contacting the office of Metro West CD. The staff of Metro West CD are available to assist individuals in the completion of their application and are able to accommodate households with disabilities that may impede their ability to complete the application. Metro West CD staff can also arrange for assistance for households that have limited English proficiency. Applicants have the right to request a reasonable accommodation, which may include a change to a policy, procedure or practice to afford a person with a disability an equal opportunity to participate fully in the housing program or to use and enjoy the housing. Applicants may also be entitled to a reasonable modification(s) of the housing, when such modifications are necessary to afford a person with a disability an equal opportunity to use and enjoy the housing.

**Affirmative Marketing Timeline**

Metro West CD does not own this property. It is owned by a private entity. Metro West CD is facilitating the marketing process to insure state and local affordable housing restrictions. The purchase transaction will occur between the two individual parties (the seller and the buyer).

Advertising	<u>December X, 2020</u> through <u>February X, 2021</u>
Pre-Applications may be received.  All <b>COMPLETE</b> pre-applications who are deemed preliminarily eligible will be entered into the Initial Applicant Pool if received/postmarked by the January X, 2021, 5:00pm deadline.	<u>December X, 2020</u> until <u>February X, 2021</u> at 5:00 pm
Virtual Public Information Session	<u>December X, 2020, 5:00pm</u> Link:
Lottery-conducted if more than one Eligible Purchaser applies by the Initial Applicant Pool deadline via zoom	<u>February XX, 2021</u>  Time - TBD

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**Affirmative Marketing: Websites**

<b>Website</b>	<b>Organization</b>
MassAffordableHomes.org	Mass Affordable Housing Alliance
MassAccessHousingRegistry.org	Citizens Housing and Planning Association (CHAPA)
Boston.gov/metrolist	Boston MetroList
MetroWestCD.org	Metro West Collab. Dev.

**Affirmative Marketing: Local Organizations**

<b>Organizations</b>
Boston area organizations: List attached
Newton area organizations: List attached

**Affirmative Marketing: Paid Advertising**

<b>Media</b>	<b>Area Served</b>	<b>Demographic</b>
El Mundo	Greater Boston	Hispanic / Latino
BayState Banner	Greater Boston	African American
Sampan	Greater Boston	Chinese & Other Asian
Local Cable Access	Various	Mixed

### **Affirmative Marketing: Advertisements**

Advertisement notices in the listed publications will run at least two times during the 60-day marketing period.

### **Lottery Process & Unit Selection/Reservation:**

#### **Applications and the Lottery Pool**

- All applicants must submit a pre-application form that identifies their household make-up, housing needs, income and other general demographic information by the Application Deadline.
- Metro West CD staff can assist you if you need help completing the pre-application. For more information, contact \_\_\_\_\_ at: 617-923-3505 x\_\_\_\_ or \_\_\_\_\_
- All households who submit a complete pre-application by the Application Deadline and are deemed to be preliminarily eligible shall be entered into the Lottery Pool.
- Applicants have the right to request a reasonable accommodation(s), which may include a change to a rule, policy, procedure or practice to afford a person with a disability an equal opportunity to participate fully in the housing program or to use and enjoy the housing. Applicants may also be entitled to a reasonable modification(s) of the housing, when such modifications are necessary to afford a person with a disability an equal opportunity to use and enjoy the housing.
- Free language assistance is available to households with limited English proficiency.

#### **The Lottery**

- All applicants in the Lottery Pools are assigned a Lottery Number.
- The Lottery will be held in a public accessible place or via zoom at a convenient time for a majority of applicants.
- All Lottery Numbers will be drawn and assigned a Wait List Number in the order in which they were drawn.
- After the Lottery, the top households who are also the appropriate family size will have three (3) business days to provide all additional information required by Metro West CD to determine their program eligibility. (*see; Required Application Documentation section below*)
  - Failure to provide the requested information will result in the household becoming ineligible for the unit and they will be removed from the Wait List.
  - Households who do not respond to phone or mail inquiries or who do not respond to a request for additional information within the time frame provided shall be removed from the Wait List.
- Metro West CD will send the complete application to the Monitoring Agent for program certification. It is ultimately the Monitoring Agent who will determine if a household is eligible and can move forward to the next step of the process. Metro West CD goes through great lengths to ensure that files are complete when sent to the Monitoring Agent but if the Monitoring Agent needs any additional documentation to complete their eligibility review, they will notify Metro West CD and Metro West CD will notify the applicant. The applicant must submit any documentation requested by the Monitoring Agent within 3 business days. Applicants who do not provide additional documentation and applicants that the Monitoring Agent disqualifies will be removed from the Waiting List and lose their opportunity to move forward in this process. Once the Monitoring Agent has certified a

household as eligible, they will contact Metro West CD and Metro West CD will direct the household to the next step.

- If the unit is not filled from the top households from the Wait List, then MetroWest CD will proceed down the Wait List until the unit is filled.

This Applicant Selection Plan is subject to DHCD's review and approval.

### **Right to Appeal**

An applicant has the right to appeal the decisions of Metro West within 5 (five) business days from the date of the written notification. An applicant may (in person, in writing, or via a designee) appear before the Appeals Committee chaired by a member of the Board of Directors of Metro West CD, who is not involved in the day-to-day operation of the housing development. At least one member of the Appeals Committee will be a neutral party. At the hearing, the applicant or designee may present supporting information relevant to the reason for rejection. A final decision will be rendered by the Appeals Committee, in writing, within five business days from the date of the hearing.

An applicant concerned with discrimination against them may also contact the Mass Commission Against Discrimination (MCAD) at 617-727-3990 or the US Department of Housing and Urban Development (HUD) at 617-994-8300.

### **Affirmative Marketing Methods**

Metro West CD seeks to provide clear, accessible information regarding the sale of the affordable unit at 8 Greenleaf, Melrose. Affirmative marketing efforts are intended to encourage maximum participation from low – moderate income households and members of the region's traditionally underserved racial and ethnic communities. Metro West CD does not discriminate on the basis of race, color, religion, national origin, disability, familial status, sex, age, marital status, children, sexual orientation, genetic information, gender identify, ancestry, veteran/military status or membership.

### **Unit Selection & Reservation:**

Metro West CD will notify the top household on the Wait when they can move forward with the purchase of the available affordable unit. When a household is notified, they will be put "on the clock". When they are "on the clock", they will be given the contact information for Sales Office and they will have 3 business days to contact the Sales Office and complete a Reservation Agreement.

**When a household is at the top or near the top of a Waiting List (and is therefore about to be put "on the clock"), it is recommended that they obtain an attorney** who can assist with the review and execution of the Purchase and Sale Agreement.

The Reservation Agreement is a contract between the applicant and the developer which details the unit and the time and date when a Purchase and Sale Agreement must be



executed (*see next step*). **When a Reservation Agreement is signed, a refundable deposit of no more than \$250 is required.** The deposit is refundable if the buyer is unable to secure a mortgage for the unit. The date that a Purchase and Sale Agreement will be executed will be approximately 10 business days from the day the Reservation Agreement fully executed.

The next applicant on the list will then be notified that they are “on the clock” when 3 business days elapse and no reservation has been signed.

If an applicant fails to sign a Reservation Agreement, their Wait List Number will be placed at the bottom of the list. This applicant will not get a chance to sign a Reservation Agreement again until all other applicants on the Wait List are given a chance.

**Age Qualified Households, Displaced Homemaker and Single Parent Exception: Households who currently own a home when they applied for the lottery will need to provide a copy of a signed Purchase and Sale Agreement for their current home to Metro West CD **before** they will be approved to purchase. Applicants who were in the process of being separated/divorced when they applied for the lottery will need to provide a copy of their Divorce Decree or Separation Agreement **before** they will be approved to purchase. If the above households fail to provide the required documentation before reaching the top of a Wait List, they will not be put “on the clock” (meaning they will not be able to purchase a unit) and they will be dropped to the bottom of the Wait List.**

#### **Purchase Process:**

##### **Purchase & Sale Agreement**

Once a household signs a Reservation Agreement, they will have approximately 10 business days to sign a Purchase & Sale Agreement (P&S) and put down the required deposit. This deposit will be at least 3 % of the sales price minus any money deposited with the Reservation Agreement. The Purchase and Sale Agreement will have the actual closing date on it.

After the Reservation Agreement is signed, the Sales Team will give the applicant the Purchase & Sale Agreement, the Deed Rider (which should be attached to the P&S), and the Master Deed for your attorney’s review. You may also have the bank that is offering your mortgage commitment review these documents. If the applicant fails to sign the Purchase & Sale Agreement by the agreed upon date (or chooses not to sign it), they will be dropped from the Wait List and the next applicant in line will then be notified that they are “on the clock” to sign a Reservation Agreement.

##### **Obtain Mortgage Commitment**

Mortgage pre-approval does not ensure a mortgage commitment. Once a household has a signed Purchase & Sale Agreement, they will need to obtain a Mortgage Commitment. This process will begin immediately after signing the P&S. Households do not need to go back to

the same lender that gave them their pre-approval letter for their mortgage commitment, but it is recommended.

If a household fails to obtain a Mortgage Commitment by the mortgage contingency date in their Purchase & Sale Agreement, their deposit will be refunded, and they will be dropped from the Wait List. Please note that each lender will handle the Mortgage Commitment differently and this packet only serves as a guide through this process. Generally, the lender will want to see the Purchase & Sale Agreement, the Master Deed, the Condominium Documents, and the Deed Rider. They will also do an appraisal of the property once the property is ready to move into. Once the appraisal is complete, the household will be able to close on the home.

**Final Review for Program Eligibility:**

Before a household can close on their affordable unit, Metro West CD and the Monitoring Agent must do a final review of the household's financial and program eligibility, and the Monitoring Agent must prepare the Resale Price Certificate and Deed Rider that must be recorded at the closing. It is therefore essential that all households continue to maintain records of all income and assets until they close on their affordable unit **and continue to maintain program eligibility!**

One month prior to the closing date, households will need to complete a Final Review Application and submit all recent income and asset documentation to Metro West CD. Metro West CD will review the Final Review Application and determine if the household is still eligible according to affordable housing program guidelines. If a household is no longer eligible (over the allowable income or asset limits), the household will not be able to purchase an affordable unit.

Additionally, approximately 1 month prior to closing, households must submit a copy of the MORTGAGE COMMITMENT LETTER from the buyer's lender including interest rate, points, length of loan, and annual percentage rate.

Metro West CD will forward the final package of documentation to the Monitoring Agent 30 days prior to the closing date. They will review the P&S, Master Deed, updated financial documentation, and mortgage. They will then mail the Resale Price Certificate to the developer's closing attorney who will then complete the Deed Rider to record at the closing.

*Age Qualified Households, Displaced Homemakers and Exempt Single Parents* that are current homeowners will not be able to receive a Resale Price Certificate until they have sold their home. Once their home is sold, they will need to send their Closing Disclosure Form (formerly the HUD-1 form) (received at closing) to the Monitoring Agent along with all of the above documentation. The Monitoring Agent will then perform a final review of their eligibility to ensure that the household did not exceed the established limit of \$75,000 in net proceeds from the sale of their home. If the household remains asset eligible, and all the

above documentation is in order and meets program guidelines, the Monitoring Agent will issue a Resale Price Certificate.

**Closing and Moving In:**

The Purchase & Sale Agreement will set the Closing Date. If all the steps above are followed, the closing should go smoothly. Your lender and lawyer will be able to guide you with all the steps starting with the Reservation Agreement. Once you have closed on the unit, you may move in.

Additionally, once you have closed on the unit, there are NO future income or asset eligibility reviews, however there may be an annual recertification form required by your Monitoring Agent to confirm your residency and other program requirements.

**The Eliot at  
429 Cherry Street  
Newton, MA**

**Application Deadline: April 10, 2021, 5:00 pm**

429 Cherry Street is a new 3-story, 14-unit residential condominium development offering 3 deed-restricted below-market 2-bedroom, 2-bathroom units. The buyers will be selected through a lottery.

Unit	Sq. Feet	Price	Condo Fee	Income Limit
4	1,040	\$301,000	\$132	80% AMI
9	1,040	\$301,000	\$132	80% AMI
13	1,040	\$461,000	\$203	120% AMI

- Each unit includes two full baths, one parking space, a stove/oven, microwave, refrigerator, dishwasher, and washer/dryer hookups. Quartz countertops.
- COA fees cover common area maintenance, snow removal, landscaping, master insurance, reserves, garage, elevator and management of building.

**PLEASE NOTE:** All applicants must include a mortgage pre-approval letter, from an institutional lender familiar with affordable deed restrictions, with their pre-application. FHA loans will not be accepted. A pre-application will be considered incomplete, and will not be included in the lottery, if a mortgage pre-approval letter is not attached to it. Applicants who submit incomplete pre-applications may not be notified before the Application Deadline.

- A **Public Information Meeting** will be held on Wednesday, March 3, 2021 at 7:00pm via Zoom, to answer specific questions and provide an overview of the application process and purchase process. Link: contact stefanie@metrowestcd.org for details.
- Virtual tour and unit photos can be found at: <https://429cherry.com>.

Pre-applications must be emailed (*preferred*) or mailed (do not send signature required) to Metro West Collaborative Development, Inc. 79-B Chapel Street, Newton MA 02458 attn: Stefanie.

**All complete pre-applications must be received (by email) or postmarked (if mailed) on or before 5:00 p.m. on the Application Deadline date (April 10, 2021) to be included in the lottery.** Applying for the lottery does not obligate you to purchase a home. The lottery will be held via zoom, tentatively scheduled for April 18, 2021.

*Metro West Collaborative Development does not discriminate in the selection of applicants on the basis of race, color, national origin, disability, age, ancestry, children, familial status, genetic information, marital status, public assistance reciprocity, religion, sex, sexual orientation, gender identity, veteran/military status, or any other basis prohibited by law. Persons with disabilities are entitled to request a reasonable accommodation in rules, policies, practices, or services, or to request a reasonable modification in the housing, when such accommodations or modifications may be necessary to afford persons with disabilities an equal opportunity to use and enjoy the housing.*

## The Eliot – 429 Cherry St.

### AFFORDABLE HOME LOTTERY Eligibility & Lottery Information

Since it is anticipated that there will be more than one interested and eligible applicant, the Developer will be conducting a lottery to order the eligible purchasers.

The affordable unit will have a “Deed Rider” that will be filed with the deed at the time of purchase. This Deed Rider limits the amount for which the unit can be resold in the future and requires resale to another income-eligible buyer. The Deed Rider ensures that the unit stays affordable in perpetuity. We recommend that potential buyers review the Deed Rider with an attorney as it is a legally binding document. For more information on the Deed Rider and resale restrictions please see the Deed Rider Summary at the end of this Information Packet.

### **General Eligibility Requirements:**

#### **Income Limits:**

Total Household income (which means the total before-taxes income of the applicant and all other members of the household over the age of 18) must not exceed the following limits:

<b>Household Size</b>	<b>1-Person</b>	<b>2-Person</b>	<b>3-Person</b>	<b>4-Person</b>	<b>5-Person</b>
<b>80% Income Limit</b>	\$67,400	\$77,000	\$86,650	\$96,250	\$103,950
<b>120% Income Limit</b>	\$99,960	\$114,240	\$128,520	\$142,800	\$154,224

Household income will be verified based on information contained in pay stubs (or equivalent documents), benefit statements, IRS documents, etc. ***Certain income information is required with this pre-application (see pre-application).***

#### **Asset Limit:**

The value of all household financial assets (cash, savings and checking accounts, stocks and bonds, cash value of retirement accounts, cash value of whole life insurance, proceeds of a home to be sold (if permitted), funds used for down payment, etc.) cannot exceed program guidelines.

#### **First Time Homebuyer:**

This opportunity is only available to first-time homebuyers and households that have not owned a home in the previous three years. The following exceptions to this rule apply:

- Displaced homemakers – An adult who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family, and during this time owned a home with his/her partner or resided in a home owned by the partner;
- Single parents – where the individual owned a home with his/her partner or resided in a home owned by the partner and is a single parent (unmarried or legally separated from a spouse and either has one or more children of whom the individual has custody or joint custody or is pregnant);

- Household where at least one member is 55 years old or over;
- Household that owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations;
- Household that owned a property that was not in compliance with State, local, or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.

### **Household Size Preference:**

Preference for these 2-bedroom units will be given to households that require 2 bedrooms. Bedroom requirement determination based on: a) at least one occupant per bedroom, and b) spouses, or those living in a similar arrangement, shall share a bedroom (unless doing so would result in a severe adverse impact on their mental or physical health and reliable, substantiating medical documentation is provided). Household size shall not exceed state sanitary code requirements for occupancy of a unit.

### **Mortgage Requirements:**

Immediately after reading this entire Information Packet, all households should apply for mortgage pre-approval. ***Mortgage pre-approval is required with this pre-application.*** Households can apply with any lender, but the pre-approval must meet the following standards:

- Loan **must** be from bank or mortgage company that is ***familiar with affordable deed restrictions*** (internet-only companies are not acceptable) - notify your lender that the unit is subject to an affordable housing restriction;
- Loan must be at a fixed-interest rate that is equal to the current fair market interest rate (no more than 2 percentage points above the average from *Freddie Mac Mortgage Market Survey*) for the full term of the mortgage;
- Loan cannot have more than two points;
- Down-payment must be at least 3%, at least half of which (1.5%) must come from applicant's own funds;
- Non-household members are not permitted as co-signers of the mortgage.

Gifts may be used towards the down-payment; however, at least half of the 3% required for the down-payment must come from the purchaser's own funds and down-payment gifts are included in the asset limit calculation.

**We strongly encourage households to apply through banks who are aware of the resale restrictions and guidelines for affordable housing programs. These banks will likely be aware of additional first-time homebuyer programs that may be of great assistance, such as the Massachusetts Housing Partnership's ONE Mortgage.** You can find lenders who are familiar with the process and the mortgage requirements at: [www.mhp.net/one-mortgage#find-lender](http://www.mhp.net/one-mortgage#find-lender).

Households should notify their lender that the unit is subject to an affordable deed restriction or "Deed Rider." ***All lenders will be made aware of the resale restrictions regardless of whether you tell them up-front or not.*** The Deed Rider is a document that will be signed at the closing. Therefore, it is in a household's best interest to alert lenders that the unit is deed restricted when applying for a mortgage. Otherwise, they may find a lender who grants pre-approval but backs out at the time of purchase once they are made aware of the resale restrictions, thus eliminating the opportunity to obtain an affordable unit.

### **Other Program Requirements:**

- Unit must be the principal residence of the owners and cannot be rented or leased.

- A mortgage pre-approval letter, from a bank experienced with deed restricted properties, is required to participate in this lottery. Buyers may not pay the full amount in cash for the unit.
- Household members, or their families, cannot have a financial interest in, or be considered a \*Related Party to, the development. (*\*as defined in the current DHCD M.G.L. c.40B Guidelines*)

## **Lottery Process & Unit Selection/Reservation:**

### **Lottery Process:**

#### **Applications and the Lottery Pool**

- All applicants must submit a pre-application form that identifies their household make-up, housing needs, income and other general demographic information by the Application Deadline.
- Metro West CD staff can assist those who need help completing the pre-application. Contact Stefanie Petersen for more information at: 617-923-3505 x9 or stefanie@metrowestcd.org.
- All households who submit a complete pre-application by the Application Deadline and are deemed to be preliminarily eligible shall be entered into one or more Lottery Pools.
- Applicants have the right to request a reasonable accommodation(s), which may include a change to a rule, policy, procedure or practice to afford a person with a disability an equal opportunity to participate fully in the housing program or to use and enjoy the housing. Applicants may also be entitled to a reasonable modification(s) of the housing, when such modifications are necessary to afford a person with a disability an equal opportunity to use and enjoy the housing.
- Free language assistance is available to households with limited English proficiency.

#### **The Lottery**

- All applicants are assigned a Lottery Number.
- The Lottery will be held in a public accessible place or via zoom at a convenient time for a majority of applicants.
- there will be two Lottery Pools: Local Preference and General
- All Lottery Numbers will be drawn from each pool and assigned a Wait List Number in the order in which they were drawn.
- After the Lottery, the top households who are also the appropriate family size will have four (4) business days to provide all additional information required by Metro West CD to determine their program eligibility. (*see; Required Application Documentation section below*)
  - Failure to provide the requested information will result in the household becoming ineligible for the unit and they will be removed from the Wait List.
  - Households who do not respond to phone or mail inquiries or who do not respond to a request for additional information within the time frame provided shall be removed from the Wait List.
- Metro West CD will send the complete application to the Monitoring Agent for program certification. It is ultimately the Monitoring Agent who will determine if a household is eligible and can move forward to the next step of the process. Metro West CD goes to great lengths to ensure that files are complete when sent to the Monitoring Agent but if the Monitoring Agent needs any additional documentation to complete their eligibility review, they will notify Metro West CD and Metro West CD will notify the applicant. The applicant must submit any documentation requested by the Monitoring Agent within 3 business days. Applicants who do not provide additional documentation and applicants that the Monitoring Agent disqualifies will be removed from the Waiting List and lose their opportunity to move forward in this process. Once the Monitoring Agent has certified a household as eligible, they will contact Metro West CD and Metro West CD will direct the household to the next step.

- If a unit is not filled from the top household from the Wait List, then MetroWest CD will proceed down the Wait List until the unit is filled.

This Applicant Selection Plan is subject to DHCD's review and approval.

**Local Preference**

To be eligible for Local Preference Pool applicants must meet one of the following criteria:

- 1) Current residents of Newton
- 2) Newton municipal employees
- 3) Employees of local Newton businesses
- 4) Households with children attending Newton schools

The Local Preference Pool will be governed by the Town's local preference policy and no more than 70% of the units may go to the local preference categories. The Eliot at 429 Cherry St., Newton will have the following Local Preference Unit:

Unit	Sq. Feet	Price	Condo Fee	Income Limit
4	1,040	\$301,000	\$132	80% AMI

All applicants will be entered into the lottery's general pool. Applicants who meet the definition of "local preference applicants" will also be entered into the lottery's local preference pool. If the Local Preference pool has fewer than 27% minority applicants, minority applicants from the General Selection Pool will also be placed into the Local Preference Pool (via a pre-lottery), until it reaches 27%. The minority percentage will be updated over time as demographic information changes (i.e., release of new Census data).

If there is no local preference household that needs the number of bedrooms of the unit available, or is unable to execute the purchase, then the unit will be filled from the General Selection Pool.

**Right to Appeal**

An applicant has the right to appeal the decisions of Metro West within 5 (five) business days from the date of the written notification. An applicant may (in person, in writing, or via a designee) appear before the Appeals Committee chaired by a member of the Board of Directors of Metro West CD, who is not involved in the day-to-day operation of the housing development. At least one member of the Appeals Committee will be a neutral party. At the hearing, the applicant or designee may present supporting information relevant to the reason for rejection. A final decision will be rendered by the Appeals Committee, in writing, within five business days from the date of the hearing.

An applicant concerned with discrimination against them may also contact the Mass Commission Against Discrimination (MCAD) at 617-727-3990 or the US Department of Housing and Urban Development (HUD) at 617-994-8300.

**Affirmative Marketing Methods**

Metro West CD seeks to provide clear, accessible information regarding the sale of affordable units at 429 Cherry St, Newton. Affirmative marketing efforts are intended to encourage maximum participation from low – moderate income households and members of the region's traditionally underserved racial and ethnic communities. Metro West CD does not discriminate on the basis of race, color, religion, national origin, disability, familial status, sex, age, marital status, children, sexual orientation, genetic information, gender identify, ancestry, veteran/military status or membership. (see, *Affirmative Fair Housing Marketing Plan*).



Translators can be provided if necessary.

### **Unit Selection & Reservation/Offer:**

Metro West CD will notify the top household on the Waitlist when they can move forward with the purchase of the available affordable unit. When a household is notified, they will be put “on the clock”. When they are “on the clock”, they will be given the contact information for Sales Office and they will have 3 business days to contact the Sales Office and complete a Reservation Agreement/Offer.

**When a household is at the top or near the top of a Waiting List (and is therefore about to be put “on the clock”), it is recommended that they obtain an attorney** who can assist with the review and execution of the Purchase and Sale Agreement.

The Reservation Agreement/Offer is a contract between the applicant and the developer which details the unit and the time and date when a Purchase and Sale Agreement must be executed (*see next step*). **When a Reservation Agreement/Offer is signed, a refundable deposit of no more than \$250 is required.** The deposit is refundable if the buyer is unable to secure a mortgage for the unit. The date that a Purchase and Sale Agreement will be executed will be approximately 10 business days from the day the Reservation Agreement/Offer is fully executed.

If 3 business days elapse and no reservation/offer has been signed, the next applicant on the waitlist will be notified that they are “on the clock.”

If an applicant fails to sign a Reservation Agreement/Offer, their Wait List Number will be placed at the bottom of the list. This applicant will not get a chance to sign a Reservation Agreement/Offer again until all other applicants on the Wait List are given a chance.

**Age Qualified Households, Displaced Homemaker and Single Parent Exception:** Households who **currently own a home when they applied for the lottery** will need to provide a copy of a signed Purchase and Sale Agreement for their current home to Metro West CD **before** they will be approved to purchase. **Applicants who were in the process of being separated/divorced when they applied for the lottery** will need to provide a copy of their Divorce Decree or Separation Agreement **before** they will be approved to purchase. If the above households fail to provide the required documentation before reaching the top of a Wait List, they will not be put “on the clock” (meaning they will not be able to purchase a unit) and they will be dropped to the bottom of the Wait List.

### **Purchase Process:**

#### **Purchase & Sale Agreement**

Once a household signs a Reservation Agreement/Offer, they will have approximately 10 business days to sign a Purchase & Sale Agreement (P&S) and put down the required deposit. This deposit will be at least 3% of the sales price minus any money deposited with the Reservation Agreement/Offer. The Purchase and Sale Agreement will have the actual closing date on it.

After the Reservation Agreement/Offer is signed, the Sales Team will give the applicant the Purchase & Sale Agreement, the Deed Rider (which should be attached to the P&S), and the Master Deed for your attorney’s review. You may also have the bank that is offering your mortgage commitment review these documents. If the applicant fails to sign the Purchase & Sale Agreement by the agreed upon date (or chooses not to sign it), they will be dropped from the Wait List and the next applicant in line will then be notified that they are “on the clock” to sign a Reservation Agreement/Offer.

### **Obtain Mortgage Commitment**

Mortgage pre-approval does not ensure a mortgage commitment. Once a household has a signed Purchase & Sale Agreement, they will need to obtain a Mortgage Commitment. This process will begin immediately after signing the P&S. Households do not need to go back to the same lender that gave them their pre-approval letter for their mortgage commitment, but it is recommended. If a household fails to obtain a Mortgage Commitment by the mortgage contingency date in their Purchase & Sale Agreement, their deposit will be refunded, and they will be dropped from the Wait List. Please note that each lender will handle the Mortgage Commitment differently and this packet only serves as a guide through this process. Generally, the lender will want to see the Purchase & Sale Agreement, the Master Deed, the Condominium Documents, and the Deed Rider. They will also do an appraisal of the property once the property is ready to move into. Once the appraisal is complete, the household will be able to close on the home.

### **Final Review for Program Eligibility:**

Before a household can close on their affordable unit, Metro West CD and the Monitoring Agent must do a final review of the household's financial and program eligibility, and the Monitoring Agent must prepare the Resale Price Certificate and Deed Rider that must be recorded at the closing. It is therefore essential that all households continue to maintain records of all income and assets until they close on their affordable unit **and continue to maintain program eligibility!**

One month prior to the closing date, households will need to complete a Final Review Application and submit all recent income and asset documentation to Metro West CD. Metro West CD will review the Final Review Application and determine if the household is still eligible according to affordable housing program guidelines. If a household is no longer eligible (over the allowable income or asset limits), the household will not be able to purchase an affordable unit.

Additionally, approximately 1 month prior to closing, households must submit a copy of the MORTGAGE COMMITMENT LETTER from the buyer's lender including interest rate, points, length of loan, and annual percentage rate.

Metro West CD will forward the final package of documentation to the Monitoring Agent 30 days prior to the closing date. They will review the P&S, Master Deed, updated financial documentation, and mortgage. They will then mail the Resale Price Certificate to the developer's closing attorney who will then complete the Deed Rider to record at the closing.

*Age Qualified Households, Displaced Homemakers and Exempt Single Parents* that are current homeowners will not be able to receive a Resale Price Certificate until they have sold their home. Once their home is sold, they will need to send their Closing Disclosure Form (formerly the HUD-1 form) (received at closing) to the Monitoring Agent along with all of the above documentation. The Monitoring Agent will then perform a final review of their eligibility to ensure that the household did not exceed the established limit for net proceeds from the sale of their home. If the household remains asset eligible, and all the above documentation is in order and meets program guidelines, the Monitoring Agent will issue a Resale Price Certificate.

### **Closing and Moving In:**

The Purchase & Sale Agreement will set the Closing Date. If all the steps above are followed, the closing should go smoothly. Your lender and lawyer will be able to guide you with all the steps starting with the Reservation Agreement. Once you have closed on the unit, you may move in.

Additionally, once you have closed on the unit, there are NO future income or asset eligibility reviews, however the Monitoring Agent may seek a verification of occupancy annually.

**After the lottery,** If you are chosen through the lottery process, you will be notified and you must submit a **COMPLETE FINAL APPLICATION** with **ALL** required information for you and each member of your household including copies of **ALL** the required supporting documents **by 3:00 pm on the 4<sup>th</sup> business day following such notification.** **Therefore,** start gathering the necessary documentation now so if you are chosen in the lottery process, you will be able to provide the documents in a timely manner.

Your final application will be reviewed for eligibility to purchase and (if approved) you will have the opportunity to purchase the unit. If you are asked for additional information, you must provide it within 3 business days of the request.

**\*\* IF AN APPLICANT DOES NOT PROVIDE ALL REQUIRED DOCUMENTATION IN THE TIMEFRAME REQUIRED, THAT APPLICANT WILL BE DROPPED TO THE BOTTOM OF THE WAIT LIST. \*\***

**Required documentation includes:**

- **Income Documentation** for all household members age 18 and over
  - 5 most recent paystubs, regardless of duration of pay period
  - Current documentation of self-employment income, including Profit & Loss statement. (includes contract employees and workers in the “gig economy” e.g. Uber, Lyft, etc.)
  - Current documentation of all other income (including Social Security, disability income, alimony, child support, unemployment benefits, Veteran’s benefits, family support, etc.)
  - “No Income Verification” affidavit for all members who are 18 years or older who have no source of income
- **Bank Account information** for all household members age 18 and over
  - 3 most recent complete statements for every savings and checking account
  - 3 most recent statements for any business accounts
- **Asset account information** for all household members age 18 and over
  - Most recent statement for all other asset accounts (including retirement, pension, IRA, 401K, CD, Stocks & Bonds, Investments, etc.)
  - Gift letter for any gift received toward downpayment
- **Federal Income Tax Returns** for all household members age 18 and over
  - COMPLETE copies of the three most recent federal tax returns (2016, 2017, 2018), including ALL schedules, W2s and 1099s.
  - If a household member age 18 or over is/was not required to file, you MUST obtain an IRS Verification of Non-Filing Letter (request online or use paper IRS Form 4505-T) for each year they did not file.

**Deed Rider Summary/Property Restrictions:**

**This is not the Deed Rider. The actual Deed Rider will be prepared by the Monitoring Agent and the Closing Attorney and provided on the day of each home closing.** (A copy of the sample Deed Rider is available here: [https://www.mass.gov/files/documents/2017/10/16/lipdeedrider\\_0.pdf](https://www.mass.gov/files/documents/2017/10/16/lipdeedrider_0.pdf))

The purpose of this *summary* is intended to be informational only and it is not a substitute for independent legal advice. It is intended to highlight some of the obligations a purchaser will have upon resale. You are applying for the opportunity to purchase a home at substantially less than the property’s fair market value (the “affordable price”), and if you do purchase one of these affordable units, you will be required to sign an Affordable Housing Deed Rider. The Deed Rider is an especially important legal document because it ensures that the home remains affordable for future buyers of your property, and affordable in perpetuity. Purchasers are encouraged to read the Deed Rider carefully and to seek legal counsel to have a full understanding of their obligations under it. All the deeds for the homes designated as affordable will have a deed rider, which each purchaser will be required to sign.

Below is a summary of some of the significant deed restriction provisions:

**PRINCIPAL RESIDENCE**

You must occupy the home as your principal residence, where you regularly live, eat, sleep, are registered to vote, etc. You may not rent or lease your home.

**REFINANCING**

You may not refinance your home without the prior written consent from the Monitoring Agent and the Town.

**CAPITAL IMPROVEMENTS**

In order to be considered and added to the resale price, capital improvements must be pre-approved by the Monitoring Agent. Capital improvements are defined as necessary maintenance improvements, not covered by a condominium or homeowner association fee, that if not done would compromise the structural integrity of the property. Examples of necessary capital improvements include new roof, heating or plumbing replacement, repair due to termite or water damage, etc. Improvements such as the installation of outdoor decks, flooring (except in cases of replacement due to damage or long-term wear), additions, garages, landscaping, and other items identified by the owner that are upgraded or luxury improvements will not be considered capital improvements and cannot be added to the resale price when the property is sold.

**NOTICES WHEN SELLING YOUR HOME**

When you wish to sell your home, you must notify the Town and the Monitoring Agent. This notice is referred to as the “Conveyance Notice” in the Deed Rider. The Monitoring Agent will then calculate the Resale Price Multiplier (see below) and the Maximum Resale Price.

**MAXIMUM RESELL PRICE**

The Maximum Resale Price is limited by the percentage change in the Area Median Income (AMI), with adjustments for pre-approved capital improvements, marketing costs, and the Resale Fee, **where inclusion of such expenses would not result in the Maximum Resale Price exceeding 30% of the annual income for an appropriately-sized household earning 70% of the Area Median Income.**

***As an example only:***

The maximum resale price is calculated assuming a base number (most recent published Area Median Income as determined by HUD).

Assume at the time of initial sale the AMI is **\$ 95,500 (A)** and the initial sales price is **\$ 200,000 (B)** the Resale Price Multiplier would equal **B/A = (C) = 2.094**.

Upon resale, assuming the base number has increased to **\$ 99,300 (D)**.

**The Maximum Resale price (E) would then be:**

**Base number (D) x Resale Price Multiplier (C) = \$99,300 x 2.094 = \$207,934 (E)**

If there have been pre-approved capital improvements (ex. new roof, **\$5,000**), the Maximum Resale Price would be: (E) + Approved Capital Improvements = \$207,934 + \$5,000 = \$212,934

Please note that the Deed Rider requires that the Maximum Resale Price must still be affordable (cannot exceed 30% of the annual income for an appropriately sized household earning 70% of AMI).

**RESELL PROCESS**

Once the Town and Monitoring Agent receive the notice to sell, the Monitoring Agent will attempt to find an Eligible Purchaser (a homebuyer whose income is at 80% of the Base Area Median Income and who meets the asset limit) within 90 days. The Town or Monitoring Agent can also decide within those 90 days to purchase the home.

If an Eligible Purchaser is found within the 90-day period, a Compliance Certificate will be issued to the new purchaser. The certificate states that the sale complies with the Deed Rider.

If an Eligible Purchaser is found within 90 days, but that buyer cannot obtain financing or is otherwise unable to purchase the home, the sale timeframe can be extended additional 60 days.

If 120 days pass from the date of the Conveyance Notice, and an Eligible Purchaser cannot be found, and neither the Town nor Monitoring Agent wants to purchase the home, the home may be sold for the Maximum Resale Price to an Ineligible Buyer at the Maximum Resale Price, who will also have to sign a Deed Rider, ensuring the home will still be subject to all the same rights and conditions.

# **Begin Pre-application Here**



**DEADLINE: April 10, 2021  
5:00pm**

## Initial Eligibility PRE-APPLICATION

The Eliot at 429 Cherry St. Newton, MA

### PLEASE PRINT CLEARLY

#### Household Information

Applicant's Name \_\_\_\_\_

Co-Applicant's Name \_\_\_\_\_

Street Address \_\_\_\_\_

City/Town \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Language preference (if other than English): \_\_\_\_\_

I qualify for local preference  No  Yes, see final page of this application for further instruction

#### Housing Information

Do you currently  Rent  Own  Other (Please specify): \_\_\_\_\_

#### Household Composition

List all persons **who will be moving with you** in the table below:

Name	Relationship to head of household (spouse, child, aunt, etc.)	Date of birth
	SELF	

TOTAL number of people moving in if selected (including yourself): \_\_\_\_\_



Does any member of your household require a reasonable accommodation or modification based on a disability?  
**If yes, please explain (responding to this question is optional):**

\_\_\_\_\_

Has any member of the household owned a home or had a joint interest in a home/real estate in the past three years? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, please explain: \_\_\_\_\_

### **Mortgage Pre-Approval Information**

You must include a copy of your mortgage pre-approval letter with your application; the loan must meet the criteria listed on page 3 of the information packet that accompanied this Pre-Application.

Pre-Approval Amount: \$ \_\_\_\_\_

Downpayment Amount: \$ \_\_\_\_\_ (a downpayment of at least 3% is required)

**GIFTS** may be used towards downpayment; however, at least 1.5% of the purchase price must come from the purchaser's own funds

Will any portion of your downpayment come from a gift? \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, Gift amount: \$ \_\_\_\_\_ Source of gift (i.e. parent, friend, etc.): \_\_\_\_\_

#### **\*\*Please initial here:**

\_\_\_\_\_ I have attached my mortgage pre-approval letter to this application

### **Income Information**

Please state your household's gross annual income: \$ \_\_\_\_\_ (BEFORE TAXES)

Income includes all salary, self-employment, social security income, pension income, disability income, unemployment income, child support income, alimony income and other recurring income from any and all sources and from all members of your household 18 years or older. **Note: Maximum income limits apply. Please refer to page 2 of the information packet before submitting your application to make sure you qualify.**

#### **Proof of income required to be included with this pre-application:**

1. Most recent paystub or other verification of salary/income and/or benefit statement(s) for each member of the household 18 years or over.
2. 2019 federal tax return for each member of the household 18 years or over.

#### **\*\*Please initial here:**

\_\_\_\_\_ I have attached the most recent paystub or other verification of salary/income and/or benefit statement(s) for each member of the household 18 years or older to this application.

\_\_\_\_\_ I have attached the 2019 federal tax return for each member of the household 18 years or older to this application.

### **Asset Information**

Please state your household's gross amount of financial assets: \$ \_\_\_\_\_

Assets include all household financial assets, including: cash, savings and checking accounts, stocks and bonds, retirement accounts (pension, 401K, etc.) and any other forms of capital investment. DO NOT include the value of personal property such as furniture and automobiles. DO include equity in a home to be sold.

**Race/ Ethnicity (optional)**

Do you or any member of your household classify yourself as any of the following? (This may include more than one group).

- Asian/Native Hawaiian/Pacific Islander
- Black/African-/Caribbean-American
- Latino/a
- Native American
- White/Caucasian
- Another Race or Ethnicity (please specify): \_\_\_\_\_

**Certifications (To be signed by every household member age 18 and older)**

1. I/We certify that all information provided in this application is true and complete to the best of my/our knowledge.
2. I/We understand that any false statement, made knowingly and willfully, will be sufficient cause for rejection of my/our application, or for legal action against ownership once acquired.
3. I/We understand that this is an application for a lottery and does not guarantee the opportunity to purchase the unit.
4. I/We understand that any material change in the income or assets of my household that occurs after the submission of this application may make me ineligible to move forward with the purchase and I must report any changes immediately.
5. I/We understand that mortgage co-signors are not permitted unless they will reside in the unit.
6. I/We understand that the property will be subject to an affordable housing covenant that restricts its use, requires the purchaser to maintain the property as their primary residence, limits its resale price, and restricts property transfers to income-eligible purchasers (*exception: surviving spouse's principal residence*) when I/we sell the unit.
7. The undersigned give consent to Metro West CD to verify the information provided in the application.
8. I/We certify that my/our household meets the definition of a first-time homebuyer and I/we do not own a home OR have documented eligibility based on one of the listed exceptions.
9. I/We certify that our household income is within the established program income limits.
10. I/We certify that our household does not have assets in excess of program limits.

Applicant's Name \_\_\_\_\_ Date \_\_\_\_\_

Co-Applicant's or Household Member's Name \_\_\_\_\_ Date \_\_\_\_\_

Co-Applicant's or Household Member's Name \_\_\_\_\_ Date \_\_\_\_\_

**CONTINUED ON NEXT PAGE**

*If you have any questions about the application process, please contact Stefanie Petersen at Metro West Collaborative Development: stefanie@metrowestcd.org (best way to reach), or 617-923-3505 ext 9 (voicemail). Due to COVID, our offices are closed. Voicemails will be checked regularly and returned as timely as possible.*

**Email or Mail to:** stefanie@metrowestcd.org  
**(email is preferred)**

Metro West CD  
Attn: Stefanie  
79-B Chapel Street  
Newton, MA 02458  
DO NOT send with signature required

Please note, it is the applicant's sole responsibility to make sure that pre-applications are received. Pre-Applications which are not received, or not received by deadlines, whether due to technical or human error on part of the applicant (including those left at the office when no one was there or those that require a signature from someone in our office for delivery), Metro West CD, or U.S. Postal Service, will not be given consideration.

### **LOCAL PREFERENCE ADDENDUM**

I certify that my/our household qualifies for the Local Preference under the following eligibility criteria:

- Current residents of Newton (attach first page of lease or utility bill)
- Newton municipal employees
- Employees of local Newton businesses
- Households with children attending Newton schools (attach enrollment form or other letter from school)

## Recommendations: 2020-2025<sup>9</sup>

STRATEGY AND ACTIONS	TIMEFRAME	DIFFICULTY	RESPONSIBLE PARTIES
<p>Each community in the Consortium will make a public commitment and develop and distribute information and educational resource/outreach materials to increase knowledge about fair housing. All materials shall be universally available (accessible to people with Limited English Proficiency and people with disabilities).</p> <ul style="list-style-type: none"> <li>The WestMetro HOME Consortium will sponsor an annual fair housing training by the Citizen Planner Training Collaborative (CPTC) for municipal boards, commissions, and staff from all 13 Consortium communities, together with their non-profit partners, to educate them about the Federal Fair Housing Act and its application to land use policy and locally funded or initiated housing projects. Make resources available in an electronic format (e.g., webinars and website content) whenever possible.<sup>10</sup> See Appendix C for inventory of municipal boards, commissions, and staff and non-profit partners.</li> </ul>	Annual	Low May require funding	WMHC Staff
<ul style="list-style-type: none"> <li>Hold an annual fair housing conference or “panel of experts” event in April to keep the subject of fair housing visible to the community.</li> </ul>	Every 2 years (Fair Housing Month)	Medium	WMHC Staff

<sup>9</sup> This plan does not include an accompanying funding plan and it is assumed that the costs of implementing this plan will be from the HOME Consortium’s administrative funds and other program areas.

<sup>10</sup> CPTC has developed a Fair Housing course as part of its new, updated statewide curriculum. The Consortium can request the course for its membership through the “course on demand” option offered by CPTC.

STRATEGY AND ACTIONS	TIMEFRAME	DIFFICULTY	RESPONSIBLE PARTIES
<ul style="list-style-type: none"> <li>Develop a series of fair housing public service announcements for distribution to local cable access channels.</li> </ul>	2 x year (spring, fall)	Medium – High (depending on community)	
<ul style="list-style-type: none"> <li>Provide information on fair housing responsibilities to first-time landlords, small property owners, realtors, and public and private housing developers. Additionally, disseminate materials in collaboration with local and regional media including community access television, local print and digital media platforms, and local officials’ outreach channels. Make resources visible and readily available in municipal offices and other public spaces.</li> </ul>	Annually (April, Fair Housing Month)	Medium Requires funding	WMHC Staff
<b>Identify and address discriminatory actions in the private real estate market</b>			
<ul style="list-style-type: none"> <li>Budget resources for fair housing testing and engage the Fair Housing Center of Massachusetts or another qualified organization to conduct testing in each Consortium community and other interested communities in the MetroWest/Route 2 region. Plan an on-going testing program throughout the 5-year plan period to allow for statistically significant data.</li> </ul>	5-Year Testing Program (to coincide with the 5-year plan schedule)	High Requires funding	Third-Party Testing Agency WMHC Staff
<ul style="list-style-type: none"> <li>Hold an executive presentation to the Select Board or City Councils of the 13 WestMetro HOME Consortium communities. Additionally, hold a public education forum to present testing results to the public, recognizing that many people do not understand fair housing laws, or they believe discrimination does not happen in their town. (The latter could be done as part of the “annual fair housing conference” referenced above.)</li> </ul>	At the conclusion of the 5-year testing program	Medium	Third-Party Testing Agency WMHC Staff
<ul style="list-style-type: none"> <li>Work with local/regional realtor® and property associations to offer training that specifically addresses top issues reported in fair housing complaints reported and filed with FHCG, MCAD, and</li> </ul>	Every 2 Years (April, Fair Housing Month)	High May require \$\$	Third Party Consultant WMHC Staff

STRATEGY AND ACTIONS	TIMEFRAME	DIFFICULTY	RESPONSIBLE PARTIES
FHEO, as well as those identified through the five-year testing program.			
<b>Increase the Consortium’s capacity to affirmatively further fair housing.</b>			
<ul style="list-style-type: none"> <li>The Consortium staff will include the implementation of this plan on its quarterly meeting agendas.</li> </ul>	Quarterly	Low	WMHC Staff
<ul style="list-style-type: none"> <li>The Consortium will hold an annual meeting about fair housing planning and policy and the status of implementing this Plan.</li> </ul>	Annual	Low	WMHC Staff
<ul style="list-style-type: none"> <li>As a condition of subgrantee agreements with the Consortium, each community will establish written processes detailing which local boards or committees are responsible for the intake process for fair housing complaints, and the subsequent referral to MCAD. These processes shall be published on the individual municipality websites.</li> </ul>	Annual	Low	WMHC Staff
<ul style="list-style-type: none"> <li>Identify and publicize a list of Fair Housing Officers and/or Fair Housing Committees in each participating community and the organizational contacts who can be notified about issues or questions related to fair housing.</li> </ul>	Annual	Low	WMHC Staff
<ul style="list-style-type: none"> <li>The Consortium will re-evaluate its criteria for review of housing proposals seeking funds as part of its annual competitive process to ensure that fair housing needs are met.</li> </ul>	Annual	Low	WMHC Staff
<b>Each community will adopt policies and practices to support safe, diverse, affordable, accessible, and integrated housing</b>			
<ul style="list-style-type: none"> <li>Review zoning ordinances, bylaws, and practices to identify provisions that may encourage, unintentionally, discriminatory practices in permitting residential uses, e.g., requiring fiscal impact studies or excessive parking for multi-bedroom units, or age-restricted housing definitions that prohibit occupancy by people</li> </ul>	Ongoing (throughout 5-year period)	High May require \$\$	WMHC Staff, other municipal staff, local boards, and commissions

STRATEGY AND ACTIONS	TIMEFRAME	DIFFICULTY	RESPONSIBLE PARTIES
<p>under 18. The communities will identify ways to reduce the barriers they have imposed on multifamily residential development.</p>			Third Party Consultant
<ul style="list-style-type: none"> <li>Each community that utilizes Local Preference will assess its impacts on affirmatively furthering fair housing in that community. Elements to be assessed include, but not limited to, lowering the Local Preference percentage and defining “local” to include any resident of the 13-community Consortium. The Consortium may consider working with a consultant to define a framework for this assessment.</li> </ul>			
<ul style="list-style-type: none"> <li>Unless a community has already done so, each community will study, on its own or through a subregional compact, options to reduce or eliminate single-family zoning by allowing two-family dwellings (at minimum) in all residential districts.</li> </ul>	Throughout the 5-year plan period	High May require \$\$	WMHC Staff, other municipal staff, local boards, and commissions Third Party Consultant
<ul style="list-style-type: none"> <li>The Consortium and its individual members will assess the language access needs of people with Limited English Proficiency and disabilities, as well as its compliance with federal language requirements as it relates to housing activities across the Consortium, and develop and implement strategies to address those needs to ensure equal access to fair housing and other civil rights information. The Consortium will explore strategies for pooling resources to improve language access and accessibility for its housing programs.</li> </ul>	Years 1 and 2	High May require \$\$	Third Party Consultant WMHC Staff



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459



Barney S. Heath  
Director

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## **FAIR HOUSING MONTH PROCLAMATION**

- WHEREAS** The Fair Housing Act, enacted on April 11, 1968, enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and
- WHEREAS** The Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, familial status, national origin, and disability, and commits recipients of federal funding to affirmatively further fair housing in their communities; and
- WHEREAS** the City of Newton is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all; and
- WHEREAS** Our social fabric, the economy, health, and environment are strengthened in diverse, inclusive communities; and
- WHEREAS** More than fifty years after the passage of the Fair Housing Act, discrimination persists, and many communities remain segregated; and
- WHEREAS** Acts of housing discrimination and barriers to equal housing opportunity are repugnant to a common sense of decency and fairness.

**NOW THEREFORE BE IT RESOLVED** that the City of Newton does hereby declare the month of April 2021 as

### **Fair Housing Month**

In the City of Newton as an inclusive community committed to fair housing and promoting appropriate activities by private and public entities to provide and advocate for equal housing opportunities for all residents and prospective residents of the City of Newton.



# Testimonial Commendation

Honoring

## The Fair Housing Committee

*Recognizing their important work in fair access to housing and providing equal opportunity for all.*

Whereas, diverse, inclusive communities with access to good jobs, schools, health care, transportation, and housing are crucial to our region and nation's prosperity in the 21st century and

Whereas, persistent racial segregation in housing is the legacy of explicit federal, state, and local policies that defined where black and white Americans could live prior to the Fair Housing Act and

Whereas, discrimination in housing has been a critical issue for many people not only because of the color of their skin, but also if they had children, how they worshiped, where they were born, if they had a disability, their gender or who they loved and

Whereas, housing discrimination has had a long-term effect on the wealth, health and education opportunities for these people and their families and

Whereas, many communities across the country remained highly segregated despite Supreme Court decisions such as Shelley v. Kraemer (1948) and Jones v. Mayer Co. (1968), which outlawed the exclusion of African Americans or other minorities from certain sections of cities and

Whereas, In the early 1960s, a committee was organized by a group of Newton citizens to combat housing discrimination based on race. This effort was a response to the taking of homes of African-Americans in West Newton for the Massachusetts Turnpike, who were denied alternative housing in Newton because of racial discrimination and

Whereas, Congressional efforts to address fair housing had failed in two term, the dramatic aftermath of Rev. Dr. Martin Luther King Jr.'s assassination on April 4, 1968 pushed Legislators into taking healing and swift action and the Fair Housing Act was signed into law just a week later on April 11<sup>th</sup>, 1968 and

Whereas, the Fair Housing Act prohibits discrimination concerning the sale, rental, and financing of housing based on race, religion, national origin, sex, disability, and family status and

Whereas, on January 20<sup>th</sup> of this year President Biden signed an executive order further extending protections by prohibiting discrimination in housing because of gender identity or sexual orientation and

Whereas, Congress also established HUD programs to expand housing choices and help make all neighborhoods places of opportunity, providing their residents with access to the community assets and resources they need to flourish but most communities who took the HUD funds failed to meet their obligations to Affirmatively Furthering Fair Housing (AFFH) a key goal of the Fair Housing Act and

Whereas, in 2005, the Newton Housing Partnership created the Fair Housing Task Force, in order to investigate and address housing discrimination in Newton. The task force found disparate treatment within the city and undertook fair housing education and outreach programs for realtors, housing owners and managers, housing agencies, city staff, and the general public and

Whereas, in 2008, Mayor David Cohen formally established the Newton Fair Housing Committee (NFHC), a citizen advisory board, to promote and support the city's efforts to be a diverse and welcoming community with fair housing choices and opportunities for all, free from discrimination. This agenda has been carried forward actively by NFHC since its inception and

Whereas, restrictive zoning policies in Newton and other communities, which limit the amount of multi-family and affordable housing, perpetuate and reinforce impediments to Affirmatively Furthering Fair Housing (AFFH) and

Whereas, in 2015, Newton entered into a settlement to resolve a complaint filed with HUD, alleging that the city violated fair housing laws by obstructing a proposal to create supportive housing for the chronically homeless and

Whereas, Newton agreed to ensure the creation of supportive housing for chronically homeless individuals as part of its settlement with HUD and

Whereas, the Newton Fair Housing Committee now reviews major residential development proposals to determine whether they meet or exceed regulatory fair housing requirements, and shares its findings with the relevant permit granting authority and

Whereas, the Newton Fair Housing Committee continues its efforts on education and outreach programs for realtors, housing owners and managers, housing agencies, city staff, and the general public and

Whereas, the Newton Fair Housing Committee is reviewing how well the affordable housing lottery system in Newton supports Affirmatively Furthering Fair Housing (AFFH).

Now Therefore be it Known,

That the Honorable City Council representing the entire City of Newton in celebration of Fair Housing Month, recognizes the important work of the Newton Fair Housing Committee and the committee's critical role in helping Newton become a more diverse, inclusive and just community. We especially support the many resident members of the committee who volunteer their time and expertise to such a worthwhile goal. The committee's work to end housing discrimination and to Affirmatively Furthering Fair Housing (AFFH), embodies our strongly-held American values of fair access and equal opportunity.

Commendation offered on **this \_\_ Day of April, 2021** by Council President Susan Albright, Councilors Bowman, (add other councilors names) on behalf of the entire City Council

## Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 11/21/2016 12:09:22 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
96554	DEED		51299/289	06/12/2008	138700.00
<b>Property-Street Address and/or Description</b>					
27-29 COMMONWEALTH AVE UNIT A					
<b>Grantors</b>					
COVENANT COMMONWEALTH NEWTON INC					
<b>Grantees</b>					
BECKMAN AARON S					
<b>References-Book/Pg Description Recorded Year</b>					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					



Bk: 51299 Pg: 289 Doc: DEED  
Page: 1 of 17 06/12/2008 10:52 AM

MASSACHUSETTS EXCISE TAX  
Southern Middlesex District ROD # 001  
Date: 06/12/2008 10:52 AM  
Ctrl# 109917 04108 Doc# 00096554  
Fee: \$633.84 Cons: \$138,700.00

**UNIT DEED**

**GRANTOR:** **Covenant Commonwealth Newton, Inc.**, a Massachusetts non-profit corporation, with its principal place of business located at 34 Washington Street, Brighton, Massachusetts 02135

**GRANTEE:** **Aaron S. Beckman**

**UNIT:** A                                      **PERCENTAGE INTEREST:** .73%                                      **AREA:** 827 square feet  
**BUILDING 1 PERCENTAGE INTEREST:** 4.21%

**UNIT POST OFFICE ADDRESS:** Unit A, 27 Commonwealth Avenue, Chestnut Hill, MA 02467

**CONSIDERATION:** \$138,700.00

GRANTOR, owner of the UNIT described above in Covenant Residence on Commonwealth Condominium (the "Condominium"), a condominium created by Master Deed dated December 13, 2007, and recorded with the Middlesex South County Registry of Deeds in Book 50464, Page 291, in accordance with the provisions of General Laws Chapter 183A, grants the UNIT to GRANTEE with **QUITCLAIM COVENANTS** for the consideration stated above.

The UNIT contains the AREA listed above and is laid out as shown on a plan recorded herewith, which is a copy of a portion of the plans filed with the Master Deed and to which is affixed a verified statement in the form provided for in General Laws Chapter 183A, Section 9.

The UNIT is conveyed together with the above listed PERCENTAGE INTEREST (a) in the common areas and facilities of the Condominium, as described in the Master Deed, and (b) in The Covenant Residence On Commonwealth Condominium Trust under Declaration of Trust dated December 13, 2007, and recorded with said Registry of Deeds in Book 50464, Page 317, and is conveyed together with and subject to the above described BUILDING 1 PERCENTAGE INTEREST.

The UNIT is also conveyed together with the exclusive right to use Parking Space No. 11 subject to and in accordance with the terms and provisions of the Master Deed and Declaration of Trust. The GRANTEE recognizes and acknowledges that the use of Parking Space No. 11 is limited to compact vehicles in accordance with the terms and provisions of the Master Deed, as amended and the provisions of the Comprehensive Permit, as referenced therein, and by acceptance and recording of this Unit Deed covenants and agrees that the GRANTEE, his successors and assigns, shall only use Parking Space No. 11 for the parking of a compact vehicle in accordance with the terms and provisions of the Master Deed and the Comprehensive Permit.

This transfer is in the ordinary course of business of the Grantor and does not constitute a sale of all or substantially all of the assets of the Grantor located in the Commonwealth.

CRANS & BEVANS  
255 BEAR HILL ROAD  
BENTHAM MA 02451

Locus: Unit A, 27-29 Commonwealth Avenue, Chestnut Hill, Massachusetts 02467

The GRANTEE acquires the UNIT with the benefit of, and subject to, the provisions of General Laws Chapter 183A, relating to condominiums, as that statute is written as of the date hereof and as it may hereafter be amended, the Master Deed and Condominium Trust referred to above and any by-laws and rules and regulations from time to time adopted thereunder, and all matters of record stated or referred to in the Master Deed as completely as if each were fully set forth herein; and subject to real estate taxes attributable to the UNIT which are not yet due and payable.

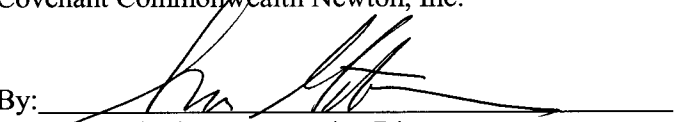
The UNIT is intended for residential purposes as set forth in section 9(b) of the Master Deed and is subject to the Restrictions as set forth in said Section 9.

This Unit is an Affordable Unit as set forth in the Master Deed and in the Regulatory Agreement by and among the Massachusetts Housing Finance Agency as project administrator on behalf of the Department of Housing and Community Development and Covenant Commonwealth Newton, Inc. dated February 5, 2007, recorded in Book 48956, Page 79 and filed as Document No. 1434577 and is subject to regulation as housing for households of specified incomes and is subject to and governed by the restrictions, agreements, terms and provisions set forth in the Affordable Housing Restriction attached hereto and incorporated herein by reference, which are the obligation of the owner of this Unit and may only be amended or terminated as stated in the Restriction or as agreed between the owners of the Unit and the holder(s) of the deed restrictions. The Restriction provides for affordability in perpetuity. These Restrictions impose no obligation on other Unit Owners, or on the Condominium Trust.

Meaning and intending to convey and hereby conveying a portion of the premises conveyed to Covenant Commonwealth Newton, Inc. by Deed dated January 18, 2007, and recorded with said Deeds in Book 48956, Page 62 and 67; See also Certificate of Title No. 238730 and Withdrawal from Registration recorded in Book 49155, Page 453 and filed as Document No. 1438051.

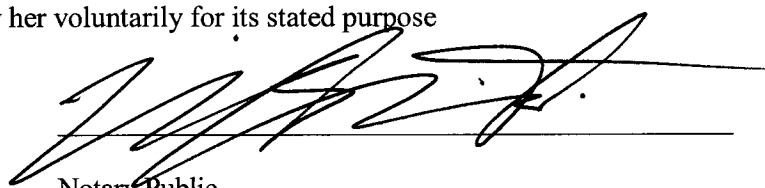
EXECUTED UNDER SEAL THIS 11 day of June, ~~2007~~ 2008.

Covenant Commonwealth Newton, Inc.

By:   
Susan Gittelman, Executive Director

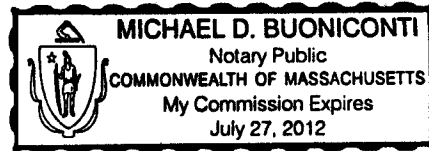
Commonwealth of Massachusetts  
County of Suffolk, ss

On this 11 day of June, ~~2007~~ <sup>2008</sup>, before me, the undersigned Notary Public, personally appeared the above-named Susan Gittelman, Executive Director of Covenant Commonwealth Newton, Inc., proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by her voluntarily for its stated purpose



Notary Public  
My Commission Expires:

G:\DC\37816\Closing\Deed etc



**AFFORDABLE HOUSING RESTRICTION**

***For Projects in Which  
Affordability Restrictions Survive Foreclosure***

THIS AFFORDABLE HOUSING RESTRICTION (this "Restriction") is:  
 incorporated in and made part of that certain deed (the "Deed") of certain property (the "Property") from  
Covenant Commonwealth Newton, Inc. ("Grantor")  
to Aaron S. Beckman ("Owner") dated  
\_\_\_\_\_; or  
 being granted in connection with a financing or refinancing secured by a mortgage on the  
Property dated \_\_\_\_\_, 20\_\_\_\_. The Property is located in the City/Town of  
Newton (the "Municipality").

RECITALS

WHEREAS, the Owner is purchasing the Property, or is obtaining a loan secured by a mortgage on the Property that was originally purchased, at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project which was: [check all that are applicable]

- (i)  granted a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from the Board of Appeals of the Municipality or the Housing Appeals Committee and recorded/filed with the Middlesex South District County Registry of Deeds/Registry District of Land Court (the "Registry") in Book 48151, Page 60/Document No. 142187 (the "Comprehensive Permit"); and/or
- (ii)  subject to a Regulatory Agreement among Covenant Community Newton, Inc. (the "Developer"),  Massachusetts Housing Finance Agency ("MassHousing"),  the Massachusetts Department of Housing and Community Development ("DHCD")  the Municipality; and  \_\_\_\_\_, dated February 6, 2007 and recorded/filed with the Registry in Book 48956, Page 79/as Document No. \_\_\_\_\_ (the "Regulatory Agreement"); and/or
- (iii)  subsidized by the federal or state government under The Commonwealth of Massachusetts acting by and through its Department of Housing and Community Development under the Affordable Housing Trust Fund Statute, M.G.L. c. 12D, a program to assist construction of low or moderate income housing the "Program"; and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, Metropolitan Boston Housing Partnership

(singly, or if more than one entity is listed, collectively, the "Monitoring Agent") is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Restriction, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner's conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public's interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value (if this Restriction is attached to the Deed), or as further consideration for the ability to enter into the financing or refinancing transaction, the Owner (and the Grantor if this Restriction is attached to the Deed), including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent, and, if DHCD is a party to the Regulatory Agreement and is not the Monitoring Agent, by DHCD.

1. **Definitions.** In this Restriction, in addition to the terms defined above, the following words and phrases shall have the following meanings:

**Affordable Housing Fund** means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

**Applicable Foreclosure Price** shall have the meaning set forth in Section 7(b) hereof.

**Appropriate Size Household** means a household containing a number of members equal to the number of bedrooms in the Property plus one.

**Approved Capital Improvements** means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

**Area** means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is Boston-Cambridge-Quincy, MA-NH MSA.

**Area Median Income** means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median

Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

**Base Income Number** means the Area Median Income for a four (4)-person household.

**Chief Executive Officer** shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

**Closing** shall have the meaning set forth in Section 5(b) hereof.

**Compliance Certificate** shall have the meaning set forth in Section 6(a) hereof.

**Conveyance Notice** shall have the meaning set forth in Section 4(a) hereof.

**Eligible Purchaser** means an individual or household earning no more than eighty percent (80%) of Area Median Income (or, if checked [ ] N/A \_\_\_\_\_ percent (\_\_\_\_%) of Area Median Income, as required by the Program) and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

**First-Time Homebuyer** means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii) and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

**Foreclosure Notice** shall have the meaning set forth in Section 7(a) hereof.

**HUD** means the United States Department of Housing and Urban Development.

**Ineligible Purchaser** means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

**Maximum Resale Price** means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked [ ] N/A \_\_\_\_\_ percent (\_\_\_\_%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.



**Monitoring Services Agreement** means any Monitoring Services Agreement for monitoring and enforcement of this Restriction among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

**Mortgage Satisfaction Amount** shall have the meaning set forth in Section 7(b) hereof.

**Mortgagee** shall have the meaning set forth in Section 7(a) hereof.

**Program Guidelines** means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

**Resale Fee** means a fee of 2.5 % [no more than two and one-half percent (2.5%)] of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Restriction, including the supervision of the resale process.

**Resale Price Certificate** means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

**Resale Price Multiplier** means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase, and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of 1.68 is hereby assigned to the Property.

**Term** means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Restriction executed by the purchaser in form and substance substantially identical to this Restriction establishing a new term.

2. **Owner-Occupancy/Principal Residence.** The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. **Restrictions Against Leasing, Refinancing and Junior Encumbrances.** The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date of the delivery of the Deed in connection with the conveyance of the Property from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not

received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

**4. Options to Purchase.** (a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter

a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Restriction and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Restriction or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

**5. Delivery of Deed.** (a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local

building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Restriction identical in form and substance to this Restriction which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Restriction, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Restriction shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or occurring, at any time after the recording of this Restriction, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition

and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. **Resale and Transfer Restrictions.** (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction, and unless there is also recorded a new Restriction executed by the selected purchaser, which new Restriction is identical in form and substance to this Restriction.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the Restriction, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. **Survival of Restrictions Upon Exercise of Remedies by Mortgagees.** (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Restriction, and to the senior Mortgagee(s) as set

forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Restriction.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Restriction identical in form and substance to this Restriction which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the

Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Restriction, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction.

(h) The Owner understands and agrees that nothing in this Restriction or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

**8. Covenants to Run With the Property.** (a) This Restriction, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, having the benefit of Section 32 of such Chapter 184, and is enforceable as such. This Restriction has been approved by the Director of DHCD.

(b) In confirmation thereof the Owner (and the Grantor if this Restriction is attached to the Deed) intend, declare and covenant (i) that this Restriction, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, the Monitoring Agent and DHCD and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Restriction to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

**9. Notice.** Any notices, demands or requests that may be given under this Restriction shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

**Municipality:** City of Newton  
Newton City Hall  
1000 Commonwealth Ave.  
Newton Centre, MA 02459  
Attn: Eileen McGettigan, Esquire

**Grantor:** Covenant Commonwealth Newton, Inc.  
(applicable 34 Washington Street  
only if this Brighton, MA 02135  
Restriction  
is attached  
to the Deed)



Owner: Aaron S. Beckman  
Unit A, 27-29 Commonwealth Avenue  
Newton, MA 02467

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Monitoring Agent[s]

(1) Metropolitan Boston Housing Partnership  
125 Lincoln Street  
Boston, MA 02111

\_\_\_\_\_

(2)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Others:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

10. **Further Assurances.** The Owner agrees from time to time, as may be reasonably required by the Monitoring Agent, to furnish the Monitoring Agent upon its request with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and other material information pertaining to the Property and the Owner's conformance with the requirements of the Comprehensive Permit, Program and Program Guidelines, as applicable.

11. **Enforcement.** (a) The rights hereby granted shall include the right of the Municipality and the Monitoring Agent to enforce this Restriction independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Property to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at

law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the Municipality and the Monitoring Agent, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Restriction, the Municipality and Monitoring Agent shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Restriction;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Restriction; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.
- (iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Restriction in the absence of a Compliance Certificate, by an action in equity to enforce this Restriction; and
- (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Restriction against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Monitoring Agent and/or Municipality fails to enforce this Restriction as provided in this Section, DHCD, if it is not named as Monitoring Agent, shall have the same rights and standing to enforce this Restriction as the Municipality and Monitoring Agent.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Restriction.

**12. Monitoring Agent Services; Fees.** The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Restriction. As partial compensation for providing these services, a Resale Fee [ X ] shall [ ] shall not be payable to the

Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in accordance with the terms of this Restriction. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their successors or assigns, for which the Monitoring Agent may bring an action and may seek an attachment against the Property.

13. **Actions by Municipality.** Any action required or allowed to be taken by the Municipality hereunder shall be taken by the Municipality's Chief Executive Officer or designee.

14. **Severability.** If any provisions hereof or the application thereof to any person or circumstance are judicially determined, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

15. **Independent Counsel.** THE OWNER ACKNOWLEDGES THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

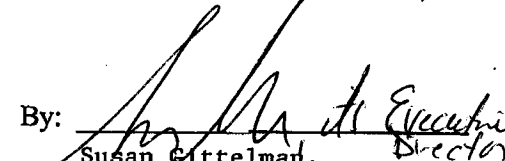
16. **Binding Agreement.** This Restriction shall bind and inure to the benefit of the persons, entities and parties named herein and their successors or assigns as are permitted by this Restriction.

17. **Amendment.** This Restriction may not be rescinded, modified or amended, in whole or in part, without the written consent of the Monitoring Agent, the Municipality and the holder of any mortgage or other security instrument encumbering all or any portion of the Property, which written consent shall be recorded with the Registry.

Executed as a sealed instrument this 11th day of June, 2008.

Grantor: Covenant Community Newton, Inc.  
(applicable only if this  
Restriction is attached to the Deed)

Owner: Aaron S. Beckman

By:   
Susan Cittelman,  
Authorized Real Estate  
Signatory

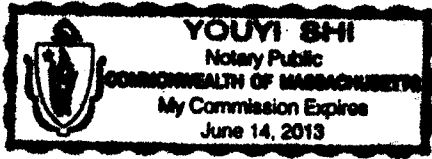
By:   
Aaron S. Beckman

[Space Below This Line for Acknowledgement]

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

On this 7 day of May, 2008, before me, the undersigned notary public, personally appeared Susan Gittelman, the Executive Director of Covenant Commonwealth Newton Inc. in its capacity as the Authorized Real Estate Signatory of Covenant Commonwealth Newton Inc., proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_



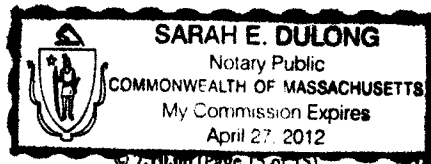
[Signature]  
Notary Public  
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this 11th day of June, 2008 before me, the undersigned notary public, personally appeared Aaron S. Beckman, the \_\_\_\_\_ of \_\_\_\_\_ in its capacity as the \_\_\_\_\_ of \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of Aaron S. Beckman as \_\_\_\_\_ of \_\_\_\_\_

[Signature]  
Notary Public  
My commission expires:



REGISTRY OF DEEDS  
SOUTHERN DISTRICT  
ATTEST:  
[Signature]  
REGISTER

Middlesex South Registry of Deeds  
Electronically Recorded Document

This is the first page of the document - Do not remove

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Recording Information

Document Number	: 77839
Document Type	: NONE
Recorded Date	: April 10, 2013
Recorded Time	: 02:49:38 PM
Recorded Book and Page	: 61582 / 204
Number of Pages(including cover sheet)	: 14
Receipt Number	: 1555981
Recording Fee	: \$75.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.cambridgedeeds.com](http://www.cambridgedeeds.com)

DEED RECORDED ON 3/28/2013 03:27 PM  
CTRL# 182795 31845 DOC# 00068167  
SOUTHERN MIDDLESEX DISTRICT ROD

*Locus:*  
73 Walnut Street  
Unit 3, Newton, MA 02460

*Return Address:*  
Newton Housing Office  
Newton, MA 02465

**DECLARATION OF AFFORDABLE HOUSING COVENANTS**

We, Duyu Nie and Gang Xu, hereinafter the "Initial Owner", being the owner of certain real estate located at 73 Walnut Street, Unit 3, Newton, Massachusetts, hereinafter the "Property", and further described in Exhibit A and incorporated specifically by reference hereto.

**RECITALS**

WHEREAS, the City of Newton desires to increase the amount of affordable housing units in its inventory;

WHEREAS, the City of Newton has structured a homebuyer program to encourage the acquisition of affordable homes by eligible homebuyers by providing downpayment and/or closing costs assistance;

WHEREAS, eligible purchasers such as the Initial Owner are given the opportunity to purchase certain property at less than fair market value provided the Initial Owner agrees to certain use and transfer restrictions during the "Period of Affordability," including the agreement to occupy the Property as a principal residence and to convey the Property on resale to an Eligible Purchaser, or to the Municipality, for an amount not greater than a Maximum Resale Price, all as more fully provided herein;

WHEREAS, the Newton Community Development Authority ("Municipality") is providing Initial Owner with financial assistance to enable the Initial Owner to afford to purchase the Property more particularly described in Exhibit A at a price which is less than the fair market value of the Property;

WHEREAS, the Property was subsidized by the federal government under the HOME Investment Partnerships Program, a program to expand the supply of decent, safe, sanitary, and affordable housing, for low-income households and therefore is subject to HOME Program rules and regulations (the "HOME Program")

WHEREAS, in order to make it most likely that an income-eligible purchaser who can afford to buy the Property can be located when the Initial Owner desires to sell, the Maximum Resale Price is limited by the percentage change in median income, as more fully provided herein; and

WHEREAS, during the Period of Affordability, the use and transfer restrictions herein shall terminate upon occurrence of foreclosure, transfer in lieu of foreclosure or assignment by a Mortgagee.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Initial Owner, including his/her/their heirs, successors and assigns, hereby agrees that the Property shall be subject to the following rights and restrictions which are hereby imposed for the benefit of, and shall be enforceable by the Municipality (as herein defined).

1. **Definitions.** In this Declaration, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund shall mean that fund established by the Municipality for the creation, development, and preservation of affordable housing in the City of Newton.

Applicable Foreclosure Price shall have the meaning set forth in Section 10(b) hereof.

G.X D.N

73 Walnut Street, Unit 3, Newton, MA

Boston-Quincy MA -NH HUD Metro FMR Area Income means the median household income for the area that includes Newton as established by HUD or any successor agency thereto to determine household income, or in the absence thereof such other comparable standard established by the Municipality, the Commonwealth of Massachusetts or the Federal government, as the case may be (and if more than one such standard exists, the one selected by the Municipality during the term of this Agreement). When used for establishing the Maximum Resale Price, the referent household is a family of four. When used for establishing whether a household is an Eligible Purchaser, the referent household is as adjusted based on household size of the household in question.

Buydown Assistance shall mean the dollar amount of financial assistance loaned, if any, provided by Municipality to Initial Owner in order to enable Initial Owner to purchase the Property.

Closing shall have the meaning set forth in Section 4(d) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual(s) or household earning less than eighty percent (80%) of the Boston-Quincy MA -NH HUD Metro FMR Area Income and, if applicable, owning assets not in excess of the limit set forth in the Guidelines, as amended from time to time. If HUD discontinues publication of median income statistics, then the Municipality shall designate another measure of eligible income. To be considered an Eligible Purchaser, the individual(s) or household must meet all qualifications set forth in the Guidelines, as amended from time to time; intend to occupy and thereafter occupy the Property as his, her or their principal residence; and must provide to the Municipality such certifications as to residency, income and, if applicable, assets as the Municipality may require to justify designation as an Eligible Purchaser.

Eligible Purchaser Certificate shall have the meaning set forth in Section 6(a) hereof.

Foreclosure Notice shall have the meaning set forth in Section 10(a) hereof.

Guidelines mean the Guidelines of the Newton Homebuyer Program, as the same may be amended from time to time.

HOME Program means the HOME Investment Partnerships Program as authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 12701 et seq and as set forth in 24 Code of Federal Regulations Part 92, as the same may be amended from time to time.

HUD means the United States Department of Housing and Urban Development.

Improvements are elements which may add to the value of the unit or prolong its useful life, are of function and quality consistent with comparable affordable housing units, and are solely owned by the owner (not part of the common area) provided that the Municipality shall have given written authorization for incurring such cost prior to the cost being incurred. These approved Improvements are subject to depreciation based on the remaining useful life of the element at time of resale. Improvements that are funded by federal, state or local grant programs are not eligible. Maintenance is not considered an Improvement. Some examples of improvements include the replacement of heating or hot water systems, built-in appliances, installation of energy-efficient windows, and insulation.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Initial Sales Price means the price at which the Property is sold to the first Eligible Purchaser less the amount of Buydown Assistance, if any. For example, if the price agreed upon by seller and such first Eligible Purchaser in the

Purchase and Sale Agreement is \$150,832.00 then the Initial Sales Price for purposes of this example equals \$150,832.00. If the Eligible Purchaser receives no Buydown Assistance, then the Initial Sales Price shall be the price agreed upon by seller and such Eligible Purchaser. During the HOME Program Period of Affordability, the Initial Sales Price may not exceed 95 percent of median purchase price in the area as specified in HOME Program regulation 24CFR92.254 (a)(2)(iii). The Initial Sales Price for this Property is \$150,832.00.

Initial Owner means the original signatory(ies) hereunder and any subsequent Eligible Purchaser or Ineligible Purchaser.

Maximum Resale Price means the Initial Sales Price multiplied by a fraction, the numerator of which is 80% of the Boston-Quincy MA --NH HUD Metro FMR Area Income as of the date of receipt of the Conveyance Notice and the denominator of which is 80% of the Boston-Quincy MA --NH HUD Metro FMR Area Income as of the date of the Closing, plus Improvements as more fully described below. Subject to the review and approval of Municipality, in its sole discretion, documented out-of-pocket costs for Improvements completed by the Initial Owner may be added to the Maximum Resale Price; provided, however, that such Improvements shall be discounted over the course of their remaining useful life as calculated by the Municipality at time of resale. Improvements that are funded by Federal, state or local grant programs are not eligible to increase the Maximum Resale Price. For purposes of determining the Maximum Resale Price, the Closing shall mean the date the deed to the Initial Owner currently holding title was recorded with the Registry of Deeds. During the HOME Program Period of Affordability the Maximum Sales Price shall not exceed 95 percent of median purchase price in the area as specified in HOME Program regulation 24CFR92.254 (a) (2)(iii).

Mortgage Satisfaction Amount shall have the meaning set forth in Section 10(b) hereof.

Mortgagee Compliance Certificate shall have the meaning set forth in Section 10(g) hereof.

Municipal Purchaser Certificate shall have the meaning set forth in Section 6(a) hereof.

Municipality shall mean the City of Newton, acting by and through its Director of Planning and Development, the Newton Community Development Authority, or the authorized designee of either of them.

Period of Affordability means the term for which the Property is subject to the use and transfer restrictions, which shall be in perpetuity or alternatively the longest period permitted by law and in no event less than 30 years unless earlier terminated by (i) the recording of a Compliance Certificate; (ii) the recording of an Eligible Purchaser Certificate and a new Declaration executed by the Eligible Purchaser referenced in the Eligible Purchaser Certificate, which new Declaration the Eligible Purchaser Certificate certifies is in form and substance satisfactory to the Municipality; (iii) the conveyance of the Property to the Municipality and the recording of a Municipal Purchaser Certificate as set forth herein; or (iv) the occurrence of foreclosure, transfer in lieu of foreclosure or assignment by a Mortgagee and the recording of a Mortgagee Compliance Certificate. Notwithstanding the above, the HOME Program Period of Affordability is defined as ten (10) years from the date of Project Completion.

Project Completion means (i) that all necessary title transfer requirements and construction work have been performed; (ii) the project complies with the requirements of 24 Code of Federal Regulations Part 92 (including the property standards under § 92.251); (iii) the final drawdown has been disbursed for the project; and (iv) the project completion information has been entered in the disbursement and information system established by HUD. The Project Completion date hereunder is June 13, 2008.

Related Party means (i) Initial Owner, (ii) any person with a direct or indirect financial interest in Owner, (iii) any person related to a person described in clause (ii) by blood, adoption, or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest.



Registry means the Middlesex South Registry of Deeds.

**2. Initial Owner's Warranties and Representations.**

(a) Initial Owner covenants and represents that at the time of purchase of the Property, Owner's household gross income is less than 80% of the Boston-Cambridge-Quincy MA-NH HUD Metro FMR Area Income, or such other low- and moderate-income household limits as amended from time to time.

(b) Initial Owner covenants and agrees that at all times during the term of this Agreement that Owner will occupy the Property as the Owner's principal residence. Absence from the Property for a period exceeding three (3) months shall require a written explanation to the Authority, who in its sole discretion, shall determine whether such absence constitutes violation of the principal residency requirement and requires transfer of the Property.

(c) Initial Owner covenants and agrees to maintain the Property in good order, repair, and condition and in compliance with all laws, regulations, ordinances, codes, orders or other laws, now existing or hereafter enacted, regarding the habitability of the Property as housing and also in full compliance with all other federal and state requirements related to affordable housing.

(d) Initial Owner covenants and agrees to comply with conditions imposed by the U.S. Department of Housing and Urban Development, the Authority's First Time Homebuyer Program Guidelines, and applicable requirements of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §4821 et seq., Residential Lead-Based Paint Hazard Reduction Act of 1992, and the Massachusetts Lead Paint Statute, M.G.L. c. 111, §§190-199A, as the same may be amended from time to time.

(e) Initial Owner covenants and agrees to not at any time make, nor allow to be made, any alteration or addition which affects an existing structure on the premises unless the Initial Owner obtains the prior written consent of the Authority. The initial Owner shall not at any time make, nor allow to be made, any alteration or addition which disturbs or affects the improvements unless the Initial Owner obtains the prior written consent of the Authority.

**3. Restrictions Against Leasing, Refinancing, and Junior Encumbrances.** The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Municipality; provided, however, that this provision shall not apply to mortgages granted on the date hereof in order to purchase the Property. Without the prior written consent of the Municipality, any rents, profits, or proceeds from any transaction shall be recoverable by the Municipality, together with all costs of collection, including attorneys' fees. Such recovery shall be deposited to the Municipality's Affordable Housing Fund.

**4. Provisions of Resale.**

(a) When the Initial Owner or any successor in title to the Initial Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Initial Owner shall notify the Municipality in writing of the Initial Owner's intention to so convey the Property (the "Conveyance Notice"). The Municipality shall promptly notify Initial Owner of the Maximum Resale Price using the formula set forth in Section 1. Upon receipt of the Conveyance Notice, the Municipality shall use reasonable efforts to locate an Eligible Purchaser. The Initial Owner shall fully cooperate with the Municipality's efforts to locate an Eligible Purchaser and shall, at a minimum, use reasonable efforts to make the property available for open houses, if necessary, and may be required to hire a licensed real estate agent to facilitate the sale of the property to an Eligible Purchaser, if so requested by the Municipality. The Initial Owner shall be responsible for paying the fees of such agent. The Eligible Purchaser located by the Municipality shall purchase the Property at the Maximum Resale Price within one hundred twenty (120) days after the Municipality receives the Conveyance Notice, or such further time as necessary to arrange for details of closing. If the Eligible Purchaser initially located fails to close for any reason within this time period, the Municipality shall have an additional sixty (60) days in which to locate another Eligible Purchaser and to close on

the Property, or such further time as necessary to arrange for details of closing. Any lack of cooperation or delay caused by the Initial Owner shall extend this time period for the length of the delay caused by such lack of cooperation. The Municipality shall retain the right to purchase the Property at the Maximum Resale Price, in which event the purchase shall occur within one hundred twenty (120) days after the Municipality receives the Conveyance Notice, or such further time as reasonably requested to arrange for details of closing, or as extended due to Initial Owner's lack of cooperation.

(b) The Municipality shall devote reasonable marketing efforts to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above. If more than one Eligible Purchaser is located through reasonable marketing efforts of the Municipality, it shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to the conveyance of the Property.

(c) If an Eligible Purchaser is selected to purchase the Property, or if the Municipality elects to purchase the Property, the Property shall be conveyed by the Initial Owner to such Eligible Purchaser or to the Municipality as the case may be, by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Initial Owner to Eligible Purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the Eligible Purchaser or the Municipality, as applicable, consents to, such consent not to be unreasonably withheld or delayed.

(d) Said deed shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property), exercised by written notice to the Initial Owner at least five (5) days prior to the delivery of the deed, at such other place as the Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property) may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the Initial Owner (or the Municipality if the Municipality is purchasing the Property) to the Eligible Purchaser, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in subsection (a) above.

(e) To enable Initial Owner to make conveyance as herein provided, Initial Owner may, if so desired at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Initial Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the Eligible Purchaser or the Municipality to take title, nor anything else in this Declaration shall be deemed to waive, impair or otherwise affect the priority of the Municipality's rights herein over matters appearing of record, or occurring, at any time after the recording of this Declaration, all such matters so appearing or occurring being subject and subordinate in all events to the Municipality's rights herein.

(f) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the Eligible Purchaser or by the Municipality.

(g) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date hereof, reasonable wear and tear only excepted.

(h) If Initial Owner shall be unable to give title or to make conveyance as above stipulated, or if any change of condition in the Property not included in the above exception shall occur, then Initial Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition hereby provided for. The Initial Owner shall

use best efforts to remove any such defects in the title and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Initial Owner that such defect has been cured or that the Property has been so restored. The Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property) shall have the election, at either the original or any extended time for performance, to accept such title as the Initial Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Initial Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this Section 4.(h), if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Initial Owner shall, unless the Initial Owner has previously restored the Property to its former condition, either:

- (1) pay over or assign to the Eligible Purchaser or the Municipality, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Initial Owner for the partial restoration, or
- (2) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the Eligible Purchaser or to the Municipality a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Initial Owner for any partial restoration.

(i) Prior to the expiration of the ten (10) year HOME Program Period of Affordability, which commences upon the date of Project Completion, in the event that an Eligible Purchaser cannot be located after the expiration of all extensions of time permitted and/or granted pursuant to the provisions of this Section 4, then the Municipality or its designee shall either (a) provide financial assistance to an Eligible Purchaser to enable purchase of the Property at the Maximum Resale Price, or (b) facilitate the purchase of the Property by a ready, willing and capable non-profit, for-profit or quasi-public entity ("Qualified Entity"); or (c) at its election, or in the event that either the foregoing (a) or (b) does not result in a conveyance of the Property, purchase the Property at either the current Fair Market Value or the Maximum Resale Price, whichever amount is less, from the Owner for resale to an Eligible Purchaser. In such event, the Eligible Purchaser, Municipality or its designee, or a Qualified Entity shall enter into a purchase and sale agreement with the Initial Owner and the purchase shall occur within sixty (60) days following the expiration of all such extensions of time permitted and/or granted under the provisions of this paragraph Fair Market Value shall be established by an independent appraisal conducted by an appraiser acceptable to both the Initial Owner and the Municipality and shall be binding upon the parties. In the event that the Initial Owner does not reasonably cooperate in the approval of an appraiser, then the Municipality, in its discretion, shall choose an independent appraiser whose determination of Fair Market Value shall be binding upon the parties. In the event the Municipality or its designee purchases the Property, the Property shall remain subject to this Declaration and shall be sold to an Eligible Purchaser in accordance with applicable Program Guidelines. In the event that the Municipality or its designee provides additional HOME funds to an Eligible Purchaser, such assistance shall be subject to the maximum per-unit subsidy limits, as specified in 24 CFR 92.250, as well as the minimum affordability period identified in 92.254(a)(4). In the event that a Qualified Entity purchases the Property, the Property must continue to meet all requirements of the HOME Program and the Property shall remain subject to this Declaration.

(j) After the expiration of the ten (10) year HOME Program Period of Affordability, which commences upon the date of Project Completion, in the event that an Eligible Purchaser cannot be located after the expiration of all extensions of time permitted and/or granted pursuant to the provisions of this Section 4, then the Municipality or its designee shall have the option to purchase the Property at the Maximum Resale Price from the Initial Owner for resale to an Eligible Purchaser. In the event that this option to purchase is exercised, the Municipality or its designee shall enter into a purchase and sale agreement with the Initial Owner and the purchase shall occur within sixty (60) days following the expiration of all such extensions of time permitted and/or granted under the provisions of this Section 4.

(k) After the expiration of the ten (10) year HOME Program Period of Affordability, which commences upon the date of Project Completion, if an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Municipality or designee does not purchase the Property during said period pursuant to the provisions of subsection (j) above, and the Municipality or its designee so notifies the Initial Owner, in writing, then the Initial Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Declaration identical in form and substance to this Declaration which the Initial Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Initial Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Municipality as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income. Any purchase and sales agreement entered into between the Initial Owner and an Ineligible Purchaser shall require the Ineligible Purchaser to execute a Declaration identical in form and substance to this Declaration and to record the same with the Deed.

(l) The priority for exercising the options to purchase contained in this paragraph 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Municipality, as provided in subsection (a) above, (ii) the Municipality or its designee, as provided in subsection (a) above, (iii) an Eligible Purchaser located by the Municipality and provided with additional financial assistance by the Municipality, as provided by subsection (i) above, (iv) a Qualified Entity, as provided by subsection (i), above (v) the Municipality or its designee, as provided in subsection (i) above. (vi) the Municipality or its designee, as provided in subsection (j) above, and (vii) an Ineligible Purchaser, as provided in subsection (k) above.

5. The Initial Owner understands and agrees that nothing in this Declaration in any way constitutes a promise or guarantee by the Municipality that the Initial Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

6. **Resale and Transfer Restrictions.** (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Initial Owner, the Initial Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the Eligible Purchaser (as located and defined in accordance with Section 4 above) or the Municipality, to the then owner of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and (i) if the Property is conveyed to an Eligible Purchaser, unless a certificate (the "Eligible Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Municipality which Eligible Purchaser Certificate refers to the Property, the Initial Owner, the Eligible Purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the Eligible Purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration, and unless there is also recorded a new Declaration executed by the Eligible Purchaser, which new Declaration is substantially in the same form as this Declaration; or (ii) if the Property is conveyed to the Municipality or to a Qualified Entity unless a Certificate (the "Municipal/Qualified Entity Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Municipality, which Municipal Purchaser Certificate refers to the Property, the Initial Owner, the Municipality, and the Maximum Resale Price for the Property and states that the proposed conveyance, sale or transfer of the Property to the Municipality is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration; or (iii) pursuant to Section 4(k), if the Property is conveyed to an Ineligible Purchaser unless a certificate ("Compliance Certificate") is obtained and recorded, signed and acknowledged by the Municipality which Compliance Certificate refers to the Property, the Initial Owner, the Ineligible Purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the Ineligible Purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration, and unless there is also recorded a new Declaration

executed by the Ineligible Purchaser, which new Declaration is substantially in the same form as this Declaration; or (iv) the provisions of Section 10 herein are complied with and a Mortgagee Compliance Certificate is obtained and recorded, signed and acknowledged by the Municipality which Mortgagee Compliance Certificate refers to the Property, the Initial Owner, and the purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to such purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration.

7. A transfer by will or by an executor or administrator of Initial Owner's estate to the spouse of the Initial Owner shall not violate this Declaration or trigger the Resale or Transfer Restrictions as set forth herein, provided that (i) the executor or administrator shall, within ninety (90) days of his or her appointment, give the Municipality notice of the devise or inheritance of the Property; and (ii) such spouse intends to continue to use the Property as his or her principal residence. Any other person or persons who are heirs, legatees, or devisees of the Initial Owner must demonstrate to the Municipality's reasonable satisfaction that they are Eligible Purchasers, as defined herein, within said ninety (90) day period. If any such person is unable to do so, then such person shall not be entitled to possession of the Property but must transfer the Property in accordance with this Declaration.

8. Any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate, an Eligible Purchaser Certificate or a Municipal Purchaser Certificate referring to the Property as conclusive evidence of the matters stated therein and may record such Certificate in connection with conveyance of the Property, provided, in the case of an Eligible Purchaser Certificate and a Municipal Purchaser Certificate the consideration recited in the deed or other instrument conveying the Property upon such resale shall not be greater than the consideration stated in the Eligible Purchaser Certificate or the Municipal Purchaser Certificate as the case may be.

9. Within ten (10) days of the closing of the conveyance of the Property from Initial Owner to Eligible Purchaser, the Eligible Purchaser shall deliver to the Municipality a copy of the Deed of the Property, together with recording information. Failure of the Eligible Purchaser, or Eligible Purchaser's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance.

**10. Exercise of Remedies by Mortgagees.** (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Municipality as set forth in this Declaration, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Initial Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Declaration.

b) The Initial Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Initial Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code

violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Declaration identical in form and substance to this Declaration which the Initial Owner hereby agrees to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. Said deed shall clearly state that it is made subject to the Declaration which is made part of the deed. Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Initial Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Declaration, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Initial Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Initial Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall not apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed free and clear of all rights and restrictions herein except those set forth in this Section 10.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed free and clear of all rights and restrictions herein except those set forth in this Section 10.

(g) Upon satisfaction of the requirements contained in this Section 10, the Municipality shall issue a Mortgagee Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration.

(h) The Owner understands and agrees that nothing in this Declaration in any way constitutes a promise or guarantee by the Municipality that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by the (i) Initial Owner, (ii) any person with a direct or indirect financial interest in Initial Owner, or (iii) any Related Party. Furthermore, if the Property is subsequently acquired by a Related Party during the period in which this Declaration would have remained in effect but for the provisions of this Section, this Declaration shall be revived and shall apply to the Property as though it had never lapsed.

**11. Covenants to Run With the Property.**

(a) All of the agreements, covenants, rights and restrictions set forth herein shall be deemed to be covenants running with the Property and shall be binding upon and enforceable against the Initial Owner, the Initial Owner's successors and assigns and any subsequent party holding title to the Property, including an Eligible Purchaser, for the benefit of and enforceable by the Municipality, their successors and assigns, during the Term of this Declaration.

(b) This Declaration and all of the agreements, restrictions, rights and covenants contained herein shall be deemed to be an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws. This Declaration shall be binding upon the Initial Owner, jointly and severally and all heirs, successors and assigns of the Initial Owner, for the benefit of, and enforceable by the Municipality and its successors and assigns permanently with the approval of the Commonwealth of Massachusetts, pursuant to General Laws, Chapter 184, Sections 31-33, and absent such approval for whatever reason, for a period of thirty (30) years from the date of this Declaration and for such further time thereafter as this Declaration may be lawfully extended, including without limitation extensions permitted under General Laws, Chapter 184, Section 27-30.

(c) The Initial Owner intends, declares and covenants on behalf of Initial Owner and Initial Owner's successors and assigns (i) that this Declaration and the covenants, agreements, rights and restrictions contained herein shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Initial Owner's successors in title, (ii) are not merely personal covenants of the Initial Owner, and (iii) shall bind the Initial Owner, and Initial Owner's successors and assigns and inure to the benefit of the Municipality, and their successors and assigns, for the Term. Initial Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts for the provisions of this Declaration to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(d) Without limitation on any other rights or remedies of the Municipality, its successors and assigns, any sale or other transfer or conveyance of the Property in violation of the provisions of this Declaration, shall, to the maximum extent permitted by law, be voidable by the Municipality, its successors and assigns, by an action to enforce such rights, restrictions, covenants, and agreements.

12. Notice. Any notices, demands or requests that may be given under this Declaration shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality:

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

Initial Owner:

Duyu Nie and Gang Xu  
73 Walnut Street, Unit 3

G.X D.N

Newton, MA 02460

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

13. **Further Assurances.** The Initial Owner agrees from time to time, as may be reasonably required by the Municipality, to furnish the Municipality with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and all other material information pertaining to the Property or the Initial Owner's conformance with the requirements of the Guidelines.

14. **Enforcement.** (a) The rights hereby granted shall include the right of the Municipality to enforce this Declaration independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief against any violations including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality.

15. Without limitation of any other rights or remedies of the Municipality, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Declaration, the Municipality shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (a) specific performance of the provisions of this Declaration;
- (b) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (c) if the violation is a sale of the Property at a price greater than the Maximum Resale Price as provided herein, the Municipality shall have the option to locate an Eligible Purchaser or purchase the Property on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Declaration;
- (d) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Declaration in the absence of the appropriate Certificate, by an action in equity to enforce this Declaration; and
- (e) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

16. In addition to the foregoing, in the event of a violation of the provisions of this Declaration, the Municipality may take appropriate enforcement action against the Initial Owner or the Initial Owner's successors in title, including, without limitation, legal action to compel the Initial Owner to comply with the requirements of this Declaration. The Initial Owner hereby agrees to pay all fees and expenses (including legal fees) of the Municipality in the event successful enforcement action is taken against the Initial Owner hereunder. The Initial Owner hereby grants to the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Declaration against the Initial Owner and to assert such a lien on the Property to secure payment by the Initial Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Municipality fails to enforce this Declaration as provided in this Section, , its successors and assigns, shall have the same right to enforce this Declaration as provided herein.

G.X D.N



17. The Initial Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Municipality the right to enter upon the Property for the purpose of enforcing the restrictions herein contained, or of taking all actions with respect to the Property which the Municipality may determine to be necessary or appropriate pursuant to court order, or with the consent of the Initial Owner to prevent, remedy or abate any violation of this Declaration.

18. Severability. If any provisions hereof or the application thereof to any person or circumstance shall come, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and enforced to the fullest extent permitted by law.

Executed as a sealed instrument this 28<sup>th</sup> day of March, 2013.

Initial Owner  
By: [Signature]  
Duyu Nie

By: [Signature]  
Gang Xu

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 28<sup>th</sup> day of March, 2013, before me, the undersigned notary public, personally appeared Duyu Nie, and proved to me through satisfactory evidence of identification, which was/were [type of evidence:] Driver License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]

[Signature]  
Notary Public  
Name (Print):  
My commission expires:



COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, the undersigned notary public, personally appeared Gang Xu, and proved to me through satisfactory evidence of identification, which was/were [type of evidence:] \_\_\_\_\_, 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.

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public  
Name (Print):  
My commission expires:

Exhibit "A"

A certain condominium unit, situated in Newton, Middlesex County, Massachusetts (Newtonville section), now known and numbered 73 Walnut Street, Unit 73-3, in a condominium known as Barclay Condominium of Newton, created pursuant to Massachusetts General Laws Chapter 183A by Master Deed dated July 8, 1981, and recorded with Middlesex South District Registry of Deeds in Book 14346, Page 432, as amended of record, together with a 2.75% undivided percentage interest in the common areas and facilities of the Condominium, to which Master Deed reference is made for a more particular description of said Unit. Said Unit is conveyed together with an exclusive right and easement to use Parking Spaces 00 and G as described in said Master Deed and shown on the side plans recorded therewith. Subject to and with the benefit of easements, restrictions and rights of way of record insofar as they are in force and applicable.

The Unit is intended to be used solely for residential purposes, as more particularly set forth in said Master Deed.

Subject to any conditions, covenants, easements, and restrictions of record insofar as the same are in force and applicable.

Being and all the same premises conveyed in Deed Book 51368, Page 521.

Parcel Id#: 21024-0016B

Property Address:

73 Walnut Street  
Unit 3  
Newton, MA 02460.



2011 01581963

Bk: 118 Pg: 139 Cert#: U21850

Doc: AGR 11/16/2011 03:27 PM

AGR

Locus:  
75 B Norwood Avenue  
Newton, MA02459

Return Address:  
Newton Housing Office  
1000 Commonwealth Ave.  
Newton, MA 02459

**DECLARATION OF AFFORDABLE HOUSING COVENANTS**

I, Leanne Chaves, hereinafter the "Initial Owner", being the owner of certain real estate located at 75B Norwood Avenue, Newton, Massachusetts, hereinafter the "Property," and further described in Exhibit A and incorporated specifically by reference hereto.

**RECITALS**

WHEREAS, the City of Newton desires to increase the amount of its affordable housing units;

WHEREAS, the City of Newton has structured a homebuyer program to encourage the acquisition of affordable homes by eligible homebuyers by providing mortgage buydown, downpayment and/or closing costs assistance;

WHEREAS, eligible purchasers such as the Initial Owner are given the opportunity to purchase certain property at less than fair market value provided the Initial Owner agrees to certain use and transfer restrictions, including the agreement to occupy the Property as a principal residence and to convey the Property on resale to an Eligible Purchaser, or to the Municipality, for an amount not greater than a Maximum Resale Price, all as more fully provided herein;

WHEREAS, the Newton Community Development Authority ("Municipality") is providing Initial Owner with financial assistance to enable the Initial Owner to afford to purchase the Property more particularly described in Exhibit A at a price which is less than the fair market value of the Property; and

WHEREAS, in order to make it most likely that an income-eligible purchaser who can afford to buy the Property can be located when the Initial Owner desires to sell, the Maximum Resale Price is limited by the percentage change in median income, as more fully provided herein;

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Initial Owner, including his/her/their heirs, successors and assigns, hereby agrees that the Property shall be subject to the following rights and restrictions which are hereby imposed for the benefit of, and shall be enforceable by the Municipality (as herein defined).

1. **Definitions.** In this Declaration, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund shall mean that fund established by the Municipality for the creation, development, and preservation of affordable housing in the City of Newton.

Applicable Foreclosure Price shall have the meaning set forth in Section 10(b) hereof.

75B Norwood Ave, Unit 11, Newton, MA

U21850-0118-139

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Buydown Assistance shall mean the dollar amount of financial assistance loaned, if any, provided by Municipality to Initial Owner in order to enable Initial Owner to purchase the Property.

Closing shall have the meaning set forth in Section 4(d) hereof.

Compliance Certificate shall have the meaning set forth in Section 4(i) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual(s) or household earning less than eighty percent (80%) of the Newton Area Median Income and, if applicable, owning assets not in excess of the limit set forth in the Guidelines, as amended from time to time. If HUD discontinues publication of median income statistics, then the Municipality shall designate another measure of eligible income. To be considered an Eligible Purchaser, the individual(s) or household must meet all qualifications set forth in the Guidelines, as amended from time to time; intend to occupy and thereafter occupy the Property as his, her or their principal residence; and must provide to the Municipality such certifications as to residency, income and, if applicable, assets as the Municipality may require to justify designation as an Eligible Purchaser.

Eligible Purchaser Certificate shall have the meaning set forth in Section 6(a) hereof.

Foreclosure Notice shall have the meaning set forth in Section 10(a) hereof.

Guidelines mean the Guidelines of the Newton Homebuyer Program, as the same may be amended from time to time.

HUD means the United States Department of Housing and Urban Development.

Improvements means work performed to the interior or exterior of the Property which adds to the value of the Property, prolongs its useful life, or adapts it to new uses, all as more specifically set forth in the Guidelines.

Initial Sales Price means the price at which the Property is sold to the first Eligible Purchaser less the amount of Buydown Assistance, if any. For example, if the price agreed upon by seller and such first Eligible Purchaser in the Purchase and Sale Agreement is \$270,000, and the Eligible Purchaser receives \$90,000 in Buydown Assistance, then the Initial Sales Price for purposes of this example equals \$180,000. If the Eligible Purchaser receives no Buydown Assistance, then the Initial Sales Price shall be the price agreed upon by seller and such Eligible Purchaser. The Initial Sales Price for this Property is \$129,000.

Initial Owner means the original signatory(ies) hereunder and any subsequent Eligible Purchaser.

Maximum Resale Price means the Initial Sales Price multiplied by a fraction, the numerator of which is 80% of Newton Area Median Income as of the date of receipt of the Conveyance Notice and the denominator of which is 80% of Newton Area Median Income as of the date of the Closing, plus Improvements as more fully described herein. Subject to the review and approval of Municipality, in its sole discretion, documented out-of-pocket costs for Improvements completed by the Initial Owner may be added to the Maximum Resale Price; provided, however, that total adjustment for such Improvements shall be limited to one (1%) percent of the Initial Sales Price per year of ownership. Improvements that

are funded by Federal, state or local grant programs are not eligible to increase the Maximum Resale Price.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 10(b) hereof.

Mortgagee Compliance Certificate shall have the meaning set forth in Section 10(g) hereof.

Municipal Purchaser Certificate shall have the meaning set forth in Section 6(a) hereof.

Municipality shall mean the City of Newton, acting by and through its Director of Planning and Development, the Newton Community Development Authority, or the authorized designee of either of them.

Newton Area Median Income means the median household income for the area that includes Newton as established by HUD or any successor agency thereto to determine household income, or in the absence thereof such other comparable standard established by the Municipality, the Commonwealth of Massachusetts or the Federal government, as the case may be (and if more than one such standard exists, the one selected by the Municipality and approved by DHCD) during the term of this Agreement. When used for establishing the Maximum Resale Price, the referent household is a family of four. When used for establishing whether a household is an Eligible Purchaser, the referent household is as adjusted based on household size of the household in question.

Registry means the Middlesex South Registry of Deeds or the Middlesex South District Registry of the Land Court if the Property is registered land.

Term means, unless terminated earlier according to Section 6 hereof, the period from the date hereof until the earliest to occur of: (i) the recording of a Compliance Certificate; (ii) the recording of an Eligible Purchaser Certificate and a new Declaration executed by the Eligible Purchaser referenced in the Eligible Purchaser Certificate, which new Declaration the Eligible Purchaser Certificate certifies is in form and substance satisfactory to the Municipality; (iii) the conveyance of the Property to the Municipality and the recording of a Municipal Purchaser Certificate as set forth herein; (iv) the conveyance of the Property and the recording of a Mortgagee Compliance Certificate, together with a new Declaration as set forth herein; or (v) the expiration of the term of affordability pursuant to Section 7(b).

## **2. Initial Owner's Warranties and Representations.**

(a) Initial Owner covenants and represents that at the time of purchase of the Property, Owner's household gross income is less than 80% of the Newton Area Median Income, or such other low- and moderate-income household limits as amended from time to time.

(b) Initial Owner covenants and agrees that at all times during the term of this Agreement that Owner will occupy the Property as the Owner's principal residence. Rental of the property is not permitted. Absence from the Property for a period exceeding three (3) months shall require a written explanation to the Authority, who in its sole discretion, shall determine whether such absence constitutes violation of the principal residency requirement and requires transfer of the Property.

(c) Initial Owner covenants and agrees to maintain the Property in good order, repair, and condition and in compliance with all laws, regulations, ordinances, codes, orders or other laws, now

existing or hereafter enacted, regarding the habitability of the Property as housing and also in full compliance with all other federal and state requirements related to affordable housing.

(d) Initial Owner covenants and agrees to comply with conditions imposed by the U.S. Department of Housing and Urban Development, the Authority's First Time Homebuyer Program Guidelines, and applicable requirements of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §4821 *et seq.*, Residential Lead-Based Paint Hazard Reduction Act of 1992, and the Massachusetts Lead Paint Statute, M.G.L. c. 111, §§190-199A, as the same may be amended from time to time.

(e) Initial Owner covenants and agrees to not at any time make, nor allow to be made, any alteration or addition which affects an existing structure on the premises unless the Initial Owner obtains the prior written consent of the Authority. The initial Owner shall not at any time make, nor allow to be made, any alteration or addition which disturbs or affects the improvements unless the Initial Owner obtains the prior written consent of the Authority.

**3. Restrictions Against Leasing, Refinancing, and Junior Encumbrances.** The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Municipality; provided, however, that this provision shall not apply to mortgages granted on the date hereof in order to purchase the Property. Without the prior written consent of the Municipality, any rents, profits, or proceeds from any transaction shall be recoverable by the Municipality, together with all costs of collection, including attorneys' fees. Such recovery shall be deposited to the Municipality's Affordable Housing Fund.

**4. Provisions of Resale.** (a) When the Initial Owner or any successor in title to the Initial Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Initial Owner shall notify the Municipality in writing of the Initial Owner's intention to so convey the Property (the "Conveyance Notice"). The Municipality shall promptly notify Initial Owner of the Maximum Resale Price using the formula set forth in Section 1. Upon receipt of the Conveyance Notice, the Municipality shall use reasonable efforts to locate an Eligible Purchaser. The Initial Owner shall fully cooperate with the Municipality's efforts to locate an Eligible Purchaser and shall, at a minimum, use reasonable efforts to make the property available for open houses, if necessary, and may be required to hire a licensed real estate agent to facilitate the sale of the property to an Eligible Purchaser, if so requested by the Municipality. The Initial Owner shall be responsible for paying the fees of such agent. The Eligible Purchaser located by the Municipality shall purchase the Property at the Maximum Resale Price within one hundred twenty (120) days after the Municipality receives the Conveyance Notice, or such further time as necessary to arrange for details of closing. If the Eligible Purchaser initially located fails to close for any reason within this time period, the Municipality shall have an additional sixty (60) days in which to locate another Eligible Purchaser and to close on the Property, or such further time as necessary to arrange for details of closing. Any lack of cooperation or delay caused by the Initial Owner shall extend this time period for the length of the delay caused by such lack of cooperation. The Municipality shall retain the right to purchase the Property at the Maximum Resale Price, in which event the purchase shall occur within one hundred twenty (120) days after the Municipality receives the Conveyance Notice, or such further time as reasonably requested to arrange for details of closing, or as extended due to Initial Owner's lack of cooperation.

(b) The Municipality shall devote reasonable marketing efforts to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above. If more than one Eligible Purchaser is located through reasonable

marketing efforts of the Municipality, it shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to the conveyance of the Property.

(c) If an Eligible Purchaser is selected to purchase the Property, or if the Municipality elects to purchase the Property, the Property shall be conveyed by the Initial Owner to such Eligible Purchaser or to the Municipality as the case may be, by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Initial Owner to Eligible Purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the Eligible Purchaser or the Municipality, as applicable, consents to, such consent not to be unreasonably withheld or delayed.

(d) Said deed shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property), exercised by written notice to the Initial Owner at least five (5) days prior to the delivery of the deed, at such other place as the Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property) may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the Initial Owner (or the Municipality if the Municipality is purchasing the Property) to the Eligible Purchaser, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in subsection (a) above.

(e) To enable Initial Owner to make conveyance as herein provided, Initial Owner may, if so desired at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Initial Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the Eligible Purchaser or the Municipality to take title, nor anything else in this Declaration shall be deemed to waive, impair or otherwise affect the priority of the Municipality's rights herein over matters appearing of record, or occurring, at any time after the recording of this Declaration, all such matters so appearing or occurring being subject and subordinate in all events to the Municipality's rights herein.

(f) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the Eligible Purchaser or by the Municipality.

(g) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date hereof, reasonable wear and tear only excepted.

(h) If Initial Owner shall be unable to give title or to make conveyance as above stipulated, or if any change of condition in the Property not included in the above exception shall occur, then Initial Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition hereby provided for. The Initial Owner shall use best efforts to remove any such defects in the title and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing

shall occur fifteen (15) days after notice by Initial Owner that such defect has been cured or that the Property has been so restored. The Eligible Purchaser (or the Municipality, if the Municipality is purchasing the Property) shall have the election, at either the original or any extended time for performance, to accept such title as the Initial Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Initial Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this Section 4.(h), if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Initial Owner shall, unless the Initial Owner has previously restored the Property to its former condition, either:

- (1) pay over or assign to the Eligible Purchaser or the Municipality, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Initial Owner for the partial restoration, or
- (2) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the Eligible Purchaser or to the Municipality a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Initial Owner for any partial restoration.

(i) If the Municipality fails to locate an Eligible Purchaser who purchases the Property within one hundred twenty (120) days (with any requested additional time for closing details or lack of cooperation) after receipt of the Conveyance Notice (or within the supplemental sixty (60)-day period pursuant to Section 4.(a)), and the Municipality does not purchase the Property during said period, no later than six (6) months following expiration of such period, the Initial Owner may convey the Property to any third party at no less than fair market value free and clear of all rights and restrictions contained herein, including, but not limited to the Maximum Resale Price, provided, however, all consideration and payments of any kind received by the Initial Owner for the conveyance of the Property to the third party which exceeds the Maximum Resale Price shall be immediately and directly paid to the Municipality for deposit to its Affordable Housing Fund. Upon receipt of this excess amount, the Municipality shall issue to the third party a certificate (the "Compliance Certificate") in recordable form reflecting the Municipality's receipt of the excess amount, if any, that all rights, restrictions, agreements and covenants contained herein are henceforth null and void and that the sale of the Property to the third party is consistent with the terms of this Declaration. This Compliance Certificate is to be recorded in the Registry. This Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any, has been paid to the Municipality and that the rights, restrictions, agreements and covenants set forth herein are null and void. The sale price to a third party shall be subject to the Municipality's prior approval, giving due consideration to such factors as the appraised value of the Property, time on the market, marketing efforts and economic conditions.

5. The Initial Owner understands and agrees that nothing in this Declaration in any way constitutes a promise or guarantee by the Municipality that the Initial Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.



**6. Resale and Transfer Restrictions.** (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Initial Owner, the Initial Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the Eligible Purchaser (as located and defined in accordance with Section 4 above) or the Municipality, to the then owner of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and (i) if the Property is conveyed to an Eligible Purchaser, unless a certificate (the "Eligible Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Municipality which Eligible Purchaser Certificate refers to the Property, the Initial Owner, the Eligible Purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the Eligible Purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration, and unless there is also recorded a new Declaration executed by the Eligible Purchaser, which new Declaration is substantially in the same form as this Declaration; or (ii) if the Property is conveyed to the Municipality unless a Certificate (the "Municipal Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Municipality, which Municipal Purchaser Certificate refers to the Property, the Initial Owner, the Municipality, and the Maximum Resale Price for the Property and states that the proposed conveyance, sale or transfer of the Property to the Municipality is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration; or (iii) pursuant to Section 4(i), any amount in excess of the Maximum Resale Price which is paid to the Initial Owner by a purchaser who is permitted to buy the Property pursuant to Section 4(i), is paid by the Initial Owner to the Municipality, and the Municipality executes and delivers a Compliance Certificate as described in Section 4(i) for recording with the Registry; or (iv) the provisions of Section 10 herein are complied with and a Mortgagee Compliance Certificate is obtained and recorded, signed and acknowledged by the Municipality which Mortgagee Compliance Certificate refers to the Property, the Initial Owner, and the purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to such purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration, and unless there is also recorded a new Declaration executed by such purchaser, which new Declaration is substantially in the same form as this Declaration.

7. A transfer by will or by an executor or administrator of Initial Owner's estate to the spouse of the Initial Owner shall not violate this Declaration or trigger the Resale or Transfer Restrictions as set forth herein, provided that (i) the executor or administrator shall, within ninety (90) days of his or her appointment, give the Municipality notice of the devise or inheritance of the Property; and (ii) such spouse intends to continue to use the Property as his or her principal residence. Any other person or persons who are heirs, legatees, or devisees of the Initial Owner must demonstrate to the Municipality's reasonable satisfaction that they are Eligible Purchasers, as defined herein, within said ninety (90) day period. If any such person is unable to do so, then such person shall not be entitled to possession of the Property but must transfer the Property in accordance with this Declaration.

8. Any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate, an Eligible Purchaser Certificate or a Municipal Purchaser Certificate referring to the Property as conclusive evidence of the matters stated therein and may record such Certificate in connection with conveyance of the Property, provided, in the case of an Eligible Purchaser Certificate and a Municipal Purchaser Certificate the consideration recited in the deed or other instrument conveying the Property upon such resale shall not be greater than the consideration stated in the Eligible Purchaser Certificate or the Municipal Purchaser Certificate as the case may be.

9. Within ten (10) days of the closing of the conveyance of the Property from Initial Owner to Eligible Purchaser, the Eligible Purchaser shall deliver to the Municipality a copy of the Deed of the Property, together with recording information. Failure of the Eligible Purchaser, or Eligible Purchaser's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance.

**10. Exercise of Remedies by Mortgagees.** (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Municipality as set forth in this Declaration, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Declaration.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice, or upon receipt of notice of an impending foreclosure by newspaper publication deemed to be received on the date of publication. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Declaration identical in form and substance to this Declaration which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. Said deed shall clearly state that it is made subject to the Declaration which is made part of the deed. Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Initial Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of

way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee's mortgage, and free and clear of all rights and restrictions herein except those set forth in this Section 10.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall not apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed free and clear of all rights and restrictions herein except those set forth in this Section 10.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed free and clear of all rights and restrictions herein except those set forth in this Section 10.

(g) Upon satisfaction of the requirements contained in this Section 10, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Declaration.

(h) The Owner understands and agrees that nothing in this Declaration in any way constitutes a promise or guarantee by the Municipality that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

#### **11. Covenants to Run With the Property.**

(a) All of the agreements, covenants, rights and restrictions set forth herein shall be deemed to be covenants running with the Property and shall be binding upon and enforceable against the Initial Owner, the Initial Owner's successors and assigns and any subsequent party holding title to the Property, including an Eligible Purchaser, for the benefit of and enforceable by the Municipality, their successors and assigns, during the Term of this Declaration.

(b) This Declaration and all of the agreements, restrictions, rights and covenants contained herein shall be deemed to be an affordable housing restriction as that term is defined in Section 31 of Chapter

184 of the Massachusetts General Laws. This Declaration shall be binding upon the Initial Owner, jointly and severally and all heirs, successors and assigns of the Initial Owner, for the benefit of, and enforceable by the Municipality and its successors and assigns permanently with the approval of the Commonwealth of Massachusetts, pursuant to General Laws, Chapter 184, Sections 31-33, and absent such approval for whatever reason, for a period of thirty (30) years from the date of this Declaration and for such further time thereafter as this Declaration may be lawfully extended, including without limitation extensions permitted under General Laws, Chapter 184, Section 27-30.

(c) The Initial Owner intends, declares and covenants on behalf of Initial Owner and Initial Owner's successors and assigns (i) that this Declaration and the covenants, agreements, rights and restrictions contained herein shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Initial Owner's successors in title, (ii) are not merely personal covenants of the Initial Owner, and (iii) shall bind the Initial Owner, and Initial Owner's successors and assigns and inure to the benefit of the Municipality, and their successors and assigns, for the Term. Initial Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts for the provisions of this Declaration to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(d) Without limitation on any other rights or remedies of the Municipality, its successors and assigns, any sale or other transfer or conveyance of the Property in violation of the provisions of this Declaration, shall, to the maximum extent permitted by law, be voidable by the Municipality, its successors and assigns, by an action to enforce such rights, restrictions, covenants, and agreements.

**12. Notice.** Any notices, demands or requests that may be given under this Declaration shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality:

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

Initial Owner:

Leanne Chaves  
75B Norwood Ave.  
Newton, MA 02459

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

**13. Further Assurances.** The Initial Owner agrees from time to time, as may be reasonably required by the Municipality, to furnish the Municipality with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information

concerning the resale of the Property and all other material information pertaining to the Property or the Initial Owner's conformance with the requirements of the Guidelines.

**14. Enforcement.** (a) The rights hereby granted shall include the right of the Municipality to enforce this Declaration independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief against any violations including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality.

**15.** Without limitation of any other rights or remedies of the Municipality, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Declaration, the Municipality shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (a) specific performance of the provisions of this Declaration;
- (b) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (c) if the violation is a sale of the Property at a price greater than the Maximum Resale Price as provided herein, the Municipality shall have the option to locate an Eligible Purchaser or purchase the Property on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Declaration;
- (d) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Declaration in the absence of the appropriate Certificate, by an action in equity to enforce this Declaration; and
- (e) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

**16.** In addition to the foregoing, in the event of a violation of the provisions of this Declaration, the Municipality may take appropriate enforcement action against the Initial Owner or the Initial Owner's successors in title, including, without limitation, legal action to compel the Initial Owner to comply with the requirements of this Declaration. The Initial Owner hereby agrees to pay all fees and expenses (including legal fees) of the Municipality in the event successful enforcement action is taken against the Initial Owner hereunder. The Initial Owner hereby grants to the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Declaration against the Initial Owner and to assert such a lien on the Property to secure payment by the Initial Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Municipality fails to enforce this Declaration as provided in this Section, the Department of Housing and Community and Development, its successors and assigns, shall have the same right to enforce this Declaration as provided herein.


**17.** The Initial Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Municipality the right to enter upon the Property for the purpose of enforcing the restrictions herein contained, or of taking all actions with respect to the Property which the Municipality may determine to be necessary or appropriate pursuant to court order, or with the consent of the Initial Owner to prevent, remedy or abate any violation of this Declaration. . Notwithstanding anything herein to the contrary, in the event that the Municipality fails to enforce this Declaration as

provided in this Section, the Department of Housing and Community and Development, its successors and assigns, shall have the same right to enforce this Declaration as provided herein.

18. **Severability.** If any provisions hereof or the application thereof to any person or circumstance shall come, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and enforced to the fullest extent permitted by law.

Executed as a sealed instrument this 14<sup>th</sup> day of November 2011

Initial Owner

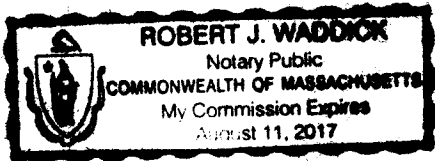
By:   
Leanne Chaves

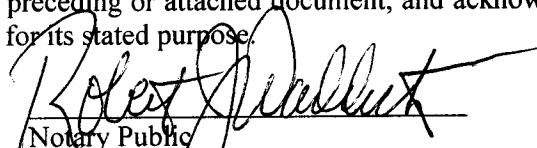
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 14<sup>th</sup> day of November, 2011, before me, the undersigned notary public, personally appeared Leanne Chaves, and proved to me through satisfactory evidence of identification, which was/were [type of evidence:] MA Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



  
Notary Public  
Name (Print):  
My commission expires: August 11, 2017

Executed as a sealed instrument this 16<sup>th</sup> day of November, 2011.

Municipality

By: *C. Havens*  
Candace Havens  
Sole Member  
Newton Community Development Authority

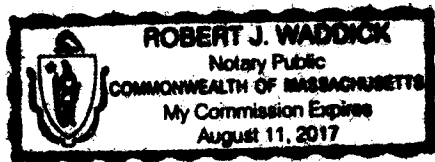
For signature authority see Certificate of Authority registered herewith Doc No. 1581962

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 16<sup>th</sup> day of November, 2011, before me, the undersigned notary public, personally appeared Candace Havens, and proved to me through satisfactory evidence of identification, which was/were [type of evidence:] Personal Knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



*Robert J. Waddick*  
Notary Public  
Name (Print):  
My commission expires:

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

The condominium unit known as Condominium Unit Number 11 (the "Unit") in the Condominium known as the Crystal Lake Manor Condominium, (the "Condominium") established by Master Deed dated August 12, 1977 and registered in the Middlesex South District Registry of the Land Court on October 27, 1977 as Document No. 563095 and noted on Certificate of Title C-18, as amended (the "Master Deed").

The post office address of the Unit is 75B Norwood Avenue, Newton, Massachusetts 02459-2117. The land is described in said Master Deed. The Unit and the Condominium are subject to the provisions Chapter 183A of the Massachusetts General Laws.

The undivided percentage interest in the common areas and facilities of the Condominium as defined and described in the Master Deed is 2.59 percent (2.59%).

The Unit is subject to and has the benefit of any rights of all rights, easements, restrictions, agreements, interests, and provisions contained in the Master Deed and the Master Plans of the Condominium registered simultaneously with and as part of the Master deeds, and the provisions of the Declaration of Trust of the Crystal Lake Condominium Trust and the By-Laws and Rules and Regulations relating thereto and the Rule and Regulations and By-Laws adopted pursuant thereto (which Declaration of Trust of the Crystal lake Manor Condominium Trust and By-Laws are registered in the Middlesex South Registry District of the Land Court with said Master Deed), as any of the same may be amended from time to time pursuant to the provisions thereto.

The Unit is additionally conveyed subject to and with the benefit of all such other outstanding rights, easements, restrictions, reservations and other matters of record to the extent now in force and applicable.

For title reference, see that certain Condominium Unit Deed dated August 1, 2005 and registered with the Middlesex South Registry District of the Land Court as Document No. 1382817 with Certificate U 17624 in Book 89, Page 123.



Doc 01581963

Southern Middlesex Land Court  
Registry District

RECEIVED FOR REGISTRATION

On: Nov 16, 2011 at 03:27P

Document Fee 75.00

Receipt Total: \$2,584.84

NOTED ON: CERT U 21850 BK 00118 PG 139

ALSO NOTED ON: