



LT1-5-2010106347-1

Record and Return to:

**Beth-Sherri Akyereko**  
**Assistant Attorney General for**  
**The District of Columbia**  
**1350 Pennsylvania Ave., NW, Suite C-19**  
**Washington, DC 20004**



LT2-0-0-10

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (“Declaration”) is made and entered into as of this 11<sup>th</sup> day of October \_\_\_\_, 2010, by THE DISTRICT OF COLUMBIA, acting by and through THE OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT (“DHCD”) for the benefit of the UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT (“HUD”).

WHEREAS, by deed from HUD to DHCD, acting by and through its Department of Housing and Community Development, dated September 17, 1996 and recorded on September 17, 1996 as Instrument No. 9600058416 in the Land Records of the District of Columbia (“HUD Deed”), HUD conveyed to DHCD certain real estate located in the District of Columbia and more particularly described in the HUD Deed (the “Eastern Avenue Property”);

WHEREAS, DHCD acquired property adjacent to the Eastern Avenue Property and also three contiguous private properties, for the development of thirty-four housing units which shall be a Phase II of the Eastern Avenue Property development (“Phase II Property”), as more particularly described on Exhibit A attached hereto;

WHEREAS, the HUD Deed imposes certain restrictive covenants and conditions on the Eastern Avenue Property and HUD is requiring restrictions on the Phase II Property; and

NOW, THEREFORE, in consideration of these premises, DHCD, for themselves, their successors, and assigns, and their future grantees, do hereby name, place and impose the following conditions, restrictions, covenants, reservations, easements, liens and charges as are more fully set forth in Covenants 1-4 attached hereto and incorporated herein.

Signature and notary page for Secretary of Housing and Urban Development

ATTEST/WITNESS:

SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT

Gladys Brown Tucker By: William H. Melvin  
William H. Melvin, Director  
Atlanta MFPD CENTER

State of Georgia )  
County of DeKalb )

On this 21<sup>st</sup> day of October, 2010, before me, the undersigned notary public, personally appeared William H. Melvin (name of document signer), Director, Atlanta MFPD Center, known to me personally, to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

[Signature] (official signature and seal of notary)  
My commission expires: 8.6.12



## LEGAL DESCRIPTION

### LOT AND BLOCK NUMBERS FOR THE OFF-SITE UNITS

Lots numbered Thirty-two (32), Thirty-four (34), Forty-one (41) Forty-seven (47), Fifty-five (55), Fifty-nine (59) in Square numbered Fifty-two Hundred Sixty (5260) as per plat prepared by Bowman Consulting on February 12, 2010 to be recorded in the Office of the Surveyor for the District of Columbia.

Note: Said property being now known for assessment and taxation purposes as Lot numbered Eight Hundred Six (806) in Square numbered Fifty-two Hundred Sixty (5260).

COVENANT 1 OF 4

ENFORCEMENT

The Declaration shall include the following provisions:

1. The covenants set forth in this Declaration shall run with the land hereby conveyed and, to the fullest extent permitted by law and equity, shall be binding for the benefit and in favor of and enforceable by HUD and his successors in office.
2. HUD shall be entitled to: (a) institute legal action to enforce performance and observance of these covenants; (b) enjoin any acts which are violative of these covenants; and c) exercise any other legal or equitable right or remedy with respect to these covenants.

By initialing hereunder <sup>DC</sup> DHCD acknowledges that this Covenant is incorporated into and is a part of the Declaration.

DC  
DHCD (VA)

COVENANT 2 OF 4

AFFORDABILITY OF HOMEOWNERSHIP UNITS

The Declaration shall include the following provisions:

1. Use Restriction

All homeownership units ("Homeownership Unit or Units") shall be maintained as affordable for low income persons for twenty (20) years after the date of this Declaration or such earlier time as HUD may specify in writing ("Restricted Period"). Any change in the number of Homeownership Units must receive the prior written approval of HUD.

2. Income Eligibility Limitation

DHCD shall restrict Homeownership Units for initial sale to first-time home buyers with incomes that do not exceed eighty percent (80%) of Area Median Income ("AMI"), with adjustments for smaller and larger families ("Qualified Homebuyer"). The determination of whether the annual income of a potential purchaser exceeds the applicable income limit shall be made at the time of execution of a contract for sale by such potential purchaser.

3. Affordable Homeownership

The expenses of a Homeownership Unit consisting of principal, interest, taxes and insurance (PITI) shall not exceed thirty percent (30%) of eighty percent (80%) of AMI (rather than the income of the family), with adjustments for smaller and larger families.

4. Additional Covenants

- (a) DHCD shall not refuse unreasonably to sell units to, or otherwise discriminate against, very low-income families.
- (b) During the Restricted Period any re-sale of Homeownership Units shall be to Qualified Homebuyers.
- (c) DHCD shall certify to HUD annually that the requirements in the above paragraphs have been fulfilled.

By initialing hereunder the parties acknowledge that this Covenant is incorporated into and is a part of the Declaration.

DC  
DHCD 

## COVENANT 3 OF 4

### EQUITY PARTICIPATION FOR HOMEOWNERSHIP PURCHASERS AS SET FORTH IN REDEVELOPMENT PLAN

The Declaration shall include the following provisions:

- (1) DHCD plans to sell Homeownership Units at the Property to Qualified Homebuyers in accordance with the Redevelopment Plan. Once DHCD has sold a Homeownership Unit to a Qualified Homebuyer, the provisions below apply.
- (2) DHCD shall keep or cause to be kept, accurate records of account of the initial sale of each Homeownership Unit. HUD, during normal working hours of DHCD, shall have the right to enter and have free access to inspect all books and records of DHCD related to the initial sale of each Homeownership Unit. Upon the written request of HUD, but not more than annually, DHCD shall retain an independent certified public accountant to prepare an accounting of initial sales of Homeownership Units.
- (3) "Purchaser Sale Proceeds" are all amounts paid or obligations assumed by the Qualified Homebuyer of a Homeownership Unit, except:
  - (a) reasonable transaction costs;
  - (b) purchase price; and
  - (c) improvement, renovation and rehabilitation expenses, excluding routine maintenance and repairs.
- (4) If a Qualified Homebuyer sells, assigns, or voluntarily transfers or conveys the Homeownership Unit within the first ten (10) years of ownership, a percentage of the Purchaser Sales Proceeds shall be paid to DHCD, starting in the first year of ownership at one hundred percent (100%) and decreasing by ten percent (10%) for each year of the first ten years of ownership. At the start of the eleventh (11th) year, the Qualified Homebuyer may retain one hundred one hundred percent (100%) of the Purchaser Sales Proceeds. However, in order to qualify for retention of any portion of the Purchaser Sale Proceeds, the Homeownership Unit must have been the primary residence of the Qualified Homebuyer for the first five years after the Qualified Homebuyer acquired the unit.
- (5) DHCD may commission an independent appraisal to establish the market value of a Homeownership Unit.
- (6) DHCD shall pay to HUD fifty percent (50%) of the Purchaser Sale Proceeds which it receives pursuant to paragraph 4, above. DHCD shall use those proceeds in accordance

with its HUD approved Redevelopment Plan to support the acquisition of Homeownership Units by Qualified Homebuyers, and to maintain the common areas and vacant units in the Property. DHCD shall keep or cause to be kept, accurate records of the Purchaser Sale Proceeds it receives. HUD, during normal working hours of DHCD, shall have the right to enter and have free access to inspect all books and records of DHCD related to any Purchaser Sale Proceeds it received.

- (7) (a) For ten years after the initial purchase of a Homeownership Unit, a Qualified Homebuyer, successors, assigns or grantees for value, shall obtain written approval from DHCD prior to refinancing the Homeownership Unit, including placing new indebtedness secured by the Homeownership Unit. After obtaining written approval from DHCD, the Qualified Homebuyer, successors, assigns or grantees for value, may retain the proceeds from the refinancing ("Purchaser Refinancing Proceeds") so long as the Purchaser Refinancing Proceeds are to be used for certain approved expenses ("Approved Expenses"). Approved Expenses are expenses which have been approved by DHCD for: i) property improvements; ii) education; and iii) medical reasons of a serious nature.

(b) The amount of the Purchaser Refinancing Proceeds shall not exceed the Qualified Homebuyer's equity in the Homeownership Unit. The amount of the Qualified Homebuyer's equity for ten (10) years from the date of purchase of the Homeownership Unit shall be calculated as the difference between the value of the Homeownership Unit (as subject to restrictions under this Declaration) and the refinanced debt secured by the Homeownership Unit ("Equity"). The Purchaser Refinancing Proceeds that the Qualified Homebuyer may retain shall begin at 0% and increase each year by ten percent (10%) of the Equity and shall be one hundred percent (100%) at the start of the 11th year.

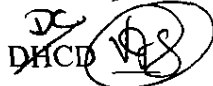
(c) If the Qualified Homebuyer, its successors, assigns or grantees for value, seeks to use the Purchaser Refinancing Proceeds for any purpose other than for Approved Expenses, HUD must provide written approval for such use. If, during the ten years after its initial purchase, a Qualified Homebuyer, its successors, assigns or grantees for value, refinances its Homeownership Unit without written approval by DHCD or HUD, as applicable, then the proceeds from the Refinancing, less any expenses incurred by the Qualified Homebuyer consisting of: i) reasonable transaction costs; ii) mortgage debt paid off in connection with the Refinancing; iii) costs paid by the Qualified Homebuyer, as approved by DHCD, related to improvements, renovation and rehabilitation other than for routine maintenance and repairs, and iv) amounts previously paid by the Qualified Homebuyer to DHCD under this paragraph 8 shall be paid to DHCD in the manner provided in paragraph 4, above.

- (8) In the event of death of a Qualified Homebuyer and transfer of title of a Homeownership Unit, or an interest in the Homeownership Unit, to an heir and/or devisee who is determined to be a Qualified Homebuyer, such heir and/or devisee shall assume all obligations of the Qualified Homebuyer, and no payment to DHCD shall be due. If the heir and/or devisee does not meet the qualifications of a Qualified Homebuyer, either:



- (a) the heir and/or devisee shall transfer the Homeownership Unit to a Qualified Homebuyer within one hundred and eighty (180) days of acquiring title, with such person assuming all obligations of the Qualified Homebuyer. No payment shall be due to DHCD as a result of the transfer; or
- (b) the transfer shall be treated as a Sale and the heir and/or devisee shall pay the appropriate percentage of Purchaser Sale Proceeds, as set forth in paragraphs 3 and 4 above, based on the fair market value of the Homeownership Unit at the time of death of the Qualified Homebuyer.

By initialing hereunder the parties acknowledge that this Covenant is incorporated into and is a part of the Declaration.

 DHCD

COVENANT 4 OF 4

REDEVELOPMENT

The Declaration shall include the following provisions:

1. DHCD shall construct six (6) affordable Homeownership Units off-site which shall serve as replacement units ("Replacement Homeownership Units") for the six (6) Homeownership Units not being redeveloped on the Eastern Avenue Property. The Replacement Homeownership Units shall be constructed and ready for sale to Qualified Homebuyers within thirty-six (36) months from the date of this Declaration. If the Replacement Homeownership Units are not completed and ready for sale within thirty-six (36) months DHCD shall apply to HUD for an extension of time to complete construction. The request for a time extension shall state the reasons for the extension. HUD shall not unreasonably deny DHCD's request so long as DHCD shows good cause for the extension.
2. HUD must approve DHCD's final Redevelopment Plan for the Property if different from that described above.
3. If DHCD's Redevelopment Plan is substantially changed subsequent to HUD approval, HUD reserves the right to approve the revised Redevelopment Plan prior to implementation.
4. HUD shall have free access to the Property during normal business hours of DHCD to inspect any work completed to ensure that it complies with all applicable State and local laws, codes, ordinances and regulations.

By initialing hereunder the parties acknowledge that this Covenant is incorporated into and is a part of the Declaration.

DC  
DHCD 

Doc# 2010106347 Fees: \$82.50  
11/30/2010 11:16AM Pages 10  
Filed & Recorded in Official Records of  
WASH DC RECORDER OF DEEDS LARRY TODD

RECORDING	\$	75.00
SURCHARGE	\$	6.50