

# ANDERSON & KREIGER LLP

DANIEL C. HILL  
dhill@andersonkreiger.com

January 31, 2006

**BY FACSIMILE: 978-263-0554**

Kathleen A. Vorce, Esq.  
P.O. Box 554  
West Acton, MA 01720

Re: Resale of Affordable Condo Unit - 18 Brewster Lane, Acton MA.

Dear Kathleen:

On January 18<sup>th</sup> I requested that you forward the financial information of the two prospective purchasers for this affordable unit to me, for income qualification purposes. I also provided you with a form for prospective buyers to fill out. I have attached a copy of this form, for your reference. I have not received any further information from you or your client. Rather, the chair of the Acton Affordable Housing Corporation received a telephone call this week from a prospective purchaser inquiring on how to get income qualified.

I believe that when we last spoke, we agreed that all prospective purchasers would be asked to complete the income verification form, and that your client would forward those forms to me, and I would promptly engage our consultant to review the prospect's financial information and make an income qualification determination. If I am mistaken, please let me know. Otherwise, please have all prospective purchasers send their financial information, including verification forms, to my attention.

Thank you.

Very truly yours,

  
Daniel C. Hill

DCH/flc  
Enc.

cc: John Murray  
Nancy Tavernier (by email)

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**TOWN OF ACTON**  
**AUDUBON HILL AFFORDABLE UNITS**  
**INCOME QUALIFICATION APPLICATION**

Name (Head of Household) \_\_\_\_\_

Phone Number \_\_\_\_\_ Cell Phone \_\_\_\_\_

Employer and Work Address \_\_\_\_\_

Home Address \_\_\_\_\_

Please list all members of your household including yourself.

Occupant Number	Names of all Persons to Reside in Dwelling (First Name, Middle Initial, Last Name)	Relation to Head	Age	Date of Birth	Social Security Number
HEAD					
2					
3					
4					
5					
6					
7					
8					

**INCOME:** List all income of all members listed on application to reside in the unit, including earnings, overtime, IRA distributions, part-time employment, bonuses, dividends, interest, annuities, pensions, Veterans Administration (VA) Compensation, gross rental or lease income, commissions, deferred income, welfare payments, social security benefits, disability payments, alimony, support payments, public assistance, sick pay, unemployment compensation, and income received from trusts, business activities, and investments.

Do not record annual income for any person who is a dependant on your most recent income tax return and is (i) 18 years of age or (ii) 22 years of age or less and currently registered as a full-time student at an accredited educational institution.

<u>Source of Income</u>	<u>Address of Source</u>	<u>Amount per Year</u>
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**ASSETS:** List all checking, savings accounts, CD's, stocks, bonds, retirement accounts, savings bonds and any other investments below. If additional space is needed, please attach another sheet.

<u>Type of Asset</u>	<u>Address</u>	<u>Account No.</u>	<u>Present Balance</u>
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**PROPERTY:**

Do you own real estate, land and/or mobile home? Yes ( ) No ( )

Address: \_\_\_\_\_ Current Value : \_\_\_\_\_

Address: \_\_\_\_\_ Current Value : \_\_\_\_\_

Have you sold real estate, land or mobile home in the past three years? Yes ( ) No ( ) If yes, when \_\_\_\_\_

Address: \_\_\_\_\_ Sales Price: \_\_\_\_\_

Address: \_\_\_\_\_ Sales Price: \_\_\_\_\_

Please explain all circumstances relating to the sale of real estate that would be relevant to our consideration:

**EXPLANATIONS:**

Please feel free to elaborate on the circumstances of your income and/or other assets that may help us determine your eligibility to purchase an affordable condominium unit.

I, \_\_\_\_\_ (head of household) hereby swear and certify under the penalties of perjury that:

1. The information in this Application is true, correct, accurate and complete in all respects, and incorporated herein and made part of this Application;
2. (I/We) intend to occupy the Property as (my/our) principal place of residence;
3. The information contained herein is subject to verification by the Town of Acton or its agents

Signature of Head of Household \_\_\_\_\_ Date \_\_\_\_\_

Household Member \_\_\_\_\_ Date \_\_\_\_\_

Household Member \_\_\_\_\_ Date \_\_\_\_\_

**PLEASE INCLUDE WITH THIS APPLICATION THE FOLLOWING:**

- o A completed application signed by all individuals over the age of 18
- o A copy of your 2003 & 2004 tax returns including all 1099's, W-2's and schedules.
- o A copy of last five pay stubs, a current letter from all sources of income including but not limited to Public Assistance, Social Security, pensions and annuities showing the gross amount.
- o A copy of all assets showing current value including all bank accounts, investment accounts, cash life insurance policies, retirement accounts.
- o A mortgage pre-approval and proof of adequate assets to cover the downpayment and purchase of unit.

# KATHLEEN A. VORCE

Attorney At Law

Telephone: (978) 264-0554 - Fax 263-0554

Mail: P.O. Box 554, West Acton, MA 01720

December 12, 2005

By fax to 978-264-9630  
and First Class Mail

John Murray  
Ass't Town Manager & Treasurer  
Town of Acton  
4 1/2 Main Street  
Acton, MA 01720

Re: 18 Brewster Lane, Audubon Hill, Acton, MA

Dear Mr. Murray,

Thank you for your letter of December 7, 2005 responding to my letter of November 15, 2005. Please let me confirm that it was never my intention to "paint the Town and [you] as being uncooperative." It was my purpose to call to your attention that the inability of the Town to respond in a timely manner at each phase of the restrictive sale process caused some disadvantage to my client, who by virtue of her qualification to own this unit, is a person of limited means and therefore limited financial tolerance to the expense of these delays. The understanding of this seems to have been lost in the process.

We do not appear to be in agreement as to what the Development Agreement "tells us." I refer you to page 3 of the Comprehensive Development Agreement, Article I, 1.1 "Appraised value" where it tells us that the appraiser shall be "from a list of such appraisers selected by the Town." In fact the Comprehensive Development Agreement does *not* "specifically address[es] the length of time *the unit must remain on the market before it may be sold at full price* [emphasis added]." What it does say (page 20) is that if "after utilization of all due diligence, and the expiration of one hundred eighty (180) days from the date of the original notice to the Town Designee" the owner is unable to secure an Eligible Purchaser then the unit may be sold "without compliance with the foregoing resale price restrictions." The Comprehensive Development Agreement names the Town Manager as the "Town Designee" and no where has it been demonstrated to me that the Assistant Town Manager has been named to serve in his stead. In fact on January 13, 2005 Richard A Beddoe wrote to Don Johnson (copy enclosed) to advise him of the intention to sell his mother's condominium, in compliance with the restrictive provision. Therefore I do not see any authority for you to "agree" with Charles Beddoe or anyone else for the much less advantageous date of May 1, 2005 for the "one hundred and eighty day clock" to begin. You also state in your letter "[s]pecifically, I worked with the Middlesex

Bank to approve applicants; whereas the Comprehensive Development Agreement as Amended requires the seller and buyer to provide written documentation of eligibility” – as if to accuse my clients of some deficiency in their performance. The Middlesex Bank (really Middlesex Savings Bank) process that you refer to was the brainchild and initiative of Richard Beddoe, conceived of in the void of any guidance from the Town of Acton, and you spoke with Julie DeCarolis at the end of the process to sanction it. As I have mentioned to you in earlier correspondence, I have since spoken with Ms. DeCarolis, and she is not comfortable acting in this capacity to the future, without some further direction from the Town. Thus my letter asked who will provide that direction.

I do happen to agree with you that there are gaps in the Agreement that need to be filled with well-reasoned and equitable alternatives. However, I do not feel that your proposal fits that definition. Your proposal of a January 31, 2006 date for suspension of the 180-day time limit is acceptable, given the January 13, 2005 notice to the Town Designee. In fact the Beddoes have been marketing the property since mid-November, including an advertisement appearing in the Action Unlimited this weekend, not waiting for your response to my letter. The sincerity of their diligent efforts to meet the obligations of the restrictive sale provisions is insulted by your arbitrary proposal that “[t]o satisfy ‘diligent efforts’ your client must immediately list the unit with broker [sic] who will forthwith list the unit...” This proposal arbitrarily imposes a 5% sales commission penalty on Mrs. Beddoe to gain your blessing when she and her family have done everything within their power to comply with the Comprehensive Development Agreement. It is *not* acceptable, when you intend to exact it upon her below-market sale, unless you will allow the sale price to be increased by the amount of a broker’s commission so that the net to Mrs. Beddoe will not be reduced. This would seem to be fair to Mrs. Beddoe and address the “benefit to the Town” of preserving this as a restricted unit. Please consider this and let me know – as soon as possible.

Very truly yours,

KATHLEEN A. VORCE

Enclosure as noted

cc: client  
Dan Hill, Esquire  
Don Johnson, Town Manager  
Nancy Tavernier, Acton Housing Authority

Mr. Don Johnson  
Town Manager  
472 Main Street  
Acton, MA 01720

January 13, 2005

Mr Johnson,

This letter is to inform you that we are planning to sell my mother's condominium at 13 Brewster Lane, Acton, MA. My mother, Margaret C. Beddoe has recently moved to the Inn at Robbins Brock in Acton. I, along with my sister, Barbara L. Shapiro of Montreal, Canada have power of attorney regarding my mother's affairs. I can be reached at home 508-879-1375, work 617-663-1205 or cell phone 508-202-5666. My brother, Charles Beddoe may also be contacted regarding this matter. His home phone is 978-456-9706 and his cell phone number is 978-793-0346.

Richard A. Beddoe  
8 Saybrook Road  
Framingham, MA 01701

COPY

KATHLEEN A. VORCE

Attorney At Law

Telephone: (978) 264-0554 - Fax 263-0554

Mail: P.O. Box 554, West Acton, MA 01720

November 15, 2005  
By Fax to 617-252-6899  
and First class mail, postage prepaid

Daniel Hill, Esquire  
Anderson & Kreiger LLP  
43 Thorndike Street  
Cambridge, MA 02141

Re: 18 Brewster Lane, Audubon Hill, Acton, MA

Dear Attorney Hill,

In response to your email today: never has it been discussed with me that "the Town's position [is] that the 180 days has not expired due to the unit being taken off the market so quickly after it was put on the market." I first heard that notion from John Murray on October 17 in the form of a question he had referred to you, and I have never heard a decisive response from you. In fact I spoke with Nancy Tavernier on October 13, 2005 and she told me she had recommended to John Murray to allow the unit to be sold 'at market' and the proceeds to be contributed to (the non-existent) fund for seniors. For your reference in the calculation by the Town of how "quickly" the unit was on or off the market please note the following periods of delay caused by the Town:

November 2004	Beddoe <i>contacted</i> by Acton Housing Authority re prospect of latter purchasing unit
January 2005	Beddoe writes to AHA whether there is continuing interest (60 days delay)
January 3, 2005	Beddoe writes to Town Designee regarding sale
March 7, 2005	Beddoe again writes & ask for the "approved appraiser" list (63 days delay)
March 24, 2005	Response from Murray that Avery is the only appraiser (17 days delay)
April 25, 2005	Avery appraisal complete;
[May spent dealing with "eligibility" issues with prospective purchaser, Barstow - not eligible]	
June 2, 2005	Advertised in Beacon
June 25, 2005	Offer signed w/Carol Stuart
October 3, 2005	Contract is defaulted by Buyer, Stuart-
October 13, 2005	Nancy Tavernier contacted re housing "waiting list" (none) - she relates that she has recommended sale at market to John Murray; Beddoe counsel call Murray who mentions 180-day issue referred to Town Counsel;
November 1, 2005	Beddoe counsel after several calls to Murray, initiates call to Atty Hill who communicates that "Town prefers to preserve this as a restricted unit" and

Office: 555 Liberty Square Road, Boxborough

volunteers he will contact CHAPA re possible list of 'eligible persons' (18 days delay)

[several calls and messages to Atty Hill by Beddoe counsel]

November 15, 2005 Atty Hill confirms by email has not contacted CHAPA and asserts for first time his position on 180-day issue (14 days delay)

By this calculation there have been to date at least 110 days of delay caused to the Beddoes by the action -- or more often inaction -- of Town employees or representatives. And again I remind you: this is an 80+ year-old woman of limited means who has, due to health issues, had to relocate out of the unit in question to a facility providing higher level of care for her needs. The constraints of the deed limitations on sale, and more significantly the total unpreparedness of the Town of Acton to facilitate their implementation, are causing the burdens to fall disproportionately on the very person the entire agreement was devised to assist.

By whatever means, I again implore you to arrive at a determination that will assist this unit owner. To that end I propose that you determine that Mrs. Beddoe either may sell at "market price" with contribution of excess proceeds to be delivered to an organization for seniors, which you will designate in writing to her; or alternatively that Mrs. Beddoe must advertise the unit as a restricted unit, but that it shall be the Town's finding that she has satisfied 110 days of the 180-day period for purposes of determining the tolling of the 180-day period following which she may market it for full price. Furthermore, please identify and communicate to Mrs. Beddoe (pending the advertising) by whom and how the Town of Acton will screen the "eligibility" of any prospective purchaser within the remaining 70-day period.

I look forward to your early reply.

Very truly yours,



KATHLEEN A. VORCE

cc: client  
John Murray, Assistant Town Manager  
Don Johnson, Town Manager  
Nancy Tavernier, Acton Housing Authority

**CERTIFICATE OF COMPLIANCE**

The **Town of Acton** (the "Town") with a principal place of business at 472 Main Street, Acton, Massachusetts, grantee, holder and beneficiary of certain affordable housing restrictions contained within a Comprehensive Development Agreement between the Town and Roy C. Smith, Trustee of High Street PCRC Trust ("Smith"), dated June 23, 1989 and recorded with the Middlesex South District Registry of Deeds in Book 19966, Page 8 (the "Agreement"), hereby certifies that the proposed conveyance of the condominium unit known and numbered as 18 Brewster Lane, Audubon Hill South Condominium, Acton, Massachusetts from **Margaret C. Beddoe** (Seller) to **Carol Stuart** (Buyer) for the purchase price of \$281,250.00 is in compliance with said restrictions contained in the Agreement and in the Master Deed for the Audubon Hill South Condominium recorded with said deeds in Book 20875, Page 79.

TOWN OF ACTON

By: John Murray  
John Murray Town Treasurer

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this 23 day of Sept, 2005, before me, the undersigned Notary Public, personally appeared John Murray, proved to me through satisfactory evidence of identification, which was known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Treasurer of the Town of Acton.

Christine M. Jayce  
Notary Public

My Commission Expires: Sept 26, 2008

[apply seal]

**Betty McManus**

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**From:** "Tavernier" <ntavern@comcast.net>  
**To:** "John Murray" <jmurray@acton-ma.gov>  
**Sent:** Thursday, March 24, 2005 9:50 AM  
**Subject:** RE: trust definition

OK. Here is my layman definition of a qualified buyer. They have to have enough income and assets (and presumably not a penny more) to qualify for an 80% mortgage on the unit selling at 75% of its full market price but not enough to qualify for an 80% mortgage if the unit was selling at 100% of its market value. It is not clear whether they have to actually GET a mortgage.

At 09:42 AM 3/24/2005, you wrote:

It would be a new trust under control of the BoS to be used to benefit the Senior Citizens of the Town in any manner deemed appropriate by the BoS.

However, we need to search for qualified buyers first.

John

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**From:** Nancy Tavernier  
**Sent:** Thursday, March 24, 2005 9:39 AM  
**To:** John Murray  
**Subject:** trust definition

John,

In anticipation of the excess profit to come to the Town if the Audubon unit is sold at the full market place, which is likely, this is where the deed restriction stipulates it must go. "the excess of the amount received by the Seller of the Unit over the Unit's Maximum Resale Price shall be paid to the Town to be held in *trust* for the benefit of the Town's Senior Citizens." Would you interpret that to be an actual Trust account should one exist now at the COA or AHA? Or would you interpret it more liberally so that it could be applied toward say an extra affordable unit at Ellsworth (55+ complex) or other affordable housing activities for Seniors? The excess will be 25% of the full price or roughly \$95,000 since the deed restriction sets 75% of the full market value as the restricted sales price and that will probably be about \$380k.

Thanks.

Nancy

## Exhibit A

### Eligible Buyer set up in the original Master Deed for Audubon Hill

An Eligible Purchaser shall be defined as (1) a Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser"); (2) who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the income and asset underwriting criteria established by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the Fair Market Value of an Unrestricted Unit; and (3) who does qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the Maximum Resale Price of a Restricted Unit. The Declarant shall be required to obtain and record a certificate executed by the Town Designee as defined in section 9.3 herein verifying that the Prospective Purchaser on the first sale of a Restricted Unit is an Eligible Purchaser. The Declarant further reserves the right to amend this restriction by substituting a different Unit for any of the above-described "Restricted Units", so long as the total number of units so restricted herein is not reduced in number.

AUDUBON HILL SOUTH CONDOMINIUM RESTRICTED UNIT DEED

R. Smith Associates, Inc., a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, Middlesex County, Massachusetts, for a consideration of ONE HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED TWENTY-FIVE AND 00/100 DOLLARS (\$131,925.00) paid, grants to MARGARET C. BEDDOE, whose address is 245 Main Street, Acton, Massachusetts, with QUITCLAIM COVENANTS, the following premises in the Audubon Hill South Condominium situated in Acton, Middlesex County, Massachusetts, created by a Master Deed dated November 15, 1990, recorded with the Middlesex South District Registry of Deeds on November 20, 1990, as Instrument No. 714, in Book 20875, Page 79, being Unit No. 18, together with an undivided 5.2371% interest appertaining to said Unit in the common areas and facilities of said Condominium and subject to and with the benefit of the provisions of said Master Deed as hereinabove referred to.

Said Unit is conveyed together with the benefit of and subject to: (a) the provisions of Massachusetts General Laws, Chapter 183A, as the same may now or hereafter be amended, (b) the Master Deed and any amendments thereto, (c) the By-Laws of the Audubon Hill South Condominium Association, Inc., any amendments to the same, and any rules and regulations adopted from time to time pursuant thereto, and all matters of record stated or referred to in the Master Deed as completely as if each were fully set forth herein, including, but not limited to, reservations, rights and easements of the Grantor over the land in the remaining undeveloped phases, to construct the additional units and improvements through Phase V and/or any additional phases in said condominium and, in connection therewith, to install and maintain utilities of every nature and description, store construction equipment and supplies, including passing and repassing over said premises with construction equipment, all as may be necessary and convenient for such construction, and (d) further subject to real estate taxes attributable to said Unit for the current year as are not now due and payable.

The Unit referred to above is laid out as shown on the unit plan attached hereto which is a copy of a portion of the plans filed with said Master Deed and to which is affixed a verified statement in the form provided in Massachusetts General Laws, Chapter 183A, Section 9, and said Unit contains the area shown on said unit plan to be recorded herewith.

The Unit is conveyed subject to and together with all easements, rights, restrictions and agreements of record.

The Unit is conveyed subject to and with the benefit of the Decision, Planned Conservation Residential Community Special Permit, Audubon Hill, issued by the Town of Acton Planning Board dated March 4, 1989, recorded in Book 19722, Page 511, Middlesex South District Registry of Deeds.

The Unit is conveyed subject to and together with the benefit of a Comprehensive Development Agreement by and between PCRC Trust and

|              |  |
|--------------|--|
| SALES REPORT |  |
| LEGAL        |  |
| ENGINEERING  |  |
| APPRAISAL    |  |
| LABEL        |  |

18 Brewer Fee MSD 88-3747 10:00:05 130 39.00  
 601.92 \*\*\*  
 EXCISE TAX:

the Town of Acton dated June 23, 1989, recorded in Book 19966, Page 008, with said Deeds, as affected by a Supplemental Agreement by and between R. Smith Associates, Inc. (hereinafter referred to as the "Declarant") and the Town of Acton dated October 27, 1989, recorded in Book 20205, Page 227, with said Deeds.

This Unit is conveyed subject to the Restrictions on Use of All Units as set forth in Section 9.1 of the Master Deed, a copy of which Restrictions are attached hereto as Exhibit "A".

This Unit is a Restricted Unit and is conveyed subject to the Restrictions On The First Sale Of The Restricted Units and the Restrictions On The Resale Of The Restricted Units as set forth in Sections 9.2 and 9.3 of the Master Deed of The Audubon Hill South Condominium Master Deed, a copy of which Restrictions are attached hereto as Exhibit "B".

This conveyance is made in the ordinary course of business, and does not constitute sale of all or substantially all of Grantor's assets.

The said Grantee(s), by the acceptance and recording of this Deed, agree to assume and perform all of the conditions of this Deed and the said Master Deed, as amended, and as the same may be amended in the future, as completely as if each were fully set forth herein.

For title, see deed from Roy C. Smith, Trustee of High Street PCRC Trust to R. Smith Associates, Inc. dated July 24, 1989, recorded in Book 19966, Page 308, with the Middlesex South District Registry of Deeds. Also, see Certificate of Title No. 185879 and Land Court Removal From Registration Certificate, recorded December 18, 1990, in Book 20920, Page 001, recorded with said Deeds.

IN WITNESS WHEREOF, the said R. Smith Associates, Inc. has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by Roy C. Smith, its President, and Jean Smith, its Treasurer, hereto duly authorized this 29th day of August, 1991.

TAX 681.92  
CASH 601.92  
6884015 09:29  
EXCISE TAX  
CANCELLED  
DEEDS SOUTH  
MIDDLESEX  
08/30

R. SMITH ASSOCIATES, INC  
By: Roy C. Smith  
Roy C. Smith, President  
By: Jean Smith  
Jean Smith, Treasurer

MIDDLESEX, SS. COMMONWEALTH OF MASSACHUSETTS August 29, 1991

Then personally appeared the above-named Roy C. Smith, President, and Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of R. Smith Associates, Inc., before me

Linda O'Rell  
Notary Public LINDA O'RELL  
My Commission Expires: 11-28-91

EXHIBIT "B"

## 9.2 RESTRICTIONS ON THE FIRST SALE OF THE RESTRICTED UNITS

a. Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 shall be known as the "Restricted Units". These restrictions contained in this Section 9.2 shall only apply to all of the Restricted Units, but shall not apply to all other Units in the Condominium, which Units shall be known as the "Non-Restricted Units".

b. The first sale of Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38 and 48, Brewster Lane, by the Declarant shall be restricted to a maximum gross sales price not to exceed seventy-five (75%) percent of the Fair Market Value of the price of the Non-Restricted Units (the "Discounted Price") (for example, if the price of the Non-Restricted Unit is Two Hundred Twenty Thousand (\$220,000.00) Dollars, the maximum gross sales price of a Restricted Unit would be One Hundred and Sixty-Five Thousand (\$165,000.00) Dollars); and the first sale of Unit Nos. 2, 4, and 25, Brewster Lane, (hereinafter called "A.H.A Restricted Units") by the Declarant shall be restricted to a gross sales price of Sixty-Five Thousand and 00/100 (\$65,000.00) Dollars. The Acton Housing Authority holds options to purchase each of the A.H.A Units. The first sale of the Restricted Units, except for the sale of Unit Nos. 2, 4, and 25 which are subject to a First Option to Purchase in favor of the Acton Housing Authority, shall be to an Eligible Purchaser. An Eligible

Purchaser shall be defined as (1) a Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser"); (2) who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the income and asset underwriting criteria established by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the Fair Market Value of an Unrestricted Unit; and (3) who does not qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the Maximum Resale Price of a Restricted Unit. The Declarant shall be required to obtain and record a certificate executed by the Town Designee as defined in Section 9.3 herein verifying that the Prospective Purchaser on the first sale of a Restricted Unit is an Eligible Purchaser. The Declarant further reserves the right to amend this restriction by substituting a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted herein is not reduced in number.

#### 9.3 RESTRICTIONS ON THE RESALE OF THE RESTRICTED UNITS

a. The Maximum Resale Price of any Restricted Unit is the price, as of a given date, equal to seventy five (75%) percent of the Appraised Value of such Unit. (For example, if at the time of the resale of a Restricted Unit, the Appraised Value of the Unit is Three Hundred Thousand (\$300,000.00) Dollars, the maximum resale price of the Unit is Two Hundred and Twenty Five Thousand (\$225,000.00) Dollars.) "Appraised Value," as utilized in this Master Deed, shall

mean as to a Restricted Unit, the Fair Market Value of the Restricted Unit as determined by real estate appraiser duly licensed and qualified in the Commonwealth of Massachusetts chosen from a list of such appraisers selected by the Town; provided, however, that the fair market value determination shall be made as though the Unit were not a Restricted Unit, but shall take into account that the Unit is located within a condominium development restricted to Senior Citizens containing both Unrestricted and Restricted Units; and provided further that the initial Appraised Value of any Unit shall be the market price reasonably established by the Developer. Such appraisal shall generally satisfy the appraisal standards established from time to time by the Federal National Mortgage Association or another nationally recognized secondary mortgage market investor selected by the Town.

b. Price. For a period of forty (40) years from the date of this Master Deed no Restricted Unit or any interest therein shall be sold, conveyed, or otherwise transferred, and no attempted sale, conveyance or transfer thereof shall be valid unless the aggregate value of all consideration and payments of every kind given or paid by the purchaser to the owner of such Restricted Unit for and in connection with the transfer of such Restricted Unit, is equal to or less than Maximum Resale Price for such Unit determined as of a date not later than the date of transfer or conveyance of title to such Unit. In the event that the price restrictions contained herein are not extended or are withdrawn prior to the expiration of such forty

9  
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(40) year period, as provided herein, the sum equal to the excess of the amount received by the Seller of the Unit over the Unit's Maximum Resale Price shall be paid to the Town to be held in trust for the benefit of the Town's Senior Citizens.

c. Income. For a period of forty (40) years from the date of this Agreement, no Restricted Unit or any interest therein shall be sold, conveyed or otherwise transferred and no attempted sale, conveyance or transfer thereof shall be valid, unless the purchaser of such Restricted Unit is an Eligible Purchaser.

d. Town Designee. Means any person or entity designated by the Town in accordance with this Master Deed to act on behalf of the Town with respect to the Comprehensive Development dated as of June 23, 1989, by and between Roy Smith, Trustee of High Street PCRC Trust, and the Town of Acton, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as modified by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, with said Deeds (the "Agreement") or to administer any provisions of the Agreement and this Master Deed, or any assignee or other transferee of the Town's rights to enforce the provisions of the Agreement and to hold the benefit of and enforce the restrictions and conditions contained in the Agreement, provided that the Town shall prepare and record a certificate with the Middlesex South District Registry of Deeds setting forth such facts and shall deliver a copy of such certificate to the Declarant and the Association and their successors and assigns. The Town has designated the Town

Manager, or his or her assigns as the initial Town Designee and hereby confirms that the Town Designee shall have authority to give the notices, approvals and certifications and to take such other actions as are provided to be given, taken or performed by the Town Designee under the Agreement, and the Declarant, the Association and any Unit Owner, Prospective Purchaser or Lender may rely conclusively on any such notice, approval, certification or action taken by the Town Designee.

e. Affidavit of Compliance with Restrictions. Prior to the sale of any Restricted Unit by either Declarant, its successor or assigns or any subsequent owner of such Restricted Unit (a "Seller"), the Seller shall deliver to the Town Designee, as further provided below, an affidavit executed under oath and acknowledged by both the Seller and the Prospective Purchaser of the Unit, identifying the Unit in question, the then-current owner thereof and the Prospective Purchaser thereof and the names and ages of all persons in the Prospective Purchaser's household, and stating and affirming:

(i) That the Prospective Purchaser is an Eligible Purchaser, including a copy of a Mortgage Lender's Certificate thereof as defined in the Agreement; and

(ii) The agreed purchase price, including the aggregate value of all payments, all mortgages or other liabilities assumed and all other consideration of every kind, previously given or paid or subsequently to be given or paid by such Prospective Purchaser to the Seller for or in connection with the transfer of the Unit or any interest therein. Such affidavit shall also contain the price paid for such Unit by such Seller and calculation of the Maximum Resale Price of such Unit as of the date not later than the date set for closing of the proposed sale.

Town or do not indicate that the annual household income and assets of the Prospective Purchaser, and/or the sale or resale price, as the case may be, comply with the restrictions contained herein, and specifying each particular instance in which the Approval Documents are not satisfactory. In such event the Unit may not be sold to such Prospective Purchaser unless and until the Town Designee subsequently approves revised Approval Documents.

All certificates of the type described in (i) above issued by the Town Designee shall bear the date of execution thereof. Any good faith purchaser of any Restricted Unit and any lender or other party taking a security interest in such Unit may rely upon a certificate of the type referred to in (i) above referring to such Unit and such certificate so executed by the Town Designee shall be treated as conclusive evidence of the matters stated therein and may be recorded in connection with conveyance of the Unit, provided that, in the case of a certificate issued pursuant to Section 9.3 (i) above, the consideration recited in the deed or other instrument conveying such Unit is not greater than the consideration stated in the certificate, and provided further, that conveyance of such Unit in accordance with the restrictions contained herein takes place within one hundred and twenty (120) days from the date of the certificate of the Town Designee as provided above. If the conveyance of such Unit, pursuant to such Approval Documents and certificate, does not occur within one hundred and twenty (120) days of the date of execution by the Town Designee of such certificate, the Seller and Prospective Purchaser may execute and deliver to the Town Designee additional affidavits in the form provided above, or other revised Approval Documents, all in

accordance herewith, and the provisions of this section with respect to issuance of a certificate or notice by the Town Designee and conveyance in accordance therewith shall be applicable to any such additional affidavits and other Approval Documents.

Within ten (10) days of the closing of the sale of any Restricted Unit, the purchaser of such Unit shall deliver to the Town Designee a true copy of the Unit Deed of such Unit as recorded, together with information as to the place of recording thereof in the public records. Failure of the purchaser to comply with the preceding sentence shall not affect the validity of such Unit Deed.

g. Lack of Eligible Purchaser

(i) If the owner of a Restricted Unit places a Restricted Unit for resale on the open market by written notice to the Town Designee indicating the availability of the Unit for resale and purchase or by listing the Unit for sale with a real estate brokerage company (including the listing of the Restricted Unit with a Multiple Listing Service) and after utilization of all due diligence and the expiration of one hundred and eighty (180) days from the date of the original listing agreement with the real estate brokerage company, the owner is unable to secure an Eligible Purchaser to purchase the Restricted Unit for the Maximum Resale Price, then and only in such instance may the Restricted Unit be sold without compliance with the foregoing resale restrictions which restrictions shall then be forever released as to the particular Restricted Unit.

(ii) In the event a Restricted Unit is sold as described in Paragraph 9.3 (g)(i) hereof, the sum equal to the excess of the amount received by the Seller of the Unit over the Unit's Maximum Resale Price shall be paid to the Town to be held by the Town in trust for the benefit of the Town's Senior Citizens.

(iii) Prior to the sale of any Restricted Unit pursuant to Paragraph 9.3(g), the Seller shall deliver to the Town Designee an affidavit executed under oath and acknowledged by both the Seller and the Prospective Purchaser of the Unit in question, stating the then current owner thereof and the Prospective Purchaser thereof and the names and ages of all

persons in the Prospective Purchaser's household and stating and affirming:

(a) That the Unit was listed for sale with a real estate brokerage company, the name and address of such real estate brokerage company, and the specific time periods of the listing, including reference to any multiple listing service wherein the Unit was so listed for sale;

(b) The agreed purchase price, including the aggregate value of all payments, all mortgages or other liabilities assumed and all other consideration of every kind previously given or paid or subsequently to be given or paid by such Prospective Purchaser to the Seller for or in connection with the transfer of the Unit or any interest therein. In the case of a proposed sale by a Seller other than the Developer, such affidavit shall also contain the price paid for such Unit by such Seller and calculation of the Maximum Resale Price of such Unit as of the date not later than the date set for closing of the proposed sale; and

(c) That the Seller has contacted each person on the waiting list of persons maintained by the Town Designee, the names of such persons and that such persons either did not qualify as Eligible Purchasers or were unable to perform within the one hundred eighty (180) day period set forth in Section 9.3(g)(1) herein.

(iv) In the event a Restricted Unit is sold pursuant to Paragraph 9.3(g) hereof, the Town Designee shall execute a certificate from the Town similar in form and content to the certificate described in Section 9.3(f) herein, except that such certificate shall also state:

(a) That the proposed sale or transfer of the Unit to the Prospective Purchaser is approved although the sale is not in compliance with the Resale Price Restrictions contained in this Master Deed;

(b) That the Town Designee, on behalf of the Town, waives the right to enforce the Resale Price Restrictions set forth herein or any of them in connection with the proposed sale or transfer; or

(c) That the Town acknowledges receipt of funds required to be paid pursuant to Paragraph 9.3 (g)(ii) herein and that the Unit in question is no longer a Restricted Unit and is released from the restrictions

contained herein applicable to Restricted Units in perpetuity.

h. Rights of Mortgagees. Notwithstanding anything herein to the contrary, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender or its successors or assigns shall acquire a Restricted Unit by reason of foreclosure, the restrictions and covenants herein contained shall not apply to such holder upon such acquisition of a Restricted Unit or to any purchaser (other than the Mortgagor) of a Restricted Unit at a foreclosure sale conducted by such holder, or any purchaser (other than the Mortgagor) of a Restricted Unit from such holder.

i. Covenants to Run with the Land. It is intended and agreed that the agreements, covenants and restrictions set forth herein shall run with the Condominium and shall be binding upon the Declarant, its successors and assigns, for the benefit of and enforceable by the Town for a period of forty (40) years. Without limiting any other rights or remedies of the Town, its successors or assigns, any sale or other transfer or conveyance of any Restricted Unit in violation of the provisions of this Agreement in the absence of a certificate from the Town approving such sale, transfer or conveyance as provided hereinabove, shall, except as set forth in Section 9.3(h) herein, to the maximum extent permitted by law, be voidable by the Town, its successors or assigns by suit in equity to enforce such restrictions.

j. Extension of Restrictions. The period of enforceability of the Restrictions set forth in Sections 9.1, 9.2 and 9.3 herein may be extended if a Notice is executed by any one of the following: a Unit Owner, Unit Mortgagee, Condominium Association, Town of Acton or Acton Housing Authority and said Notice is recorded with the Middlesex South District Registry of Deeds.

i/beddoe.vii

The Grantee(s), by the signed acceptance of this Unit Deed, recognize(s) the rights and reserved easements of the Grantor, its successors and assigns, to amend the Master Deed to add additional phases through Phase V in any order so desired, including the right to include subphases within any phase, as well as the right to eliminate or add any phases and modify the percentage of interest attributable to each unit on account thereof so as to at all times be in compliance with the provisions of General Laws, Chapter 183A, to make all other necessary modifications as a result thereof and to construct the additional structures, units and improvements on such phases, all in accordance with the reservations of rights as set forth in Paragraphs 1, 11 and 14 of the Master Deed, as amended. The Grantee(s) hereby irrevocably authorize(s) and empower(s) the Grantor, its successors and assigns, to sign for and on behalf of the Grantee(s) and his/her/their successors or assigns, an amendment to the Master Deed which adds such additional phases, structures and units.

Said authorization and power shall terminate when all the units contemplated by the Master Deed shall have been submitted and have been added to the Audubon Hill South Condominium by an amendment thereto duly recorded or the right to do so has expired, whichever is earlier.

Margaret C. Beddoe  
MARGARET C. BEDDOE

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

August 29, 1991

Then personally appeared the above-named Margaret C. Beddoe and acknowledge the foregoing to be her free act and deed

Cathy Netburn  
Notary Public  
My commission expires:

i/baddoe.iii

Cathy Netburn  
Notary Public  
My Commission Expires Sept. 25, 1992

## THIRD SUPPLEMENTAL AGREEMENT

This Agreement (the "Third Supplemental Agreement") is made as of the 18th day of February, 1992, by and among the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement") dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and a Second Supplemental Agreement (the "Second Supplemental Agreement") dated as of August 26, 1991 and recorded in Book 21513, Page 494 with said Deeds (the Comprehensive Development Agreement, as supplemented by the Supplemental Agreement and as further Supplemented by the Second Supplemental Agreement, hereinafter called the "Agreement"), the Acton Housing Authority (the "AHA"), having a usual place of business at Acton Town Hall, Acton, MA, R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720, and Boston Federal Savings Bank (the "Lender"), having a usual place of business at 17 New England Executive Park, Burlington, MA 01803.

## RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Agreement) would be developed.

B. Section 3.3(c) of the Comprehensive Development Agreement requires that at least thirty five (35%) percent of the Units constructed on the Development Property be sold and resold as "Restricted Units" as defined in the Agreement. *35% of 70 = 25 units*

C. Section 3.3(f) of the Comprehensive Development Agreement requires the Developer, as part of the thirty-five (35%) percent Restricted Unit requirement, to convey five (5) units to the AHA for the price of Sixty Five Thousand Dollars (\$65,000.00) for each unit. The AHA has given the Developer a deposit of Ten Thousand (\$10,000) Dollars and the Developer has given the AHA recorded Rights of First Refusal to purchase said five (5) units, which were attached to the Comprehensive Development Agreement and recorded in Book 19966, Page 254 through Page 278, with said Deeds.

D. Article V of the Comprehensive Development Agreement requires the Developer to construct a Senior Center as a common area and facility in the Condominium and to lease the Senior Center to the Town upon the terms and conditions as set forth in the Agreement.

E. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement and that Unit Numbers 2, 4, and 25 (the "A.H.A. Restricted Units") would each be conveyed to the Acton Housing Authority for the price of Sixty Five Thousand (\$65,000.00) Dollars in partial satisfaction of Section 3.3(f) of the Comprehensive Development Agreement.

F. The Developer and the Town, by execution of Amendment No. 1 to the Master Deed of Audubon Hill South Condominium ("Amendment No. 1") recorded as Instrument No. 51 of July 26, 1991, in Book 21311, Page 176, with said Deeds removed Unit 38 as a Restricted Unit and substituted Unit 29 as a Restricted Unit. The Developer and the Town by execution of the Second Supplemental Agreement modified the development scheme by removing Units 23, 27, 29 and 31 of the Audubon Hill South Condominium as Restricted Units and agreeing to substitute Units 125, 127, 130 and 132 as Restricted Units at the time of the creation of the Audubon Hill North Condominium. The Second Supplemental Agreement also removed Unit 25 of the Audubon Hill South Condominium as a "A.H.A. Restricted Unit" and agreed to substitute Unit 130 as a "A.H.A. Restricted Unit" at the time of the creation of the Audubon Hill North Condominium. These changes were also confirmed by the recording of Amendment No. 3 to the Master Deed of Audubon Hill South Condominium ("Amendment No. 3") recorded as Instrument No. 620 of November 1, 1991, in Book 21513, Page 493, with said Deeds.

G. Despite an active sales and marketing campaign, the Developer has had difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the Agreement) to purchase the "Restricted Units" in a manner to accommodate the construction and orderly sale of the Units as approved by the Town. Further, economic conditions have impacted upon the Developer's ability to construct the Senior Center and the North Phase, as originally approved, without the modification of the Agreement.

H. Under Section 6.2 (b) of the Comprehensive Development Agreement, there may be no modification of the Agreement without the Construction Lender's written consent.

I. Because of market conditions and other causes reasonably beyond the Developer's control, the Project will not be completed within the period required by the Agreement.

J. Accordingly, the Developer and the Lender have requested that the Town and the AHA join with the Developer and the Lender in modifying certain terms and conditions of the Agreement, as set forth below.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Third Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Agreement and all other agreements by and between the Town and the Developer are hereby amended to remove and make null and void and of no effect all references to the Developer's obligation to create and sell Restricted Units or "A.H.A. Restricted Units" in either the Audubon Hill South Condominium or the Audubon Hill North Condominium, except for four (4) Restricted Units already constructed and sold as Restricted Units. Only Unit Numbers 17, 18, 25 and 48 in the Audubon Hill South Condominium which have already been sold as Restricted Units shall remain as Restricted Units.

2. The Lender guaranties the disbursement of a maximum of Three Hundred Thousand (\$300,000.00) Dollars to be utilized for all costs associated with the construction of the Senior Center on the Development Property in accordance with the plan entitled "Audubon Hill Senior Center" dated December 5, 1991, the Preliminary Outline Specifications of the Elderly Center Addition dated July 29, 1988, as amended January, 1992 and the terms and conditions of the Agreement and any modifications to said plans or the Agreement reasonably requested or approved by the Town. The Lender specifically waives any right it may have under Section 6.2 (a) of the Comprehensive Development Agreement or otherwise to be released from the obligation to construct the Senior Center and the Lender acknowledges that any successor to the Lender which may acquire the Development Property in any manner shall be bound by the provisions of Article V of the Comprehensive Development Agreement as modified by the provisions of this Section 2. The Agreement is hereby amended to require that the Developer begin the construction of the Senior Center, as aforesaid, within thirty (30) days after the execution of this Third Supplemental Agreement and complete the Senior Center upon the earlier of the ninetieth (90th) day after the closing of the sale of the Thirty-Eighth (38th) Unit in the Audubon Hill South Condominium or December 31, 1992, subject to the provision that the Lender's Legal Lending Limit with the Developer does not allow the Lender to advance more than \$4,300,000.00 to the Developer at any one time.

3. In lieu of satisfying the provisions of Sections 3.4 (b) and 3.4 (h) of the Comprehensive Development Agreement with respect to the Developer's inability to secure Eligible Purchasers for the majority of the Restricted Units, the Developer shall contribute to the Town the sum of One Hundred and Thirty Thousand (\$130,000.00) Dollars from the proceeds of the sale of the first unit to close after the execution of this Third Supplemental Agreement to the Agreement by all required parties, to be held and applied by the Town for elderly purposes in accordance with Sections 3.4 (b) and 3.4 (h) of the Comprehensive Development Agreement.

4. In partial consideration of the Developer reimbursing to the AHA, its \$10,000 deposit as referenced in Section C of this agreement, the Rights of First Refusal granted by the Developer to the AHA dated as of March 8, 1989 and the provisions for transfer of

five (5) Units ("the A.H.A. Restricted Units") to the AHA set forth in Section 3.3 (f) of the Comprehensive Development Agreement are hereby released and shall be null and void and of no further effect.

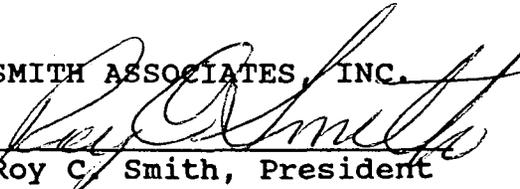
5. Pursuant to Sections 2.1 and 9.13 of the Comprehensive Development Agreement, the time for performance of the Agreement is hereby extended one (1) year to June 23, 1993, provided that the Town, in its sole discretion, may elect to extend such time for performance further.

6. Capitalized terms used in this Third Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Agreement.

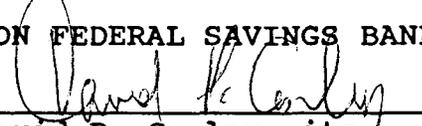
7. The parties hereto specifically ratify and confirm the Agreement, except as amended hereby and the Comprehensive Development Agreement, the Supplemental Agreement and the Second Supplemental Agreement shall remain in full force and effect and this Third Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreements.

IN WITNESS WHEREOF, the parties hereto have caused this Modification Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON  
Acting by and through its  
Town Manager pursuant to  
a Vote of the Board of  
Selectmen dated February  
18, 1992, attached hereto  
  
Don P. Johnson, Town Manager

R. SMITH ASSOCIATES, INC.  
By:   
Roy C. Smith, President

  
Jean Smith, Treasurer

BOSTON FEDERAL SAVINGS BANK  
By:   
David P. Conley, its  
Executive Vice-President  
For Authority, See Certificate  
of Vote attached hereto

This Third Supplemental Agreement is assented to by the Acton Housing Authority for purposes of releasing all of its rights as set forth in Section 4 of this Third Supplemental Agreement.

ACTON HOUSING AUTHORITY

By:   
Barbara S. Gates

For Authority, See Certificate  
of Vote attached hereto

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 25, 1992

Then personally appeared the above-named Don P. Johnson, Town Manager, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

  
Notary Public  
My commission expires: 5-13-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 25, 1992

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

  
Notary Public  
My commission expires: 5-13-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 25, 1992

Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

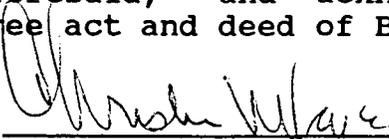
  
Notary Public  
My commission expires: 5-13-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 25, 1992

Then personally appeared the above-named David P. Conley, Executive Vice-President, as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of Boston Federal Savings Bank, before me

  
Notary Public  
My commission expires: 5-13-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February , 1992

Then personally appeared the above-named

Chairperson of the Acton Housing Authority, as aforesaid, and  
acknowledged the foregoing instrument to be the free act and deed of  
the Acton Housing Authority, before me

Donna M Jacobs

Notary Public

My commission expires: 10/30/98

i/modifyaudubonhill

XIII. ATTACHMENT (NO. 1)CERTIFICATE

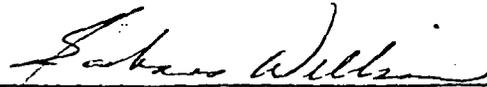
I, the undersigned, the duly appointed, qualified and acting Secretary of the ACTON (Housing) (~~Redevelopment~~) Authority, do hereby certify:

THAT the attached extract from the Minutes of the REGULAR meeting of the members of said Authority held on MARCH 2, 1992, is a true and correct extract of the original Minutes of said Meeting on file and or record insofar as said original Minutes related to the matters set forth in said attached extract, and

THAT on the date of this Meeting each member present and voting was as resident of the City/Town of ACTON; and

THAT notice of such meeting was duly filed more than twenty-four hours prior thereto with the (City Clerk of the (City of ACTON) in accordance with the requirements of Chapter 303 of the Acts of 1975 inserted in the Massachusetts General Laws by Chapter 39 Section 23B as amended.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Authority this 2nd day of MARCH.

  
\_\_\_\_\_

X. EXTRACTS OF MEETINGS

EXTRACTS FROM THE MINUTES OF A REGULAR  
 MEETING OF THE ACTON  
 HOUSING AUTHORITY HELD ON MARCH 2, 1992

The Members of the ACTON Housing Authority met in REGULAR  
 session at 68 WINDSOR AVE. in the City of ACTON,  
 Massachusetts at 7:30 o'clock p m., on MARCH 2, 1992.

The meeting was called to order by the Chairman and upon roll call, those present  
 and absent were as follows:

## Present:

JOSEPH MERCURIO  
 BARBARA YATES  
 BARBARA WILLSON  
 PETER BERRY

## Absent:

JEAN SCHOCH

By unanimous consent \_\_\_\_\_ acted as Chairman for the first  
 meeting.\*

\*This will appear in minutes of first meeting only.

BARBARA WILLSON \_\_\_\_\_ moved that the foregoing resolution be  
adopted as introduced and read, which motion was seconded by JOSEPH MERCURIO  
and upon roll call the "Ayes" and "Nays" were as follows:

## AYES

JOSEPH MERCURIO  
BARBARA YATES  
BARBARA WILLSON  
PETER BERRY

## NAYS

-0-

The Chairman thereupon declared said motion carried and said resolution adopted.

ACTON HOUSING AUTHORITY  
P.O. BOX 681  
ACTON, MA. 01720  
(508) 263-5339  
TDD #-1-800-5451833 EXT.120

February 26, 1992

Mr. Norman Lake  
Chairman, Acton Board of Selectmen  
Acton Town Hall  
Acton, Ma. 01720

Dear Norm:

I am writing to clarify what appears to be a misinterpretation by others in attendance at the February 18th Public Hearing for Audubon Hill with regard to comments made by Members of the Acton Housing Authority or the Acton Community Housing Corporation.

To this end it is important to first review the chronological order of events that led up to that Open Meeting.

1). October 9, 1991

A.H.A.'s Executive Director asked for the Acton Community Housing Corporation's assistance in exploring possible ideas to exercise The Right of First Refusal Options for five (5) Audubon Hill units held by AHA without the purchase monies promised by the State.

(excerpts of ACHC's Board Minutes attached)

2). November 20, 1991

Bill Gothorpe and Kevin McManus reported back to ACHC's Board on three possible options for consideration.

(excerpts of ACHC's Board Minutes attached)

3). January 6, 1992

ACHC's Members made formal presentation to AHA's Board. AHA's Board voted to support the concept of Option #1.

(AHA's Board Minutes attached)

4). January 7, 1992

AHA & ACHC present option #1 to Selectmen( see ACHC's memo to Selectmen attached ) At the time of the presentation I also informed the Selectmen that the Developer had offered two of the five units to the AHA for \$1.00 each in exchange for not exercising their rights to the remaining three. The ACHC stated should Option #1 be accepted by the Town the ACHC would reimburse the Town for the legal expenses incurred in altering the original Audubon Agreement.

After the ACHC's presentation we understood the Selectmen took the proposal under advisement and instructed Town Staff to review

and make recommendations at a later date. From that Selectmen's meeting to February 18th the Housing Boards assumed the "negotiations" being conducted would resemble the original option or at the very least the two units would be deeded outright to the AHA.

5). February 18, 1992

Town staff made its formal presentation at an Open Hearing. I am acutely aware now, that other than the members of the Housing Boards, none of the audience at that Hearing knew this history. Thus, without knowledge of what had gone on before, the "mild" surprise expressed by the ACHC and the AHA was left for misinterpretation. What would another Board's reaction have been when their valuable vested interest was not the final outcome? The AHA had asked for the cooperative efforts of all in protecting the Right of First Refusals for the Town and in the final outcome we have lost all!

Norm, this has been difficult for me personally. For the first time I have felt the concerted efforts of the Authority and the ACHC to work in partnership with the Town have failed. Failed in the fact that the history of our request did not become common knowledge. This is a travesty. It has strained an excellent working relationship between the Director of the Council on Aging, the COA's Board and the Authority's Board and Staff. The COA was "appalled" at the reaction of the Housing Boards at the Public Hearing. After a lengthy conversation with the Director of the COA I believe I have repaired that valuable relationship. I look to you and the other members of the Selectmen to assist in dispelling any other perceptions by those in attendance at that meeting that the Housing Boards would look only to their own self serving interests. I and other Members of the Housing Boards recently explained to Town staff that the housing committees would never become obstructionist in the construction and the financial operation of "our" much needed Senior Center. Our innocent request for assistance to protect those valuable Right of First Refusal Options almost escalated into an irreversible rift.

On March 2nd the Acton Housing Authority has invited the COA's Chairman, Vice-Chairman and its Director to our Regular Meeting for the purpose of clearing the air. It is hoped that a joint proposal on the dispersement of the \$130,000 ear marked for Elderly purposes as outlined in the Third Agreement of Audubon Hill can be developed and approved for the additional endorsement of the ACHC. We hope this proposal will prove valuable to the Selectmen in their final decision on the dispersement of the funds.

I have learned an important lesson. Thank you for the opportunity to explain in writing the positions of your Town's Housing Committees.

Sincerely,

cc. Council on Aging  
Acton Community Housing Corporation

ACTON COMMUNITY HOUSING CORPORATION  
MINUTES OF REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
OCTOBER 9, 1991

Pursuant to a notice given, a meeting of the Board of Directors of the Acton Community Housing Corporation was held October 9, 1991 at 7:00 am at the Acton Town Hall, Room 126. Present and constituting a quorum for the purpose of transacting business were Bill Gothorpe, Kevin McManus, Naomi McManus, Nancy Tavernier, Bob Wiltse, Peter Berry and Roy Smith.

Absent: Steve Day, Charles Kostro, Jana Mullin

1). Bill Gothorpe, Chairman, called the Regular Meeting to order at 7:00 am.

2). Nancy Tavernier moved that the Minutes of the Regular Meeting of 9/4/91 be approved with the following correction noted. Item #7 last sentence: "He informed the members that Minuteman Technical High School has worked with the Lexington community to construct affordable housing." Kevin McManus seconded the motion and all the members voted to approve.

3). The Board reviewed Roland Bartl's request of the ACHC to support the Accessary Apartment Zoning Article at the Special Town Meeting on 10/28/91. Kevin McManus moved that the Chairman, Bill Gothorpe speak to the article at Town Meeting. Nancy Tavernier seconded the motion and all members voted in favor of the motion.

4). Naomi McManus discussed with the members the current financial problems of the AHA to secure funds to purchase five units at Audobon Hill. E OCD has notified all Authorities across the State that funding for purchase of housing or construction of housing has been frozen for fiscal year 1991. Ms. McManus asked the ACHC members to explore any possibilities which would enable the Authority to exercise their options of The Right of First Refusal. Kevin McManus, Bill Gothorpe and Roy Smith will meet to discuss options and will make a formal presentation on their recommendations to the ACHC's Board at the next Regular Meeting in November.

5). Naomi McManus reported that she had meet with the Marketing agent of Audobon Hill to discuss the Bank/Developer marketing of the moderate priced units. Ms. McManus stated that the moderate units have been advertized with adds for the market rate units. ie. Beacon, Globe, the Senior Citizen's Newsletter, the Elderly Housing Option Fair and a presentation was given by the Bank/Developer at Acton's Senior Center. June Thorton, the marketing agent for Audobon Hill, will contact Acton's Council on Aging, the Acton Visiting Nurses and the Clergy Council as well.

ACTON COMMUNITY HOUSING CORPORATION  
MINUTES OF REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
November 20, 1991

Pursuant to a notice given, a meeting of the Board of Directors of the Acton Community Housing Corporation was held November 20, 1991 at 7:00 am at the Acton Town Hall, Room 126. Present and constituting a quorum for the purpose of transacting business were Peter Berry, Bill Gothorpe, Kevin McManus, Naomi McManus, Jana Mullin, Nancy Tavernier, Bob Wiltse and Roy Smith.

Absent: Steve Day, Charles Kostro

1). Bill Gothorpe, Chairman, called the Regular Meeting to order at 7:00 am.

2). Kevin McManus moved that the Minutes of the Regular Meeting of 10/9/91 be approved with the following correction of item #4 word present to read "presentation". Nancy Tavernier seconded the motion and all members voted to approve.

3). Old Business

The Chairman asked Roy Smith to leave the room due to the conflict of interest as the Members discussed the Audubon Hill project. Bill Gothorpe and Kevin McManus informed the Board of three possible options regarding the Acton Housing Authority's five (5) Right of First Refusal options with Roy Smith Developer/Bank.

Option I:

The ACHC would exercise the AHA's five (5) First Refusal Options for the Town. Kevin and Bill reminded the Board that the AHA is unable to exercise the options as the funding promised to the AHA is frozen as a result of the current budgetary problems at the State level. Bill pointed out that if the Options were not exercised the units would revert back to the Developer as market rate units. Bill and Kevin felt that a deal could be struck that might be a benefit to the Town/AHA/ACHC and the Developer. They explained Option I. The ACHC would purchase the five AHA units for \$1.00 and then contract with the AHA to manage/ lease the units to eligible applicants. In exchange the Town needs to agree that the Developer could reduce the number of Moderate Units (19) to reflect the value of selling the five units at \$325,000. Kevin and Bill felt that the Option might be appealing to all as the current set aside Moderate Units are not selling as anticipated. Kevin, Bill and Naomi McManus explained that there had been an active marketing of the moderate units but to date only three had actually been purchased. It was felt that the appeal of this option would be to eliminate the uncertainty of selling the moderate units in a reasonable time frame.

Option II

The Developer/Bank might be willing to sell two (2) units to AHA for \$1.00. In exchange the AHA would release the Developer/Bank from the remaining three Right of First Refusal options.

Option III

The Developer/Bank could possibly play hard ball and let the AHA options just run out and then the Town would gain nothing

Bill Gothorpe asked the Board to authorize the Executive Committee to explore the Options and report back to the Board at a future date. The sense of the Members present was to support Option I and to authorize the Executive Committee's exploration with the Developer/Bank, AHA Board and the Town.

4). Great Road Condominiums

Naomi McManus informed the Board that foreclosed units are selling at \$50,000 for a two bedroom. An investor has contacted Ms. McManus asking if the ACHC would be interested in exploring the possibility of "our" First Time Buyers purchasing the units. She requested that the Investor send a letter outlining his proposal and the ACHC would take it under advisement.

5). The Chairman stated that the Annual meeting would be held following the adjournment of the Regular Meeting.

6). The Regular meeting Adjourned at 7:30am. Next Regular Meeting will be scheduled for the first Friday in January.

Respectfully submitted,

Naomi E. McManus  
Clerk

## ACTON HOUSING AUTHORITY

Minutes of the Regular Meeting of January 6, 1992, 7:30 pm , 68 Windsor Avenue, Acton, Ma.

Attendance: Peter Berry, Joseph Mercurio, Jean Schoch, Barbara Willson, Barbara Yates. Naomi McManus, Ann Hosmer, Gail Hembrough/Acton Housing Authority.

1). Barbara Yates, Chairman, called the Regular Meeting to order at 7:30pm. On behalf of the Board Ms. Yates thanked the staff for their dedication and commitment to housing in what proved to be a difficult year financially for all Public Housing agencies.

2). Board approval of Minutes of the Regular Meeting of 12/2/92 deferred.

3). Board approval of Voucher # 93 deferred.

4). Bill Gothorpe and Kevin McManus of the Acton Community Housing Corporation (ACHC) met with the Board to discuss the possible option of the ACHC's exercising the AHA's " Right of First Refusal " option to purchase the five (5) units at Audobon Hill. The ACHC developed this option as a result of the Authority's inability to access the funding to purchase from EOCD within the foreseeable future. A second option had been suggested by the Bank/Developer for the Authority to purchase two (2) of the five (5) units for \$1.00.

Discussion followed regarding the AHA's staff managing and maintaining the five units for the ACHC. Although the particulars on just how the units will be managed could not be formalized Barbara Willson moved that the Authority vote to support the concept as presented to the Board by the ACHC. The motion was seconded by Jean Schoch and all members voted to approve.

5). New Business

Jean Schoch moved that the Authority submit an application for 25 Section 8 Certificates under the Family Self-Sufficiency Program. Barbara Willson seconded the motion and all members voted to approve.

ACTON COMMUNITY HOUSING CORPORATION

BOX 681

ACTON, MASSACHUSETTS, 01720

263-5339

TO: ACTON HOUSING AUTHORITY  
ACTON BOARD OF SELECTMEN  
ACTON COMMUNITY HOUSING CORPORATION  
DATE: JANUARY 6, 1992  
SUBJECT: AUDUBON HILL AGREEMENT  
FROM: WILLIAM GOTHROPE  
KEVIN MCMANUS

The agreement between the Town of Acton, the Developers of Audubon Hill and the Acton Housing Authority was intended to achieve the following objectives:

|                     |   |
|---------------------|---|
| total complex       | 70 units  |
| deed restrictions   | 55 and older  |
| added consideration | clustered building site   |
|                     | public access to conservation land  |
|                     | 19 units to be restricted for moderate income and sold @ 75% of market rate units                             |
|                     | 5 units (2 handicapped) designated for the Acton Housing Authority at an agreed purchase price of \$65,000.00 |
|                     | Developer agrees to construct and donate the Acton Senior Center  |

Due to the amount of time this project has been in the Development, a number of factors have changed and we request consideration of the following changes in the original agreement:

1). The State funds originally earmarked for the AHA to purchase the Audubon Hill units are not envisioned to be available within the development life of the project. Therefore, we propose the five units at \$65,000, designated for AHA be given to the Acton Community Housing Corporation at the price of \$1.00.

2). In consideration of the value of #1 (5x65,000=325,000) the required number of restricted units would decrease from 19 to 3. To the eligible buyer the estimated value of the restricted vs the unrestricted unit is \$30,000 and the removal of 11 restrictions has a total value of \$330,000.

#### Benefits of change

- 1). Continuation of the agreement in its present form will result in a forfeiture of 5 units by the AHA and therefore, a loss of 5 low income elderly units for Acton residents.
- 2). Allows the Town of Acton to receive the same financial benefit envisioned in the Audubon Hill Agreement.
- 3). Ownership by the ACHC vs AHA allows additional local preference in renting to Acton low income elderly.
- 4). Provides the ACHC with an asset and long term source of revenue that will enhance its mission of affordable and moderate housing for the Town of Acton.
- 5). Provides for a change in the agreement at no cost to the Town. ACHC will reimburse the Town for legal expenses incurred in the redrafting of the agreement.
- 6). Creates an innovative approach of preserving one of the major components of Audubon Hill Agreements.

#### Approach

In order to achieve the changes in the Audubon Hill Agreement we are reviewing this proposed approach with the following:

Developer-Roy Smith  
Board of the Acton Community Housing Corporation  
Bank- Boston Federal Savings  
Board Of the Acton Housing Authority  
Board Of the Acton Selectmen  
Executive Office of Communities and Development

ACTON COMMUNITY HOUSING CORPORATION

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2). In consideration of the value of #1 (5x65,000=333,000) the required number of restricted units would decrease from 19 to 8. To the eligible buyer the estimated value of the restricted vs the unrestricted unit is \$30,000 and the removal of 11 restrictions has a total value of \$330,000.

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3). Ownership by the ACHC vs AHA allows additional local preference in renting to Acton low income elderly.

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5). Provides for a change in the agreement at no cost to the Town. ACHC will reimburse the Town for legal expenses incurred in the redrafting of the agreement.

6). Creates an innovative approach of preserving one of the major components of Audubon Hill Agreements.

#### Approach

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Developer-Roy Smith  
Board of the Acton Community Housing Corporation  
Bank- Boston Federal Savings  
Board Of the Acton Housing Authority  
Board Of the Acton Selectmen  
Executive Office of Communities and Development

BENEFITS OF CHANGE

CONTINUATION OF THE AGREEMENT IN ITS PRESENT FORM WILL RESULT IN A FORFEITURE OF 5 UNITS BY THE STATE, AND THEREFORE A LOSS OF 5 LOW INCOME ELDERLY UNITS FOR ACTON RESIDENTS. <sup>AHA</sup>

ALLOWS THE TOWN OF ACTON TO RECEIVE THE SAME ~~AMOUNT~~ <sup>revenue</sup> OF BENEFIT ORIGINALLY ENVISIONED IN THE AUDUBON HILL AGREEMENT.

OWNERSHIP BY THE ACHC VS AHA ALLOWS FOR ADDITIONAL LOCAL PREFERENCE IN RENTING TO <sup>Acton</sup> LOW INCOME ELDERLY.

WOULD ALLOW THE ACHC TO CONTRACT WITH THE AHA FOR THE SELECTION OF TENNANTS AND MANAGEMENT OF UNITS.

~~ESTABLISHES ACHC AS THE TOWN AGENT FOR AFFORDABLE AND MODERATE HOUSING INITIATIVES.~~

PROVIDES FOR A CHANGE IN THE AGREEMENT AT NO COST TO THE TOWN. ACHC WILL REIMBURSE THE TOWN FOR LEGAL EXPENSES INCURRED IN THE REDRAFTING OF THE AGREEMENT.

CREATES AN INNOVATIVE WAY OF PRESERVING ONE OF THE MAJOR COMPONENTS OF THE AUDUBON HILL AGREEMENTS.

*Provides the ACHC with an asset and long term source of revenue that will endorse its mission of affordable and moderate housing for the Town of Acton*

*Approach*

*In order to achieve the proposed changes in the Audubon Hill agreement we are renewing this proposed approval with the following*

*Developer - Roy Smith*

*Bank - Boston Federal Savings*

*Board of Selectman*

*Board of Acton Housing Authority*

Belton Community Housing Corp  
Executive Office of Community  
Development

TO: ACTON HOUSING AUTHORITY  
ACTON SELECTMEN *Corp-*  
ACTON COMMUNITY HOUSING COMMITTEE

DATE: JANUARY 6, 1992

SUBJECT: AUDUBON HILL AGREEMENT

FROM: WILLIAM GOTHROPE  
KEVIN MCMANUS

THE AGREEMENT BETWEEN THE TOWN OF ACTON AND THE OWNERS OF AUDUBON HILL WAS INTENDED TO ACHIEVE THE FOLLOWING OBJECTIVES;

|                      |   |
|----------------------|---|
| TOTAL COMPLEX        | 70 UNITS  |
| DEED RESTRICTIONS    | 55 AND OLDER  |
| ADDED CONSIDERATIONS | CLUSTERED BUILDING SITE<br>PUBLIC ACCESS TO CONSERVATION LAND<br>19 UNITS TO BE RESTRICTED FOR MODERATE INCOME, AND SOLD @ 75% OF MARKET RATE UNITS.<br>5 UNITS (2 HANDICAPPED) DESIGNATED FOR THE ACTON HOUSING AUTHORITY, @ AN AGREED UPON PURCHASE PRICE OF \$ 65,000.<br>DEVELOPER AGREES TO CONSTRUCT AND DONATE THE ACTON SENIOR CENTER |

DUE TO THE AMOUNT OF TIME THIS PROJECT HAS BEEN IN THE DEVELOPMENTAL STAGE, A NUMBER OF FACTORS HAVE CHANGED, AND WE REQUEST CONSIDERATION OF THE FOLLOWING CHANGES IN THE BASE AGREEMENT;

1. THE STATE FUNDS ORIGINALLY EARMARKED FOR THE AHA PURCHASE OF THE AUDUBON HILL UNITS ~~HAVE BEEN WITHDRAWN AND~~ ARE NOT ~~ENVISIONED~~ TO BE AVAILABLE WITHIN THE LIFE OF THE PROJECT. THEREFORE WE PROPOSE THE 5 UNITS @ \$65,000, DESIGNATED FOR THE AHA, BE GIVEN TO THE ACTON COMMUNITY HOUSING AUTHORITY AT THE PRICE OF \$1.00 PER UNIT.
2. IN CONSIDERATION OF THE VALUE OF #1 ABOVE ( 5 X 65,000 = 330,000 ) THE REQUIRED NUMBER OF RESTRICTED UNITS WOULD DECREASE FROM 19 TO 8. THE ESTIMATED VALUE OF THE RESTRICTED VS THE UNRESTRICTED UNIT IS \$30,000 TO THE ~~ELIGIBLE~~ <sup>NON</sup> PURCHASER, AND THE REMOVAL OF 11 RESTRICTIONS HAS A TOTAL VALUE OF \$330,000.

D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

ACTON, MASSACHUSETTS 01720-2223

508-263-7777

FAX 508-264-4868

August 15, 1991

AUG 16 1991

BOSTON OFFICE:  
ONE BOSTON PLACE

CABLE "DALYN"

JULIAN J. D'AGOSTINE  
LOUIS N. LEVINE  
STANLEY L. GORDON  
F. ALEX PARRA  
CATHY S. NETBURN  
JOHN M. DOMBROWSKI

Don Johnson, Town Manager  
Town of Acton  
Town Hall  
Acton, MA 01720

Re: Audubon Hill South Condominium, Acton, Massachusetts

Dear Don:

Enclosed herewith please find the following documents, which revisions have been made in accordance with my telephone conference of August 14, 1991, with Dave Bannard:

1. Copy of Amendment No. 3 to the Master Deed of Audubon Hill South Condominium;
2. Original Assent to Amendment No. 3 to the Master Deed of Audubon Hill South Condominium;
3. Original Second Supplemental Agreement; and
4. Original Release of Right of First Refusal.

I am waiting for June Thornton of Roy Smith's office to obtain the form Grant of Right of First Refusal from the Acton Housing Authority, identical to the form previously utilized and attached to the Comprehensive Development Agreement as Exhibit G. Upon receipt of such form, I will prepare and have executed a Grant of Right of First Refusal from R. Smith Associates, Inc. to the Acton Housing Authority to purchase Unit 130 in the Audubon Hill South Condominium.

I am forwarding copies of all of the enclosed documents to Attorney Dave Bannard. You should speak with Dave to confirm that you can execute the originals. When he gives you the go ahead, I would ask that you execute same in front of a notary public and return them to me at your earliest convenience. I will not record any of these documents until R. Smith Associates, Inc. has executed a Grant of Right of First Refusal to the Acton Housing Authority to purchase Unit 130, which Grant will be recorded simultaneously with the other original documents.

Please contact me with any specific questions or concerns.

Very truly yours,

~~D'AGOSTINE, LEVINE & GORDON, P.C.~~

By: \_\_\_\_\_

Stanley L. Gordon

SLG/vv

Enclosures (4)

cc: David Y. Bannard, Esquire  
R. Smith Associates, Inc.

AMENDMENT NO. 3 TO THE MASTER DEED  
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, as amended by Amendment No. 1 To The Master Deed of Audubon Hill Condominium dated February 26, 1991, recorded as Instrument Number 51 of July 26, 1991 and Amendment No. 2 To The Master Deed of Audubon Hill Condominium dated July 24, 1991, recorded as Instrument Number 53 of July 26, 1991, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11, and 14 of said Master Deed do hereby amend the Master Deed of Audubon Hill South Condominium by deleting Unit Numbers 23, 27, 29, and 31 as "Restricted Units" from Section 9.2, Subsection (a) and Subsection (b) and by removing Unit Number 25 as an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its option to purchase Unit 25. Notwithstanding anything to the contrary, Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be known as the "Restricted Units" and Unit Nos. 2 and 4 shall be known as the "A.H.A. Restricted Units" within Section 9.2, Subsection (a) and Subsection (b) of the Master Deed of the Audubon Hill South Condominium.

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this 26th day of August, 1991.

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith  
Roy C. Smith, President

By: Jean Smith  
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 26, 1991

Then personally appeared the above-named Roy C. Smith, President, and Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill

Notary Public

My commission expires:

k/amendment.vi

December 4, 1993

SECOND SUPPLEMENTAL AGREEMENT

This Agreement (the "Second Supplemental Agreement") is made as of the \_\_\_\_\_ day of August, 1991, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement" dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720.

RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Comprehensive Development Agreement and the Supplemental Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Comprehensive Development Agreement) would be developed.

B. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement and that Unit Numbers 2, 4, and 25 (the "A.H.A. Restricted Units") would each be conveyed to the Acton Housing Authority for the price of Sixty Five Thousand (\$65,000.00) Dollars in partial satisfaction of Section 3.3(f) of the Comprehensive Development Agreement, subject to the Developers right to amend the restriction as set forth in Section 9.2(b) and Section 9.4 of the Master Deed by substituting a different Unit for any of the above-referenced "Restricted Units" so long as the total number of Units, so restricted is not reduced in number.

C. Despite an active sales and marketing campaign, the Developer has had difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the "Master Deed") to purchase the "Restricted Units" in a manner to accommodate the scheduled order of construction.

D. The Acton Housing Authority has been unable to obtain sufficient funds to allow it to exercise its right of first refusal

to purchase Unit Number 25 (an "A.H.A. Restricted Unit") in accordance with the Grant of Right Of First Refusal recorded in Book 19966, Page 264 with said Deeds as an Exhibit to the Comprehensive Development Agreement. While the Developer's obligation to convey Unit Number 25 terminates upon the Acton Housing Authority's failure to exercise its option under the Grant of Right of First Refusal, the Developer desires to transfer the Acton Housing Authority's right of first refusal to a unit to be constructed in the Audubon Hill North Condominium in the hope that the Acton Housing Authority will have funds available at such time in order to allow the AHA to purchase five (5) units in accordance with the original Comprehensive Development Agreement.

E. The Town and the Developer wish to clarify certain of the terms and conditions of the Comprehensive Development Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Second Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Unit Numbers 23, 27, 29, and 31 of the Audubon Hill South Condominium shall no longer be "Restricted Units". The Developer shall, at the time of the creation of the Audubon Hill North Condominium, establish Unit Number 125, 127, 130, and 132 as "Restricted Units". Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be the "Restricted Units" within the Audubon Hill South Condominium, subject to the Developers continuing right to substitute a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted is not reduced in number.

2. Section 3.3(f) of the Comprehensive Development Agreement is hereby amended to reflect that three (3) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill North Condominium and that two (2) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill South Condominium. Further, Unit Number 25 shall no longer be an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its right of first refusal to purchase said Unit. The Developer hereby grants the Acton Housing Authority a right of first refusal to purchase Unit Number 130 in the Audubon Hill North Condominium, upon the same terms and conditions as existed in regard to the purchase of Unit Number 25 of the Audubon Hill South Condominium. Unit Numbers 2 and 4 of the Audubon Hill South Condominium remain the only "A.H.A. Restricted Units" within the Audubon Hill South Condominium.

3. Capitalized terms used in this Second Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Comprehensive Development Agreement.

4. Except as amended hereby, the Comprehensive Development Agreement and the Supplemental Agreement remain in full force and effect and this Second Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON  
Acting by and through  
its Town Manager

Don P. Johnson 8/28/91  
Don P. Johnson, hereunto  
duly authorized

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith  
Roy C. Smith, President

Jean Smith  
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Charles M. Joyce  
Notary Public  
My commission expires: 05-14-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill  
Notary Public  
My commission expires:  
December 4, 1993

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

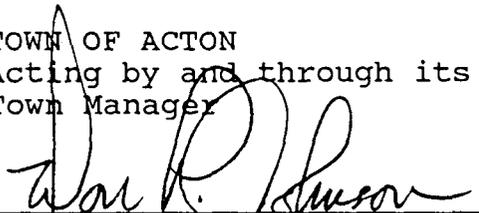
Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill  
Notary Public  
My commission expires:  
December 4, 1993

k/supplemental

The Town of Acton hereby assents to the foregoing Amendment Number 3 To The Master Deed of Audubon Hill South Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds.

TOWN OF ACTON  
Acting by and through its  
Town Manager

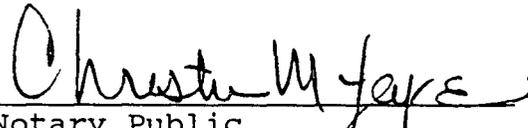
  
Don P. Johnson 8/28/91

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

  
Notary Public  
My commission expires: 05-13-94

k/amendment.vii

RELEASE OF RIGHT OF FIRST REFUSAL

The undersigned, Acton Housing Authority, being the grantee under a Grant of Right of First Refusal from Roy C. Smith, Trustee of High Street PCRC Trust, recorded in Book 19966, Page 264 with the Middlesex South District Registry of Deeds as an Exhibit to the Comprehensive Development Agreement by and between Roy C. Smith, Trustee of High Street PCRC Trust and the Town of Acton, recorded in Book 19966, Page 008 with said Deeds; said Grant of Right of First Refusal being to purchase Unit Number 25 in the Audubon Hill South Condominium created by Master Deed dated November 15, 1990, recorded in Book 20875, Page 79 with said Deeds, hereby acknowledges that it has not exercised said Right of First Refusal and hereby releases all of its right, title and interest to purchase said Unit Number 25 in the Audubon Hill South Condominium in Acton, Middlesex County, Massachusetts, which it may have under the aforesaid Grant of Right of First Refusal or Comprehensive Development Agreement.

Executed as a sealed instrument this <sup>18</sup> day of ~~August~~ <sup>September</sup>, 1991.

ACTON HOUSING AUTHORITY

*Thomas P. McRann*

By:

For Authority, See  
Certificate of Vote  
Recorded in  
Book \_\_\_\_\_, Page \_\_\_\_\_,  
with said Deeds.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August , 1991

Then personally appeared the above-named  
its and acknowledged the foregoing instrument to  
be the free act and deed of the Acton Housing Authority, before me

*Andrew H. Mackenzie*  
Notary Public

My commission expires: 3-16-95

k/relrightfr



• TEL. (508) 263-0011

292 GREAT ROAD • ACTON, MA. 01720

REALTOR

June 27, 1991

Mr. Don P. Johnson, Manager  
Town of Acton  
472 Main Street  
Acton, Massachusetts 01720

Dear Don:

At the present time we have rejected a proposal to sell a restricted unit at Audubon Hill due to the Buyer requesting items that are not included in the purchase price of a restricted unit. We are in receipt of another Reservation for a restricted unit.

We would like to make it clear as to what is included in the Market and Restricted Units.

The following are the items which are included in the "Market and "Restricted" Units:

MARKET UNITS

1. Gas range, hood, refrigerator, dishwasher;
2. Vinyl flooring in kitchen and baths;
3. Oak hardwood floor in entry;
4. Philadelphia Gridiron carpeting in living room, dining area, bedrooms, hall & stairs;
5. Lower level primed, painted and carpeted plus an unfinished work area;
6. Garage with automatic door opener;
7. Covered deck with skylights;
8. Prewiring for telephone, cable, T.V. & security system to accept motion detector in living room, alarm at slider & front door, emergency pull alarms in bathrooms (security system and alarms are not included);
9. Rough plumbing for central vacuum (Vacuum system is not included); and
10. Central air conditioning.

REC'D 6/27/91 @ 2:05 PM

*Don P. Johnson*

Don P. Johnson, Town Manager

RESTRICTED UNITS

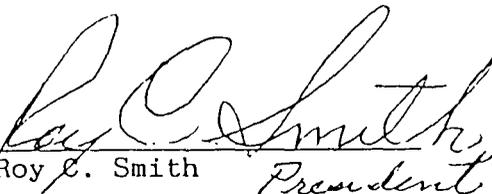
1. Gas range, hood, refrigerator, dishwasher;
2. Vinyl flooring in kitchen & baths;
3. Oak hardwood floor in entry of units with full basements, choice of carpet or vinyl in entry of units on slab;
4. Philadelphia Gridiron carpeting in living room, dining area, bedrooms hall & stairs;
5. Slab units are without basements, others have full unfinished basements with bulkheads;
6. Garage with automatic door opener;
7. Covered deck with skylights;
8. Prewiring for telephone, cable T.V. & security system to accept motion detector in living room, alarm at slider & front door, emergency pull alarms in bathrooms (security system and alarms are not included);
9. Rough plumbing for central vacuum (Vacuum system is not included); and
10. No central air conditioning.

We are aware that Stan Gordon has discussed with Town Counsel that there are no provisions in the various development or master deed document that require a restricted unit to have all of the features of a market unit. It is our understanding that Town Counsel agrees with this position. Our attorney, Dick Cotter, who was involved with all of the negotiations on the development agreements also agrees with the above.

If you have any questions please feel free to call me.

Very truly yours,

R. Smith Associates, Inc.

By:   
Roy C. Smith      President

cc: ACHC  
Board of Selectmen  
Town Counsel  
Boston Federal Savings Bank  
Richard M. Cotter, Esquire  
Stanley L. Gordon, Esquire

INTERDEPARTMENTAL COMMUNICATION

TOWN MANAGER'S OFFICE

\*\*\*\*\*

DATE: 4/10/90

TO: Betty McManus

FROM: John Murray

SUBJECT: Audubon Hill

Betty, Don asked me to review Roy Smith's letter to Brian Wyatt of March 20, 1990.

1. Housing Authority Units (Pg 15 of the Comprehensive Development Agreement)

- a) 5 units at \$65,000
- b) 3 units in the South Phase and 2 in the subsequent Phase
- c) Sale term outlined in Exhibit K

2. Restricted Units (pg 14)

- a) Shall number at least 35% of the units
- b) Shall cost no more than 75% of the selling price of the non-restricted units. Given the softness in the condo market this amount may be lower than \$157,500.

3. \$40,000 Fee

Not covered by the Comprehensive Development Agreement

4. Qualification Guidelines

Exhibits E

restrictions described in Section 3.4, and contain a statement that such Unit is a Restricted Unit subject to said provisions and of the Special Permit, and shall include such provisions within such deed or a reference to the place of recording of such documents with the Registry of Deeds and the Registry District.

- (f) The Developer agrees to convey five (5) Units to the Acton Housing Authority (the "AHA") at the election of the AHA for the price of sixty five thousand dollars (\$65,000) for each Unit on the terms and conditions set forth on the purchase and sale agreement attached hereto as Exhibit K, subject to approval by the Executive Office of Community Development. The Developer further agrees that three (3) of the Units referred to in the previous sentence shall be constructed as part of the South Phase of the Project and two (2) of such Units shall be constructed as part of any subsequent Phase of the Project. The Units to be so conveyed have been designated in five (5) Right of First Refusal agreements as executed by the Developer as of March 8, 1989 and attached hereto as Exhibit G. Upon execution of this Agreement, the terms and conditions of this Agreement and the attached Exhibit K shall govern the sale of such Units and the aforesaid five Right of First Refusal Agreements shall thereupon be void and of no further effect. Sixty (60) days prior to the estimated Completion of Construction of each Unit to be conveyed to the AHA, the Developer shall give the Town Designee and the AHA notice of the estimated date of the Completion of Construction of such Unit. The date of conveyance of the deed to each such Unit shall be thirty (30) days following the Completion of Construction of such Unit unless an earlier date is agreed to in writing by the parties. The Developer and the Town agree that time shall be of the essence of this agreement to convey the aforesaid Units. The aforesaid Units shall be Restricted Units for the purposes of this Agreement.
- (g) The Developer may only sell, convey or otherwise transfer a Unit for which the Developer has received a Certificate of Occupancy. Notwithstanding the foregoing sentence, the Developer may execute a Purchase and Sale Agreement for a Unit prior to receiving a Certificate of Occupancy. Until such time as Completion of Construction of the Senior Center has occurred, the Town shall grant Certificates of Occupancy only for

to the exterior of any building located on the Development Property except as contemplated or permitted by the terms of the Special Permit, the Plan, the Order of Conditions and this Agreement.

- (b) The Developer shall commence construction of the Project by constructing the South Phase. Excepting construction of access roads, utilities, preliminary site preparation work and the community center, the Developer shall not commence construction of any subsequent Phase of the Project until the Completion of Construction of twenty seven (27) Units in the South Phase.

3.3. Sale of Condominium Units by Developer.

- (a) Every Unit deed conveying an interest in a Unit shall contain a statement that such Unit is subject to the terms and conditions of Article III hereof, and shall contain a reference to the place of recording of this Agreement with the Registry of Deeds and the Registry District.
- (b) Every sale, assignment, resale or other conveyance of an interest in every Unit whether by the Developer or its successors, heirs or assigns, for a period of forty (40) years from the date of this Agreement, shall be to (i) a Senior Citizen, or (ii) a Senior Citizen and his or her spouse, or (iii) a member of a Senior Citizen's Immediate Family provided that the Unit so purchased shall be the residence of such Senior Citizen, and his or her spouse, if any. Each Senior Citizen or Senior Citizen and spouse acquiring an interest in a Unit shall utilize such Unit as their residence. Each Unit deed shall contain a statement incorporating the provisions of this Section 3.3(b).
- (c) At least thirty-five percent (35%) of the Units constructed on the Development Property, shall be Restricted Units, sold by the Developer subject to the resale restrictions described in this Agreement and the Guidelines attached hereto. These restrictions shall be incorporated into the Condominium's master deed and shall inure to the benefit of and be enforceable by the Town, its successors and assigns.
- (d) Without limitation the Developer will at all times use its best efforts to market and sell all Units.
- (e) Every unit deed conveying a Restricted Unit or an interest therein shall recite the resale

*Tell them  
that restrictions  
are up to  
90 years*

STANDARD FORM CONDOMINIUM  
PURCHASE AND SALE AGREEMENT

From the Office of:

David Y. Barnard, Esquire  
Palmer & Dodge  
One Beacon Street  
Boston, Massachusetts 02108

This \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

PARTIES  
(fill in)

Roy C. Smith, as Trustee of the High Street PORC Trust, u/d/t dated March 5, 1987 and recorded with Middlesex South Registry of Deeds in Book 19611, Page 409 hereinafter called the SELLER, agrees to SELL and \_\_\_\_\_ the Acton Housing Authority, acting by and through the Board of Selectmen of the Town of Acton, Massachusetts

hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises:

DESCRIPTION  
(fill in and include title reference)

Unit No. \_\_\_\_\_ (the "Unit") of \_\_\_\_\_ Condominium, (the "Condominium") created pursuant to Chapter 183A of the Massachusetts General Laws (the "Act") by Master Deed dated \_\_\_\_\_, 19 \_\_\_\_\_, and recorded with Middlesex South Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ (the "Master Deed"), together with (a) an undivided \_\_\_\_\_ percentage interest in both the common areas and facilities of the Condominium and the organization of unit owners through which the Condominium is managed and regulated, (b) the exclusive right to use the parking space and storage area, if any, assigned to the Unit, and (c) such other rights and easements appurtenant to the Unit as may be set forth in any document governing the operation of the Condominium, including without limitation the Master Deed, the By-Laws of the organization of unit owners, and any administrative rules and regulations adopted pursuant thereto (all of which are hereinafter referred to as the "Condominium Documents"). The above described premises are those conveyed to the SELLER by deed dated \_\_\_\_\_, 19 \_\_\_\_\_, and recorded with \_\_\_\_\_ Registry of Deeds Book \_\_\_\_\_, Page \_\_\_\_\_.

FIXTURES

Included in the sale as a part of the Unit are the fixtures belonging to the SELLER and used in connection therewith. The extent to which any of such fixtures belong to the SELLER may be governed in part by provisions contained in the Condominium Documents.

TITLE DEED  
(fill in)

Include here by specific reference any restrictions, easements, rights and obligations not included in (e), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER'S breach of SELLER'S covenants in leases, where necessary.

Said premises are to be conveyed by a good and sufficient QUITCLAIM deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven (7) days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Such taxes for then current year as are not due and payable on the date of the delivery of such deed;
- (c) Any liens for municipal betterments assessed after the date of this agreement;
- (d) The provisions of the Act and the Condominium Documents including without limitation all obligations of the unit owners to pay a proportionate share of the common expenses of the Condominium;
- (e) All restrictions, easements and encumbrances referred to in the Condominium documents;

PLANS

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

REGISTERED TITLE

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a memorandum certificate of title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such memorandum certificate of title.

PURCHASE PRICE  
(fill in); space is allowed to write out the amounts if desired

The agreed purchase price for said premises is SIXTY-FIVE THOUSAND DOLLARS (65,000) PER UNIT dollars, of which

|    |        |  |
|----|--------|--|
| \$ |        | have been paid as a deposit this day and   |
| \$ | 65,000 | are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, treasurer's or bank check. |
| \$ |        |  |
| \$ | 65,000 | TOTAL  |



8. **TIME FOR PERFORMANCE; DELIVERY OF DEED** (fill in) Such deed is to be delivered at ten o'clock A. M. on the See Section 31 day of 19 at the Middlesex South Registry of Deeds, unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement. as contemplated in the Plan (See Section 31)
9. **POSSESSION and CONDITION of PREMISES.** (attach a list of exceptions, if any) Full possession of said premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition ~~as they now are, reasonable use and wear thereof excepted,~~ and (b) not in violation of said building and zoning laws, and (c) in compliance with the provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled to an inspection of the Unit prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.
10. **EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM** (Change period of time if desired). If the SELLER shall be <sup>shall</sup> unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then ~~any payments made under this agreement shall be refunded and all other obligations of the parties hereto shall cease and this agreement shall be void and without recourse to the parties hereto, unless the SELLER elects to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER at or before the time for performance hereunder,~~ and thereupon the time for performance hereof shall be extended for a period of thirty (30) days.
11. **FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM, etc.** If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the organization of unit owners shall fail to agree, within the time period set forth in the Act, if applicable, to proceed with such repair or restoration as may be necessary for such purposes, or shall expressly agree not to so proceed, or the holder of a mortgage on the Unit shall refuse to permit any insurance proceeds to be used for such purpose, then at the BUYER's option, any payments made under this agreement shall be forthwith refunded and all other obligations of all parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.
12. **BUYER'S ELECTION TO ACCEPT TITLE** The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefor the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against by the organization of unit owners or by the SELLER, then the SELLER shall, on delivery of the deed, unless said premises have previously been restored to their former condition, pay over or assign to the BUYER all amounts recovered or recoverable by the SELLER on account of such insurance, and give the BUYER a credit against the purchase price equal to any amounts otherwise so recoverable which are retained by the holder of a mortgage on the Unit, less any amounts reasonably expended by the SELLER for any partial restoration.
13. **ACCEPTANCE OF DEED** The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.
14. **USE OF PURCHASE MONEY TO CLEAR TITLE** To enable the SELLER to make conveyance as herein provided, the SELLER may, 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, provided that all instruments so procured are recorded simultaneously with the delivery of said deed.
15. **INSURANCE** \*Insert amount The SELLER represents that at the time of execution of this agreement, the organization of unit owners maintains insurance with respect to the Condominium as follows:
- | <u>Type of Insurance</u> | <u>Amount of Coverage</u> |
|--------------------------|---------------------------|
| (a) Fire                 | *§ See Section 32         |
| (b) Extended Coverage    |                           |
| (c)                      |                           |
- Until the delivery of the deed, the SELLER shall maintain any supplemental insurance now in effect covering the Unit itself and any fixtures therein.
16. **EVIDENCE OF INSURANCE** At the time of the delivery of the deed, the SELLER shall deliver to the BUYER a certificate of the Condominium insurance referred to in clause 15 as then in effect. The procuring of any supplemental insurance shall be at the option and sole expense of the BUYER.

ADJUSTMENTS

Collected rents, mortgage interest, taxes for the then current tax period and common expenses for the then current month shall be apportioned, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed. Uncollected rents for the current rental period shall be apportioned if and when collected by either party. The SELLER's allocable share of any working capital reserve held by the organization of unit owners shall be assigned to the BUYER and the amount thereof shall be added to said purchase price.

ADJUSTMENT OF UNASSESSED AND ABATED TAXES

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

BROKER'S FEE (fill in fee with dollar amount or percentage; also name of Broker(s))

~~A broker's fee for professional services of is due from the SELLER to~~

No broker's fee is due to any broker ~~the Broker(s) herein, but if the SELLER pursuant to the terms of clause 22 hereof retains the deposit made hereunder by the BUYER, said Broker(s) shall be entitled to receive from the SELLER an amount equal to one-half the amount so retained or an amount equal to the broker's fee for professional services according to this contract, whichever is the lesser.~~

BROKER(S) WARRANTY (fill in name)

~~The Broker(s) named herein warrant(s) that he (they) is (are) duly licensed as such by the Commonwealth of Massachusetts.~~

DEPOSIT (fill in, or delete reference to broker(s) if SELLER holds deposit)

~~All deposits made hereunder shall be held by the broker(s) as agent for the SELLER, subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement.~~

BUYER'S DEFAULT; DAMAGES

If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the Buyer shall be retained by the SELLER as liquidated damages unless within thirty days after the time for performance of this agreement or any extension hereof, the SELLER otherwise notifies the BUYER in writing.

SALE OF PERSONAL PROPERTY (fill in and attach list or delete entire clause)

The BUYER agrees to buy from the SELLER the articles of personal property enumerated on the attached list for the price of \$ NONE and the SELLER agrees to deliver to the BUYER upon delivery of the deed hereunder, a warranty bill of sale therefor on payment of said price. The provisions of this clause shall constitute an agreement separate and apart from the provisions herein contained with respect to the real estate, and any breach of the terms and conditions of this clause shall have no effect on the provisions of this agreement with respect to the real estate.

RELEASE BY HUSBAND OR WIFE

~~The SELLER'S spouse hereby agrees to join in said deed and to release and convey all statutory and other rights and interests in said premises.~~

BROKER AS PARTY

~~The broker(s) named herein, join(s) in this agreement and become(s) a party hereto, in so far as any provisions of this agreement expressly apply to him (them), and to any amendments or modifications of such provisions to which he (they) agree(s) in writing.~~

LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc.

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

WARRANTIES AND REPRESENTATIONS (fill in); if none, state "none"; if any listed, indicate by whom each warranty or representation was made

The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Broker(s): NONE

CONSTRUCTION OF AGREEMENT  
"delete "triplicate"  
and substitute  
"quadruplicate"  
if required.

This instrument, executed in ~~triplicate~~ <sup>multiple counterpart originals</sup> is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and ensures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

ADDITIONAL PROVISIONS

At the time of the delivery of the deed, the SELLER shall deliver to the BUYER a statement from the organization of unit owners in recordable form and setting forth, in accordance with Section 6(d) of the Act, that there are no outstanding common expenses assessed against the Unit as of said time. The initialed riders, ~~if any~~, attached hereto, ~~are~~ incorporated herein by reference.

is

SELLER (or spouse)

SELLER

BUYER

BUYER

Broker(s)

EXTENSION

Date \_\_\_\_\_

The time for the performance of the foregoing agreement is extended until \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, time still being of the essence of this agreement as extended. In all other respects, this agreement is hereby ratified and confirmed.

This extension, executed in triplicate, \_\_\_\_\_ is intended to take effect as a sealed instrument.

SELLER (or spouse)

SELLER

BUYER

BUYER

Broker(s)

RIDER TO PURCHASE AND SALE AGREEMENT BETWEEN ROY C. SMITH, AS  
TRUSTEE OF THE HIGH STREET PCRC TRUST, AS SELLER AND THE  
ACTON HOUSING AUTHORITY, AS BUYER

30. DESCRIPTION. The Seller agrees to convey the following Units, together with the undivided interest in the common areas and facilities of the respective condominium appurtenant to each of the following units as further described in the Condominium Documents to be recorded:
- (a) Unit #128 Audubon Lane, Phase II, Type A 1090 sq. ft.;
  - (b) Unit #4 Brewster Lane, Phase I, Type A, 1090 sq. ft.;
  - (c) Unit #25 Brewster Lane, Phase I, Type B, 1140 sq. ft.;
  - (d) Unit #2 Brewster Lane, Phase I, Type B, 1140 sq. ft.
  - (e) Unit #126 Audubon Lane, Phase II, Type B, 1140 sq. ft.

Each of the foregoing units shall be located in either the Audubon Hill North Condominium or the Audubon Hill South Condominium, to be established by the Seller pursuant to the Act.

31. TIME FOR PERFORMANCE. The date for performance of this Agreement is thirty (30) days following the Completion of Construction, as such term is defined in the Comprehensive Development Agreement between the Seller and the Town of Acton dated June 23, 1989, including the Plan referenced therein to be recorded with the Middlesex South Registry of Deeds and the Middlesex South Registry District of the Land Court herewith (the "Agreement"), of each of the units listed in Section 30 hereof.
32. INSURANCE. Until delivery of the deed, the Seller shall keep the premises insured as provided in Article VII of the Agreement.
33. NOTICE. Whenever by the terms of this Agreement notice shall or may be given either to the Buyer or to the Seller, such notice shall be deemed to have been given only if in writing and delivered or sent by registered or certified mail, postage prepaid, if intended for Seller to:

R. Smith Associates  
292 Great Road  
Acton, Massachusetts 01720

with a copy to:

Richard M. Cotter, Esq.  
Wilson, Orcutt, Cotter & Greenberg, P.C.  
201 Great Road  
Acton, Massachusetts 01720

and if intended for the Buyer to:

The Town of Acton  
Acton Town Hall  
Acton, Massachusetts 01720  
Attn: Town Manager

with a copy to:

Norman P. Cohen, Esq.  
Palmer & Dodge  
One Beacon Street  
Boston, Massachusetts 02108

or to such other address as may be specified by either party to the other by like notice. All notices shall be effective when delivered.

EXHIBIT E

GUIDELINES

- A. An Eligible Purchaser shall be defined as:
1. A Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser");
  2. Who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the income and asset underwriting criteria established by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the fair market value of an Unrestricted Unit;
  3. Who does qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the maximum Resale Price of a Restricted Unit.
- B. The Town Designee shall maintain a waiting list of Persons interested in purchasing Restricted Units as they become available. Although Persons listed on the wait list may not be presumed to be Eligible Purchasers, the ACHC may preliminarily screen such Persons to determine whether they may qualify as Eligible Purchasers.
- C. The procedure for determining whether a Prospective Purchaser shall qualify as an Eligible Purchaser shall be as follows:
1. A Prospective Purchaser shall submit a mortgage loan application to a bank, savings and loan association, trust company, or other institutional lender (a "Bank") for purchase money financing to buy a Restricted Unit.
  2. The Bank shall certify that (a) the Prospective Purchaser cannot qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for purchased money financing for at least 80% of the Restricted Unit's Appraised Value but that (b) the Prospective Purchaser does qualify under such standards for such financing for a loan of at least 80% of the Maximum Resale Price of the aforesaid Unit.
  3. The Seller shall then submit to the Town Designee the following documents:

- (a) a determination of the Appraised Value and Maximum Resale Price of the Unit to be sold, determined as provided in the Agreement, the cost of such determination to be divided equally between the Seller and the Prospective Purchaser;
  - (b) the Mortgage Lender's Certificate regarding the Prospective Purchaser's eligibility for a mortgage loan determined in accordance with paragraph C.2. above;
  - (c) a purchase and sale agreement executed by both the Prospective Purchaser and the Seller, containing a clause stating that such agreement may be rescinded should the Town disapprove of the proposed transaction; and
  - (d) an Affidavit of Compliance executed by both the Seller and the Prospected Purchaser pursuant to Section 3.4(e) of the Agreement.
4. The Town Designee shall review the documents submitted according to paragraph C.3. above, and within 10 days of such submission shall determine whether the Prospective Purchaser is an Eligible Purchaser pursuant the terms and conditions of the Agreement.

ACTON HOUSING AUTHORITY  
P.O. BOX 681  
ACTON, MASSACHUSETTS 01720

(508) 263-5339

October 25, 1990

To Whom It May Concern:

This is to verify that the release of Unit 48 at Audubon Hill by the Town of Acton will not effect the five (5) Right of First Refusal agreements executed by the Developer and the Acton Housing Authority.

Should you have questions regarding this statement please contact me directly at the Authority's office.

Sincerely,



Naomi E. McManus

Executive Director

RELEASE OF RIGHT OF FIRST REFUSAL

The undersigned, Acton Housing Authority, being the grantee under a Grant of Right of First Refusal from Roy C. Smith, Trustee of High Street PCRC Trust, recorded in Book 19966, Page 264 with the Middlesex South District Registry of Deeds as an EXHIBIT to the Comprehensive Development Agreement by and between Roy C. Smith, Trustee of the High Street PCRC Trust and the Town of Acton, recorded in Book 19966, Page 008 with said Deeds; said Grant of Right of First Refusal being to purchase Unit Number 20 in the Audubon Hill South Condominium created by Master Deed dated November 15, 1990, recorded with said Deeds in Book 20875, Page 79, hereby acknowledges that it has not exercised said Right of First Refusal and hereby releases all of its right, title and interest to purchase said Unit Number 20 in the Audubon Hill South Condominium in Acton, Middlesex County, Massachusetts, which it may have under the aforesaid Grant of Right of First Refusal or Comprehensive Development Agreement.

Executed as a sealed instrument this 16 day of March, 1998.

For authority, see Certificate of Vote Attached hereto.

ACTON HOUSING AUTHORITY

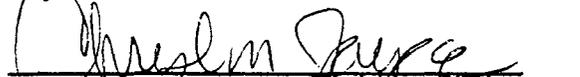
  
By: Executive Director

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Date: 3/17/98

Then personally appeared the above-named \_\_\_\_\_ its Executive Director and acknowledged the foregoing instrument to be the free act and deed of the Acton Housing Authority, before me

  
Notary Public Christine M. Joyce  
Name: NOTARY PUBLIC  
My Commission expires: May 25, 2001

*Steven M. Guard*

ATTORNEY AT LAW

185 DEVONSHIRE STREET, SUITE 1075  
BOSTON, MASSACHUSETTS 02110

Telephone  
(617) 426-0120

Facsimile  
(617) 426-0114

February 24, 1998

Naomi E. McManus, Executive Director  
Acton Housing Authority  
P.O. Box 681  
Acton, MA 01720

RE: 20 Brewster Lane  
Acton, MA

Dear Ms. McManus:

With reference to the above mentioned property enclosed herewith please find the following:

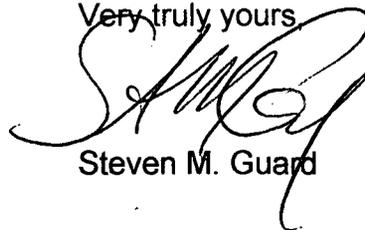
1. Release of Right of First Refusal; and
2. Self Addressed Stamped Envelope.

Kindly sign the enclosed document before a Notary Public and attach your Certificate of Vote for authority. Please return the original to this office in the enclosed self addressed stamped envelope.

Should you have any questions please do not hesitate to call.

Thank you.

Very truly yours



Steven M. Guard

SMG/gd  
Encl.

9/18/91

Tom Dill moved that the foregoing resolution be adopted as introduced and read, which motion was seconded by Dean Cavaretta and upon roll call the "Ayes" and "NAYS" were as follows:

AYES

Dean Cavaretta  
Tom Dill  
Diane Poulos Harpell  
Jean Schoch

NAYS

0

The Chairman thereupon declared said motion carried and said resolution adopted.

Tom Dill moved to authorize the Executive Director to sign the Release of Right of First Refusal for unit number 20 Brewster Lane in the Audubon Hill Condominiums. Dean Cavaretta seconded the motion and all members voted to approve.

EXTRACTS OF MEETINGS

EXTRACTS FROM THE MINUTES OF A REGULAR  
MEETING OF THE ACTON

HOUSING AUTHORITY HELD ON March 16, 1998

Regular

The Members of the Acton Housing Authority met in \_\_\_\_\_

session at 68 Windsor Avenue in the Town of Acton, Massachusetts

at 7:30 pm o'clock pm on March 16 1998.

The meeting was called to order by the Chairman and upon roll call, those present and absent were as follows:

PRESENT:

Dean Cavaretta  
Tom Dill  
Diane Poulos Harpell  
Jean Schoch

ABSENT: Claire Kostro

By unanimous consent \_\_\_\_\_ acted as Chairman for the first meeting.\*

\* this will appear in minutes of first meeting only.

ATTACHMENT CERTIFICATE

I, the undersigned, the duly appointed, qualified and acting Secretary of the Acton Housing Authority, do hereby certify:

THAT the attached extract from Minutes of the Regular Meeting of the members of said Authority held on March 16, 1998, is a true and correct extract of the original Minutes of said Meeting on file and or record insofar as said original Minutes of said Meeting on file and or record insofar as said original Minutes related to the matters set forth in said attached extract, and

THAT on the date of this Meeting each member present and voting was a resident of the Town of Acton; and

THAT notice of such meeting was duly filed more than twenty-four hours prior therefore with the Town Clerk of the Town of Acton in accordance with the requirements of Chapter 303 of the Acts of 1975 inserted in the Massachusetts General Laws by Chapter 39 Section 23B as amended.

IN WITNESS WHEREFORE, I have hereto set my hand and the seal of the said Authority this 16 day of March 1998.

  
\_\_\_\_\_



DON P. JOHNSON  
TOWN MANAGER

# TOWN OF ACTON

TOWN HALL

472 MAIN STREET

ACTON, MASSACHUSETTS 01720

TELEPHONE (508) 264-9612

|       | Initial | Date     |
|-------|---------|----------|
| CHUCK | Ⓚ       | 10/6/89  |
| ROY   | RCS     | 10/16/89 |
| ERIC  |         |          |

October 2, 1989

Ms. June Thornton, Sales Manager  
R. Smith Associates  
294 Great Road  
Acton, MA 01720

Dear Ms. Thornton:

I am in receipt of a copy of your letter to the Acton Community Housing Corporation (ACHC) regarding the Audubon Hill project (copy attached). In your letter you indicate that neither R. Smith Associates nor Boston Federal can become involved in writing the qualifying guidelines for the restricted units on this project and you ask that the ACHC provide you with guidelines for qualifying candidates.

Please be advised that the guidelines you seek have already been developed and are contained as Exhibit E. "Guidelines" in the Comprehensive Development Agreement between the Board of Selectmen and Roy Smith. A copy of Exhibit E. is attached for your information.

By copy of this letter to the ACHC I am advising that agency that the guidelines have already been established. I am also advising all parties that I expect, as the Town Designee, to ask the ACHC in my behalf, to maintain the waiting list described in paragraph B of the guidelines.

If you have any questions please feel free to call.

Very truly yours,

Don P. Johnson  
Town Manager

cc: ACHC  
Roy Smith  
Board of Selectmen  
Town Counsel

RECEIVED  
OCT 5 1989  
TOWN CLERK



• TEL. (508) 263-0011

294 GREAT ROAD • ACTON, MA. 01720

REALTOR

Acton Community Housing Corporation  
Box 681  
Acton, Massachusetts 01720

September 25, 1985

Dear Members,

The marketing for Audubon Hill has begun. In order to properly answer questions regarding the eligibility of persons for the restricted units, it is necessary for the Acton Community Housing Authority to provide R. Smith Associates with some guidelines for qualifying persons interested in purchasing these units.

I have spoken to Bill Sutcliffe of Boston Federal who referred me to you. Since Boston Federal is providing the financing and R. Smith Associates is marketing the project, neither of us can become involved in writing the qualifying guidelines for the restricted units at Audubon Hill.

I would appreciate any information you can give us at your earliest convenience.

Sincerely,

*June Thornton*  
June Thornton  
Sales Manager

cc: Selectmen

cc: J. MURRAY -  
IS THIS THE PROPER  
APPROACH w/r To  
DEVEL AGREEMENT?

*Don*

*DPJ*  
*9/28*

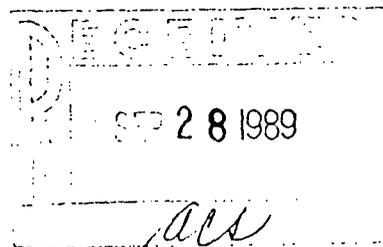


EXHIBIT E

GUIDELINES

- A. An Eligible Purchaser shall be defined as:
1. A Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser");
  2. Who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the income and asset underwriting criteria established by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the fair market value of an Unrestricted Unit;
  3. Who does qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the maximum Resale Price of a Restricted Unit.
- B. The Town Designee shall maintain a waiting list of Persons interested in purchasing Restricted Units as they become available. Although Persons listed on the wait list may not be presumed to be Eligible Purchasers, the ACHC may preliminarily screen such Persons to determine whether they may qualify as Eligible Purchasers.
- C. The procedure for determining whether a Prospective Purchaser shall qualify as an Eligible Purchaser shall be as follows:
1. A Prospective Purchaser shall submit a mortgage loan application to a bank, savings and loan association, trust company, or other institutional lender (a "Bank") for purchase money financing to buy a Restricted Unit.
  2. The Bank shall certify that (a) the Prospective Purchaser cannot qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for purchased money financing for at least 80% of the Restricted Unit's Appraised Value but that (b) the Prospective Purchaser does qualify under such standards for such financing for a loan of at least 80% of the Maximum Resale Price of the aforesaid Unit.
  3. The Seller shall then submit to the Town Designee the following documents:

- (a) a determination of the Appraised Value and Maximum Resale Price of the Unit to be sold, determined as provided in the Agreement, the cost of such determination to be divided equally between the Seller and the Prospective Purchaser;
  - (b) the Mortgage Lender's Certificate regarding the Prospective Purchaser's eligibility for a mortgage loan determined in accordance with paragraph C.2. above;
  - (c) a purchase and sale agreement executed by both the Prospective Purchaser and the Seller, containing a clause stating that such agreement may be rescinded should the Town disapprove of the proposed transaction; and
  - (d) an Affidavit of Compliance executed by both the Seller and the Prospected Purchaser pursuant to Section 3.4(e) of the Agreement.
4. The Town Designee shall review the documents submitted according to paragraph C.3. above, and within 10 days of such submission shall determine whether the Prospective Purchaser is an Eligible Purchaser pursuant the terms and conditions of the Agreement.

• TEL. (508) 263-0011



294 GREAT ROAD • ACTON, MA. 01720

REALTOR

Ms. Betty McGuiness  
Acton Housing Authority  
Acton, MA 01720

October 27, 1989

Dear Betty,

If you have driven down High Street lately, you are aware that Audubon Hill is fast becoming a reality. Roads are being constructed, homesites are being readied for foundations and R. Smith Associates, Inc. is ready to market these homes.

Audubon Hill will be an adult community of seventy duplex condominium units arranged in clusters of four units with garages and a common courtyard. Audubon Hill will be constructed in two phases, namely, Audubon Hill South and Audubon Hill North. The South phase is now under construction. The North phase will begin in approximately one year.

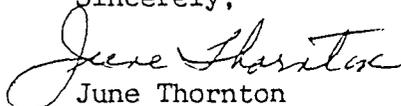
An "Eligible Purchaser" is a Senior Citizen (defined as a person fifty-five years or older) or Senior Citizen and spouse. An "Eligible Purchaser" of a Restricted Unit must satisfy the criteria set forth in the enclosed "Guidelines", as agreed to in the "Comprehensive Development Agreement" between Roy C. Smith and the town of Acton.

In the Audubon Hill South phase there are forty units. Twelve of these units are restricted to a sale price of seventy-five percent of the sale price of the market rate units. Market rate units are priced at \$210,000. Restricted units are priced at \$157,500. The names and qualifications of "Eligible Purchasers" for Restricted Units will be submitted to the town of Acton for review.

R. Smith Associates, Inc. will be taking reservations on the units to be constructed at Audubon Hill South. Enclosed in this package, for your review, is the following information: Audubon Hill flyer, site plan, floor plans, estimated condominium budget, phase plan, Residence Features, Eligible Purchaser Guidelines and a Reservation form.

Please feel free to call if you have any questions or wish to walk the Audubon Hill site.

Sincerely,

  
June Thornton  
Sales Manager



AUDUBON  
H I L L

## *The Natural Beauty of Audubon Hill*

### *Acton, Massachusetts*

The homes of Audubon Hill, available to people 55 years or older, are surrounded by conservation land, and command views overlooking the picturesque Nashoba Valley and beyond.

You'll fall in love with the unique design of these attractive duplex condominium homes. Each is arranged in four unit clusters, forming a common courtyard. Privacy, however, has not been sacrificed, as each home features a secluded back yard and a deck.

Carefully designed with today's achieving adults in mind, these gorgeous one-story homes have the benefit of low maintenance design and handicapped access.

Fully equipped kitchens, formal living room and dining area, two full baths, skylights, den or guest room plus a full basement are some of the features offered at Audubon Hill. For added feeling of security, the one-car garage can be accessed without leaving the confines of the courtyard.

A community center adjacent to the tennis court on the property will provide a convenient place to meet.

These quality built homes are starting at \$210,000. Construction is in progress.

*Audubon Hill..*

*.. The Reward Of A Lifetime*

*R. Smith  
Associates  
Inc.*

292 Great Road  
Acton, MA 01720

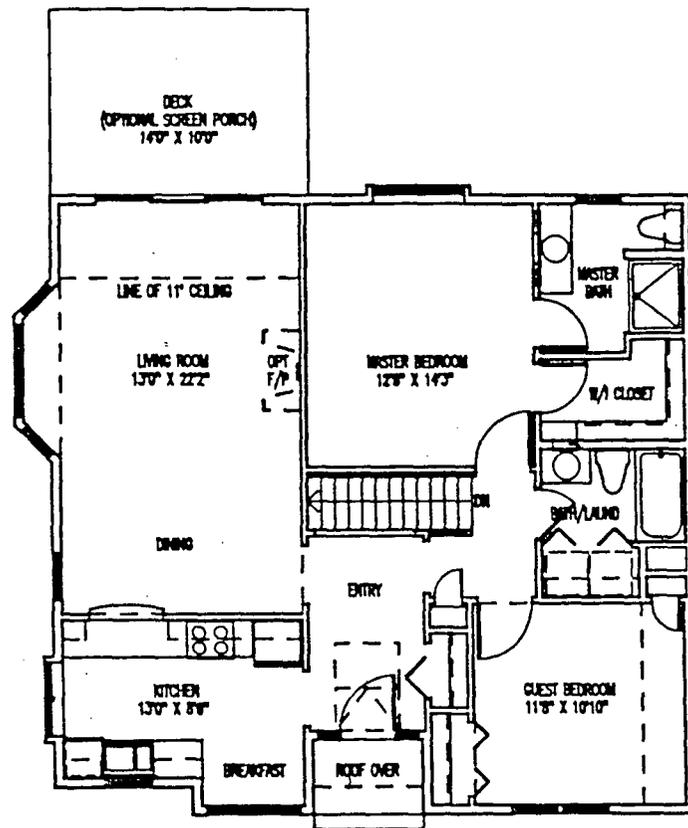
(508) 263-0011

# AUDUBON HILL

TYPE A TWO BEDROOM

1085 SQ. FT.

OCTOBER 1, 1989

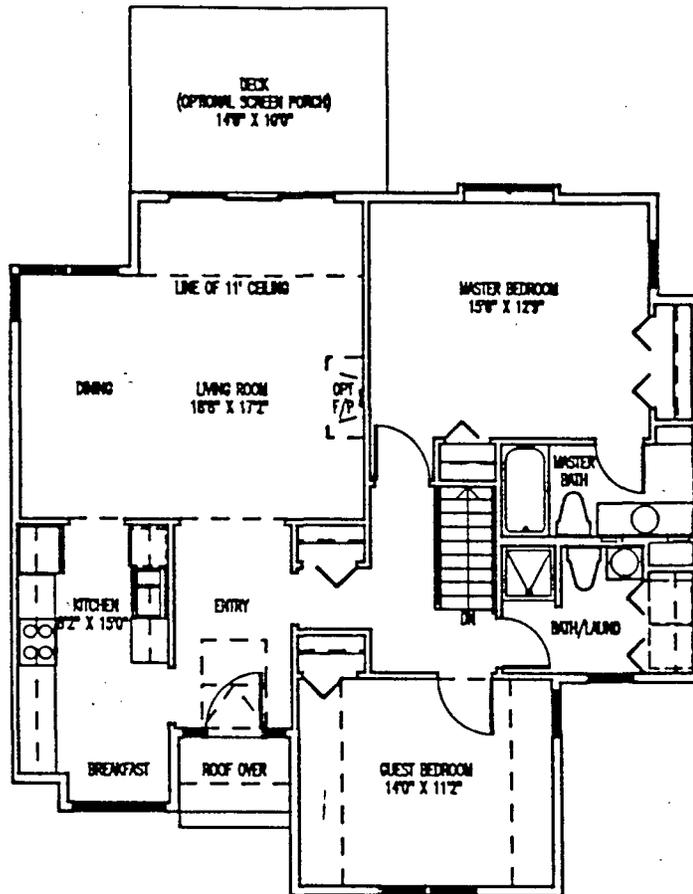


FIRST FLOOR PLAN



COURTYARD ELEVATION

AUDUBON HILL  
TYPE B TWO BEDROOM  
1135 SQ. FT.  
OCTOBER 1, 1989



FIRST FLOOR PLAN



COURTYARD ELEVATION

9/11/89

## ESTIMATED AUDUBON HILL OPERATING BUDGET

|   | PERCENT %<br>OF TOTAL | PROJECTED<br>70 UNITS |
|---|-----------------------|-----------------------|
| ANNUAL INCOME: UNIT ASSESSMENTS.                  | 85.71                 | \$112,000             |
| ADDITIONAL INCOME---2 MONTH WORKING CAPITAL       | 14.29                 | \$18,667              |
| ---FUNCTION FEES                                  |                       |                       |
| GROSS ANNUAL INCOME-ALL SOURCES:                  | 100                   | \$130,667             |
| EXPENSES:   |                       |                       |
| ADMINISTRATIVE:                                   |                       |                       |
| MANAGEMENT FEE (R. SMITH MANAGEMENT)              | 8.42                  | \$11,000              |
| LEGAL AND AUDIT                                   | 1.53                  | \$2,000               |
| OPERATING:  |                       |                       |
| RECREATION CENTER HEAT AC                         | 0.77                  | \$1,000               |
| RECREATION CENTER CLEANING/SUPPLIES               | 0.77                  | \$1,000               |
| WATER AND SEPTIC                                  | 2.68                  | \$3,500               |
| COMMON ELECTRICITY                                | 3.06                  | \$4,000               |
| TRASH AND GARBAGE REMOVAL                         | 7.65                  | \$10,000              |
| REPAIRS AND MAINTENANCE:                          |                       |                       |
| SNOW REMOVAL/SAND/WALKS                           | 7.65                  | \$10,000              |
| GROUNDS MAINTENANCE                               | 19.13                 | \$25,000              |
| ELECTRICAL REPAIR AND FIXTURES                    | 0.38                  | \$500                 |
| PRIVATE STREET/SWEEPING                           | 0.38                  | \$500                 |
| EXTERIOR PAINTING                                 | 7.65                  | \$10,000              |
| FIXED EXPENSES:                                   |                       |                       |
| INSURANCE PREMIUMS                                | 8.42                  | \$11,000              |
| TOTAL EXPENSES:                                   | 68.49                 | \$9500.00             |
| REPLACEMENT RESERVES:                             |                       |                       |
| 0/20 YEARS RESURFACE STREETS, WALKS, TENNIS COURT | 7.65                  | \$10,000              |
| 0/25 YEARS ROOFS                                  | 2.30                  | \$3,000               |
| 0/40 YEARS SEPTIC REPAIR                          | 1.53                  | \$2,000               |
| TOTAL REPLACEMENT RESERVES:                       | 11.48                 | \$15,000              |
| TOTAL ANNUAL EXPENSES AND REPLACEMENT RESERVES:   | 79.97                 | \$104,500             |
| TOTAL ANNUAL NET SURPLUS(DEFICIT)                 | 20.03                 | \$26,167              |
| MONTHLY CONDO FEE                                 |                       | \$124.40              |

AUDUBON HILL UNIT TYPES  
 JANUARY 29, 1989

| PHASE# | UNIT# | TYPE      | FND. | PHASE# | UNIT# | TYPE                       | FND. |
|--------|-------|-----------|------|--------|-------|----------------------------|------|
| S-1    | 1     | B         | F/B  | N-1    | 101   | A (R)                      | REAR |
| S-1    | 3     | A         | PART | N-1    | 103   | B (R)                      | REAR |
| S-1    | 5     | A (R)     | REAR | N-1    | 105   | B                          | REAR |
| S-1    | 7     | B (R)     | REAR | N-1    | 107   | A                          | REAR |
| S-1    | 9     | B         | REAR | N-1    | 109   | A (R)                      | REAR |
| S-1    | 11    | A         | REAR | N-1    | 111   | B (R)                      | REAR |
| S-1    | 13    | B (R)     | F/B  |        |       |                            |      |
| S-1    | 15    | A (R)     | END  |        |       |                            |      |
| S-2    | 17    | B         | F/B  | N-2    | 113   | B                          | F/B  |
| S-2    | 19    | A         | PART | N-2    | 115   | A                          | END  |
| S-2    | 21    | A (R)     | PART | N-2    | 117   | B (R)                      | F/B  |
| S-2    | 23    | B (R)     | F/B  | N-2    | 119   | A (R)                      | END  |
| S-2    | 25    | B (HP)    | SLAB | N-2    | 121   | B                          | F/B  |
| S-2    | 27    | A (S)     | SLAB | N-2    | 123   | A                          | PART |
| S-2    | 29    | B (R)     | F/B  | N-2    | 125   | A (R)                      | REAR |
| S-2    | 31    | A (R)     | F/B  | N-2    | 127   | B (R)                      | REAR |
| S-3    | 34    | B (R)     | REAR | N-2    | 118   | B (R)                      | REAR |
| S-3    | 36    | A (R)     | REAR | N-2    | 120   | A (R)                      | END  |
| S-3    | 38    | B         | REAR | N-2    | 122   | B                          | F/B  |
| S-3    | 40    | A         | REAR | N-2    | 124   | A                          | END  |
| S-3    | 42    | B (R)     | REAR | N-2    | 126   | B (HP) (R)                 | SLAB |
| S-3    | 44    | A (R)     | REAR | N-2    | 128   | A (S) (R)                  | SLAB |
| S-3    | 46    | A         | PART | N-2    | 130   | A                          | REAR |
| S-3    | 48    | B         | F/B  | N-2    | 132   | B                          | REAR |
| S-4    | 18    | B (R)     | F/B  | N-3    | 102   | B (R)                      | F/B  |
| S-4    | 20    | A (R)     | PART | N-3    | 104   | A (R)                      | END  |
| S-4    | 22    | A         | REAR | N-3    | 106   | B                          | F/B  |
| S-4    | 24    | B         | REAR | N-3    | 108   | A                          | END  |
| S-4    | 26    | B (R)     | REAR | N-3    | 110   | B (R)                      | F/B  |
| S-4    | 28    | A (R)     | REAR | N-3    | 112   | A (R)                      | PART |
| S-4    | 30    | B         | REAR | N-3    | 114   | A                          | REAR |
| S-4    | 32    | A         | REAR | N-3    | 116   | B                          | REAR |
| S-5    | 2     | B (S) (R) | SLAB | (S)    |       | SLAB LAYOUT                |      |
| S-5    | 4     | A (S) (R) | SLAB | (HP)   |       | HANDICAP ACCESSIBLE LAYOUT |      |
| S-5    | 6     | A         | F/B  | (R)    |       | REVERSED LAYOUT            |      |
| S-5    | 8     | B         | F/B  | SLAB   |       | SLAB ON GRADE              |      |
| S-5    | 10    | B (R)     | F/B  | F/B    |       | FULL BASEMENT              |      |
| S-5    | 12    | A (R)     | END  | END    |       | END WALKOUT                |      |
| S-5    | 14    | B         | F/B  | REAR   |       | REAR WALKOUT               |      |
| S-5    | 16    | A         | END  | PART   |       | PARTIAL WALKOUT            |      |

ELIGIBLE PURCHASER GUIDLINES FOR RESTRICTED AUDUBON HILL UNITS

- A. An Eligible Purchaser shall be defined as:
1. A Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser");
  2. Who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the income and asset criteria established by the Federal Home Loan Mortgage Association ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the fair market value of an Unrestricted Unit (Market Rate Unit);
  3. Who does qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the maximum Sale Price of a Restricted Unit.
- B. The procedure for determining whether a Prospective Purchaser shall qualify as an Eligible Purchaser shall be as follows:
1. A Prospective Purchaser shall submit a mortgage loan application to a bank, savings and loan association, trust company, or other institutional lender (a "BANK") for purchase money financing to buy a Restricted Unit.
  2. The Bank will be requested to certify that (a) the Prospective Purchaser cannot qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for purchased money financing for at least 80% of the Unrestricted (Market Rate) Unit's Appraised Value and that (b) the Prospective Purchaser does qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets for purchased money financing for at least 80% of the maximum Sale Price of a Restricted Unit.

AUDUBON HILL CONDOMINIUMS, RESERVATION OF CONDOMINIUM HOME  
(TO BE CONSTRUCTED)

This reservation for a condominium home is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_ (herein after referred to as the "BUYER") and R. SMITH ASSOCIATES, INC. (hereinafter referred to as the "SELLER").

The SELLER is constructing condominium homes on property known as Audubon Hill, located off High Street, Acton, Massachusetts, and he intends to sell to various purchasers these units, together with an undivided interest in the condominium.

The undersigned BUYER wishes to purchase a home, subject to certain restrictions and covenants, and hereby requests to reserve:

UNIT NUMBER: \_\_\_\_\_ STYLE: \_\_\_\_\_

In consideration of the SELLER'S reserving this unit, the BUYER agrees to pay a deposit of ONE THOUSAND AND NO/100 (\$1000.00) DOLLARS, the receipt of which is hereby acknowledged.

The purchase price to be paid will be \_\_\_\_\_ (\$ \_\_\_\_\_) dollars, including the deposit for a \_\_\_\_\_ style home with \_\_\_\_\_ square feet of living space.

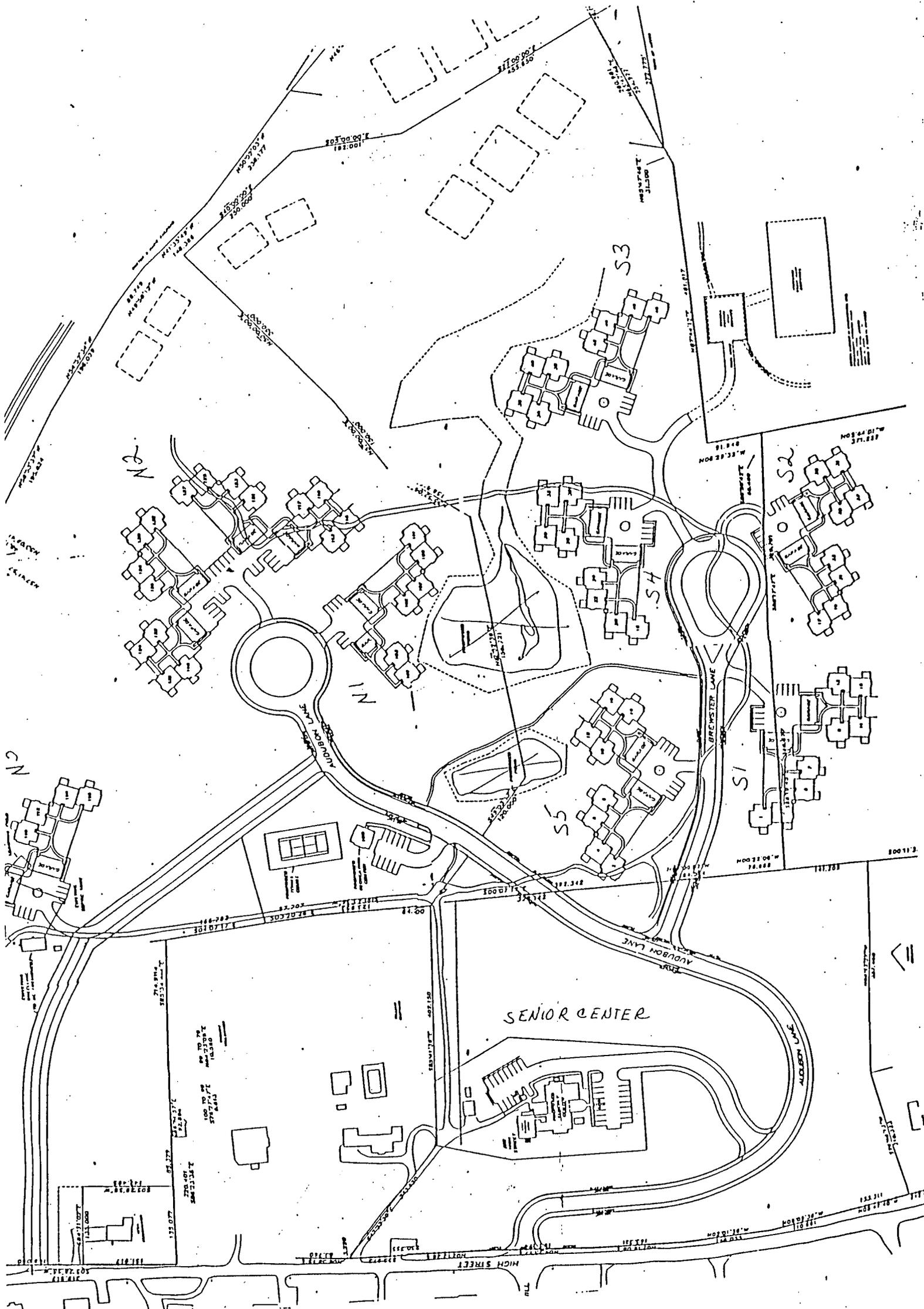
The BUYER shall execute a Purchase and Sale Agreement within \_\_\_\_\_ days and give an additional deposit which when added to the Reservation deposit, shall equal 10% of the purchase price. If the BUYER fails to execute a Purchase and Sale Agreement with additional deposit within said period, then the Reservation is cancelled and the Seller will return the deposit made herewith.

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
R. SMITH ASSOCIATES, INC.

AUDUBON HILL RESIDENCE FEATURES

- \* 2X6 CONSTRUCTION
- \* RED CEDAR CLAPBOARDS
- \* POZZI CLAD INSULATED WINDOWS AND SLIDERS WITH SCREENS
- \* DECK OR OPTIONAL SCREENED PORCH
- \* FULLY INSULATED: R-19 EXTERIOR WALLS, R-30 CEILINGS
- \* 100 AMP ELECTRIC SERVICE
- \* PREWIRED FOR CABLE TELEVISION, TELEPHONE
- \* GAS HEAT AND HOT WATER
- \* SMOKE DETECTORS
- \* MERILLAT "ARTIQUE" KITCHEN CABINETS AND BATHROOM VANITIES
- \* WHIRLPOOL APPLIANCES: GAS SLIDE-IN RANGE/OVEN, REFRIGERATOR, DISHWASHER, EXHAUST HOOD, BATH FAN BY BROAN
- \* TWO FULL BATHS, ONE WITH STALL SHOWER
- \* WASHER AND DRYER HOOK-UPS
- \* ARMSTRONG "CAMBRAY" NO WAX VINYL FLOORING IN KITCHEN AND BATHS
- \* PHILADELPHIA "GRIDIRON" #51096 OR APPROVED EQUAL CARPETING IN LIVING ROOM, DINING AREA, BEDROOM, DEN AND ENTRY



9.2 RESTRICTIONS ON THE FIRST SALE OF THE RESTRICTED UNITS <sup>restricted</sup>

(a) Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 shall be known as the "Restricted Units". These restrictions shall not apply to all other units in the Condominium, which Units shall be known as the "Non-Restricted Units".

(b) The first sale of Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38 and 48, Brewster Lane, (hereinafter called "Restricted Units") by the Declarant shall be restricted to a maximum gross sales price not to exceed seventy-five (75%) percent of the Fair Market Value of the price of the Non-Restricted Units (the "Discounted Price") (for example, if the price of the Non-Restricted Unit is Two Hundred Twenty Thousand (\$220,000.00) Dollars, the maximum gross sales price of a Restricted Unit would be One Hundred and Sixty-Five Thousand (\$165,000.00) Dollars; and the first sale of Unit Nos. 2, 4, and 25, Brewster Lane, (hereinafter called "Restricted Units") by the Declarant shall be restricted to a gross sales price of Sixty-Five Thousand and 00/100 (\$65,000.00) Dollars and have been presold to the Acton Housing Authority. The first sale of the Restricted Units, except for the sale of Unit Nos. 2, 4, and 25 which are subject to a First Option to Purchase in favor of the Acton Housing Authority shall be to an Eligible Purchaser. (An Eligible Purchaser shall be defined as (1) a Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser"); (2) who, based on the Prospective Purchaser's income and assets, does not qualify with respect to the

income and asset underwriting criteria established by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") for a mortgage loan for 80% of the Fair Market Value of an Unrestricted Unit; and (3) who does qualify under the FHLMC or FNMA income and asset underwriting criteria for a mortgage loan for 80% of the Maximum Resale Price of a Restricted Unit. The Declarant shall be required to obtain and record a certificate executed by the Town Designee as defined in Section 9.3 herein verifying that the Prospective Purchaser on the first sale of a Restricted Unit is an Eligible Purchaser. The Declarant further reserves the right to amend this restriction by substituting a different unit for any of the above-described "restricted units", so long as the total number of units so restricted herein is not reduced in number.

### 9.3 RESTRICTIONS ON THE RESALE OF THE RESTRICTED UNITS

(a) The Maximum Resale Price of the Restricted Units is the price, as of a given date, equal to seventy five (75%) percent of the Appraised Value of such Unit (For example, if at the time of the resale of a Restricted Unit, the Appraised Value of the Unit is Three Hundred Thousand (\$300,000.00) Dollars; the maximum resale price of the unit is Two Hundred and Twenty Five Thousand (\$225,000.00) Dollars. Appraised Value as set forth herein, shall mean as to a Restricted Unit, the Fair Market Value of the Restricted Unit as

ELIGIBLE PURCHASER GUIDELINES FOR RESTRICTED AUDUBON HILL UNITS

- A. An Eligible Purchaser shall be defined as:
1. A Senior Citizen or Senior Citizen and spouse (the "Prospective Purchaser");
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  2. The Bank will be requested to certify that (a) the Prospective Purchaser cannot qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for purchased money financing for at least 80% of the Unrestricted (Market Rate) Unit's Appraised Value and that (b) the Prospective Purchaser does qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets for purchased money financing for at least 80% of the maximum Sale Price of a Restricted Unit.

MORTGAGE LENDER'S CERTIFICATE

A. \_\_\_\_\_ has submitted a mortgage loan application to \_\_\_\_\_ for the purchase of Unit \_\_\_\_\_, a "Restricted Unit" at Audubon Hill, High Street, Acton, Massachusetts.

B. The undersigned Mortgage Lender hereby certifies:

1. \_\_\_\_\_ ("Prospective Purchaser") cannot qualify under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for the purchased money financing for at least 80% of an Unrestricted Unit's Appraised Value.

2. \_\_\_\_\_ ("Prospective Purchaser") qualifies under FHLMC or FNMA income and asset underwriting criteria, based on the Prospective Purchaser's income and assets, for a loan of at least 80% of the Restricted Unit's Appraised Value (\$157,500)

3. \_\_\_\_\_  
(\$110,000)

\_\_\_\_\_  
MORTGAGE LENDER

\_\_\_\_\_  
DATE

Notary

AUDUBON HILL CONDOMINIUMS, RESERVATION OF CONDOMINIUM HOME  
(TO BE CONSTRUCTED)

This reservation for a condominium home is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_ (herein after referred to as the "BUYER") and HIGH STREET PCRC TRUST(hereinafter referred to as the "SELLER").

The SELLER is constructing condominium homes on property known as Audubon Hill, located off High Street, Acton, Massachusetts, and he intends to sell to various purchasers these units, together with an undivided interest in the condominium.

The undersigned BUYER wishes to purchase a home, subject to certain restrictions and covenants, and hereby requests to reserve:

UNIT NUMBER: \_\_\_\_\_ STYLE: \_\_\_\_\_

In consideration of the SELLER'S reserving this unit, the BUYER agrees to pay a deposit of ONE THOUSAND AND NO/100 (\$1000.00) DOLLARS, the receipt of which is hereby acknowledged.

The purchase price to be paid will be \_\_\_\_\_ (\$ \_\_\_\_\_) dollars, including the deposit for a \_\_\_\_\_ style home with \_\_\_\_\_ square feet of living space.

The BUYER shall execute a Purchase and Sale Agreement within \_\_\_\_\_ days and give an additional deposit which when added to the Reservation deposit, shall equal 10% of the purchase price. If the BUYER fails to execute a Purchase and Sale Agreement with additional deposit within said period, then the Reservation is cancelled and the Seller will return the deposit made herewith.

The BUYER may not enter the premises of AUDUBON HILL CONDOMINIUM, other than the Sales Office, nor tour the site, unless accompanied by a representative of the SELLER. Violation of this provision will be deemed a default of this Reservation, at the option of the SELLER.

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
HIGH STREET PCRC TRUST  
By its Agent  
R. SMITH ASSOCIATES, INC.

# AUDUBON HILL SENIOR DEVELOPMENT

3 @ 110,000

16 @ 157,500

## BUYER SELECTION PLAN

5 @ 65,000 (plus)

Audubon Hill is a seventy unit condominium development for individuals who are fifty five years or older. Fifty of these units will be sold at market prices of between \$210,000 and \$230,000, while the remaining twenty will be priced at lower than market levels for eligible homebuyers. There are two price levels for these affordable units;

\* 16 of the units will be sold for \$157,500,

\* 3 will be sold for \$110,000.

3

We expect that there will be a great demand for these affordable condominium units. In order to fairly market them to households who would be unable to afford a market rate unit, a buyer selection plan will be used. This plan consists of four sections:

- A) Income Restrictions
- B) Age and Local Preference Requirements
- C) Deed Restrictions
- D) Lottery Selection Process

### INCOME RESTRICTIONS

The Town of Acton has established income limits for buyers of the affordable units in Audubon Hill. In order to qualify a buyer can not have a gross yearly household income of greater than:

| <u>Unit Type</u> | <u>Income</u> |
|------------------|---------------|
| \$157,500        | \$60,000      |
| \$110,000        | \$40,000      |

In addition to these income limits buyers are required to make a down payment of at least 20% of the mortgage, and pay condominium fees and taxes of approximately \$200 per month. If desired, a buyer can make a larger down payment than 20%.

## AGE AND LOCAL PREFERENCE GUIDELINES

All of the affordable units in this development will be marketed only to households that fit under the Town's Age and Local Preference Guidelines for such developments. These guidelines specify that households must meet the following requirements;

\* Consist of no more than three individuals, of which at least two are fifty-five years of age or older. In the case of two person households, at least one individual must be fifty five or over.

\* Current Acton residents,

\* Current Acton town employees,

\* Retired Acton town employees.

\* Parents of current Acton residents,

*Preference  
not  
only Local*

## RESALE RESTRICTIONS

In order to preserve the affordability of these twenty condominium units restrictions have been placed on their resale value. These resale limitations are designed so that the initial buyer can gain a reasonable level of appreciation on his investment and at the same time preserve their affordability for the new buyer. They will be part of a legally binding ownership agreement.

The formula for calculating resale value is quite simple; the sale price of the \$157,500 units can not exceed 75% of their appraised value, while in the case of the \$110,000 units their resale value can not exceed 50% of their appraised value. Exceptions to this rule will be made when the homeowner makes significant improvements in the unit and has documented these improvements.

*the appraised value  
of market units*

*52%*

Each buyer of an affordable unit must agree to notify the Town of Acton when the unit is to be sold. A designated representative of the town will then be responsible for finding a qualified buyer for the unit within 120 days. If no qualified buyer can be found within the set time period, the unit may be sold to any buyer at any price, with the difference between the price set by the resale restrictions and the final sale price being returned to the Town of Acton or its designated representative.

## LOTTERY SELECTION PROCESS

In order to manage the buyer selection process fairly and efficiently two lotteries will be held, one for each type of affordable housing unit, \$157,500 and \$110,000. Each household that applies will be pre-qualified to ensure that they meet the Town's requirements mentioned in the "Age and Local Preference Guidelines" section.

Once a buyer pre-qualifies their name will be placed in one of the two lottery pools, depending on their income, where their name will be chosen in order and a number assigned to them until no further names remain. A certain number of buyers from each list will be selected to proceed further by entering the mortgage qualifying process. If a buyer who was chosen for the mortgage qualifying process fails to meet mortgage requirements, the next applicant on the list will take their place and so on until a qualified buyer is found.