

RDAL Program  
Affordable Housing Restriction

DATE: August 23, 1989

OWNER: The Pelham Corporation

PROJECT ADDRESS: Second Street, Framingham, MA

PROJECT NAME: Beaver Park and Gardens

REGISTRY OF DEEDS: Middlesex South

TOTAL NUMBER OF UNITS IN PROJECT: 286 Units (includes 58 units  
leased to the Framingham  
Housing Authority)

This RDAL Program Affordable Housing Restriction (this "Agreement") is entered into as of the date first above written, by and between OWNER and MASSACHUSETTS HOUSING FINANCE AGENCY ("MHFA"), A CORPORATE GOVERNMENTAL AGENCY CONSTITUTING A PUBLIC BENEFIT CORPORATION ORGANIZED AND OPERATED UNDER THE PROVISIONS OF CHAPTER 708 OF THE ACTS OF 1966 OF THE COMMONWEALTH OF MASSACHUSETTS, AS AMENDED.

WITNESSETH

WHEREAS, Owner holds or will hold legal title to certain real property upon which is located the Project, located at the Project Address, more fully described in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, pursuant to Section 3 of Chapter 226 of the Acts of 1987, line item 3722-8878, as amended by Sections 148 through 152 of Chapter 164 of the Acts of 1988 (the "RDAL Statute") there was created the Rental Housing Development Action Loan Program (the "RDAL Program") in which the Executive Office of Communities and Development acting by and through the Department of Community Affairs ("EOCD") is authorized to make funds available in the form of loans to one or more designated entities, including MHFA (the "Financial Intermediary") which Financial Intermediary shall in turn loan such funds to sponsors of rental and limited equity cooperative housing projects, such as Owner, provided that a designated percentage of units in the Project (which percentage may be no less than twenty five percent (25%) of the units in the project) are reserved for families with incomes no higher at the time of occupancy than eighty percent (80%) of the median income of all families residing within the affected area; and

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WHEREAS, simultaneously herewith, MHFA has entered into a loan agreement with EOCD (the "Loan Agreement") pursuant to the RDAL Statute in which EOCD has agreed to make funds available in the form of a loan to MHFA for the benefit of the Project, provided that Owner enter into this Agreement, and MHFA has agreed to act as a Financial Intermediary and to simultaneously loan such funds (the "Loan") to the Owner for the benefit of the Project; and

WHEREAS, Owner has simultaneously herewith executed a promissory note to MHFA in the amount of the Loan (the "Note") and certain Contract Documents as that term is defined in the Note, including without limitation the Mortgage as that term is defined in the Note;

NOW, THEREFORE; for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge each to the other, the parties hereto agree as follows:

1. Definition of Use Restrictions. The Project shall be subject to an initial use restriction ("Initial-Term Use Restriction") and a subsequent, longer term use restriction ("Long-Term Use Restriction") as defined in Section 1.A. and 1.B below. This Agreement and the use restrictions contained herein shall run with the land upon which the Project is constructed, more fully described in Schedule A hereto, shall bind the successors and assigns of Owner, shall inure to the benefit of MHFA and its successors and assigns. In the event of foreclosure of the Mortgage or the granting of any deed-in-lieu of such a foreclosure, this Agreement and the Use Restrictions may be terminated at the election of MHFA, its successors or assigns, upon a determination by MHFA, its successors and assigns, that such termination will be in the interest of furthering the purposes of the RDAL Statute.

A. INITIAL-TERM USE RESTRICTION

1. Units Affected. At least twenty five percent (25%) of the units in the Project shall be subject to the Initial-Term Use Restriction as defined herein in Section 1.A. of this Agreement (units designed as "Subject Units").

2. Term of Restriction. The Occupancy Restriction set forth in Section 1.A.3. of this Agreement shall commence on the date hereof and shall continue for a period of fifteen years from this date, or ten years following the date of the final RDAL loan disbursement, whichever is longer.

3. Occupancy Restrictions. The percentage of the units in the Project designated above as Subject Units shall be reserved and restricted for use and occupancy by families with incomes no higher at the time of occupancy than eighty percent (80%) of the median income of all families residing within the affected areas as defined from time to time by regulations or guidelines issued pursuant to the RDAL Statute ("Affordable Housing"). The Subject Units shall be used only for Affordable Housing and for no other purpose. The tenants residing in the Subject Units shall pay toward rent (including payment for heat and utilities) no more than thirty percent (30%) of the income of the household.

4. Income Verification. Verification of whether the income of a household residing in a Subject Unit exceeds the applicable income limit shall be determined pursuant to Section 8 of the Rental Housing Development Action Loan Contract of even date herewith between Owner and MHFA (the "RDAL Contract").

B. LONG-TERM USE

1. Units Affected: All units in the Project shall be subject to the Long-Term Restriction set forth in Section 1.B. of this Agreement.

2. Term of Restriction: The Occupancy Restrictions set forth in Section 1.B.3. of this Agreement shall commence on the date immediately following the termination of the Initial-Term Use Restriction as defined above in Section 1.A.2. and shall continue for the longest period permitted by law but in any event not less than the life of the last remaining grandchild now living of the present Queen Elizabeth of England plus twenty-one years.

3. Occupancy Restrictions: All units in the Project shall be subject to all of the provisions set forth in the Use Agreements among the Secretary of Housing and Urban Development and Beaver Apartments Limited Partnership and Beaver Apartments Limited Partnership II, dated August 23, 1989 (the "HUD Use Agreements") recorded herewith that govern the operation and management of the Project, notwithstanding the fact that the HUD Use Agreements, by their own terms, terminate on November 9, 2005. To the extent the continuation of the HUD Use Agreements beyond November 9, 2005 jeopardize the economic viability of the Project as determined by EOCD and MHFA as the first mortgagee, Owner may petition EOCD

for specific modifications to the HUD Use Agreements. However, any such proposed modification to the HUD Use Agreements must be first be approved in writing by EOCD before implementation by Owner.

2. Fire and Condemnation. After termination of the Mortgage, Owner shall continue to maintain all insurance coverages in the types and amounts required by relevant sections of the Mortgage documents. Upon the occurrence of a fire or other casualty or a taking by eminent domain which occurs after termination of the Mortgage and which causes damage to the Project, then at the election of MHFA, the proceeds of such insurance or any condemnation award shall be used for the repair and restoration of the Project, subject to the terms of the Lease between Owner and the Framingham Housing Authority per the fifty-eight (58) units in the Project.

3. Miscellaneous Requirements. All of the Units in the Project will contain complete living, sleeping, eating, cooking and sanitation facilities for a single person or family. None of the units in the Project will at any time be utilized on a transient basis, or used as hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium or rest home.

4. Information. Owner covenants and agrees to secure and maintain on file for inspection and copying by MHFA such information, reports and certifications as MHFA may require in writing. Owner further covenants and agrees to submit to MHFA annually, or more frequently if required in writing by MHFA, reports detailing such facts as MHFA determines are sufficient to establish compliance with the Occupancy Restrictions contained herein. Owner further covenants and agrees promptly to notify MHFA if Owner discovers noncompliance with any Occupancy Restriction hereunder or any other requirement of this Agreement.

5. Annual Certification. Owner covenants to certify annually to the Secretary of EOCD whether or not the Project continues to satisfy the requirements imposed by this Agreement.

6. Enforcement. Upon violation of any of the provisions of this Agreement by Owner, MHFA, at its option, may apply to any court, State or Federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or for such other relief as may be appropriate, since the injury to MHFA arising from the default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain and may not be compensable by money alone. No waiver by MHFA of any breach of this Agreement shall be deemed a waiver of any other or

subsequent breach. No act or omission by MHFA other than a writing signed by it waiving a breach by Owner, shall constitute a waiver thereof.

7. Notices. All notices required or permitted to be given hereunder shall be in writing and all such notices shall be delivered by hand or mailed postage prepaid, by registered or certified mail, addressed in the case of Owner to 500 Granite Avenue, East Milton, MA 02186 and in the case of MHFA to 50 Milk Street, Boston, MA 02109, Attention: RDAL Program, with a copy to EOCD, 100 Cambridge Street, Boston, MA 02202, Attention: RDAL Program Director, or in the case of either party, to such other address as shall be designated by written notice given to the other party. Any such notice shall be deemed given when so delivered by hand, or if so mailed, three days after it is deposited with the U.S. Postal Service.

8. Severability. All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable or not entitled to be recorded, registered, or filed under applicable law. If any provision or part thereof shall be affected by such holding, the validity of other provisions of this Agreement and of the balance of any provision held to be invalid, illegal or unenforceable in part only, shall in no way be affected thereby, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or part thereof had not been contained therein.

9. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

10. Substitution of Parties. In the event that MHFA (i) ceases to hold a first mortgage position and (ii) has not foreclosed on the Project, then all references contained herein to MHFA as the first mortgagee shall be null and void and EOCD shall be substituted therefor.

11. Recording. Owner, at its cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be

required by law in order to establish, preserve and protect the ability of MHFA, its successors and assigns to enforce this Agreement.

IN WITNESS WHEREOF, the parties have caused this RDAL Program Affordable Housing Restriction to be executed as a sealed instrument by their respective, duly authorized representatives, as of the day and year first written above.


OWNER: The Pelham Corporation

By:

  
Jeffrey P. Carra, President

MASSACHUSETTS HOUSING FINANCE AGENCY

By:

  
Edward T. Pollack, General Counsel

Attachment:

Schedule A - Description of Property

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## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

August 23, 1989

Then personally appeared in the above-named Jeffrey P. Caira, the President of The Pelham Corporation and he acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said entity, before me.

*Margaret Doris Newenhaus*  
 Notary Public  
 My Commission Expires: July 30, 1993

## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

August 23, 1989

Then personally appeared in the above-named Edward T. Pollack, the General Counsel of the Massachusetts Housing Finance Agency and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Massachusetts Housing Finance Agency, before me.

*Margaret Doris Newenhaus*  
 Notary Public  
 My Commission Expires: July 30, 1993

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EXHIBIT A-BEAVER PARKFirst Parcel:

Northwesterly by First Street, 542.43 feet;  
 Northerly by an arc with a radius of 15.00 feet forming an intersection of First Street and Taralli Terrace, 23.56 feet;  
 Northeasterly by Taralli Terrace, 200.00 feet;  
 Southeasterly by land now or formerly of Mayer, 102.43 feet;  
 Southwesterly by land now or formerly of O'Grady, 75.00 feet; again  
 Southeasterly by lands now or formerly of said O'Grady, of Estrella, of Barr, of Hogan, of Hendrahan, of Falone, of Doll, of Harvey, of Allen and of Young, 455.00 feet; and again  
 Southwesterly by land now or formerly of Cohen, 140.00 feet.

Being Lot "A" as shown on the plan hereinafter mentioned.

Second Parcel:

Westerly by lands now or formerly of Cunningham, 478.31 feet;  
 Northerly by Oak Street, 113.77 feet;  
 Northeasterly by an arc with a radius of 15.00 feet forming an intersection of Oak Street and Taralli Terrace, 23.56 feet;  
 Easterly by Taralli Terrace, 190.19 feet; again  
 Easterly by an arc with a radius of 98.43 feet forming an intersection of Taralli Terrace and First Street, 82.05 feet; and  
 Southeasterly by First Street, 278.82 feet.

Being Lot "B" on said plan.

Third Parcel:

Westerly by Marian Road and land now or formerly of Morris, 147.47 feet;  
 Northwesterly by said land now or formerly of Morris by two lines measuring respectively 208.80 feet and 25.08 feet;  
 Northerly by the southerly line of easement taken by the Town of Framingham for the improvement of Beaver Dam Brook by an arc with a radius of 700.00 feet, 15.00 feet;  
 Easterly by Taralli Terrace, 346.84 feet;  
 Southeasterly by an arc with a radius of 15.00 feet forming an intersection of Taralli Terrace and Oak Street, 23.56 feet; and  
 Southerly by Oak Street, 106.96 feet.

Being Lot "C".



Fourth Parcel:

Westerly by Taralli Terrace, 553.28 feet;  
 Northerly by the southerly line of easement taken by the  
 Town of Framingham for the improvement of Beaver  
 Dam Brook by an arc with a radius of 700.00 feet  
 measuring 93.47 feet, by a straight line  
 measuring 134.36 feet and by an arc with a radius  
 of 220.00 feet measuring 147.11 feet;  
 Easterly by Willis Street, 240.74 feet; again  
 Easterly by an arc with a radius of 55.11 feet forming an  
 intersection of Willow Street and First Street,  
 45.78 feet;  
 Southeasterly by First Street, 411.20 feet; and  
 Southerly by an arc with a radius of 26.56 feet forming an  
 intersection of First Street and Taralli Terrace,  
 61.30 feet.

Being Lot "D" on said plan.

Fifth Parcel:

Northwesterly by First Street, 448.93 feet;  
 Easterly by land now or formerly of Gans by six lines  
 measuring respectively 28.42 feet, 56.75 feet,  
 106.55 feet, 107.30 feet, 46.57 feet and 71.58  
 feet;  
 Southwesterly by land now or formerly of Felone, 16.02 feet;  
 Southeasterly by said land now or formerly of Felone, 120.00  
 feet; again  
 Southwesterly by Taralli Terrace, 200 feet; and  
 Westerly by an arc with a radius of 15.00 feet forming an  
 intersection of Taralli Terrace and First Street,  
 23.56 feet;

Being Lot "E" on a plan entitled "Plan of Land in  
 Framingham, Mass. Owned by Neillian Realty Co" dated March  
 20, 1962 by MacCarthy Engineering Services, Inc., which  
 plan is recorded with Middlesex South District Deeds as  
 Plan No. 1627 of 1962.

Together with all the grantor's right, title and interest  
 in and to the area shown on said plan as "60' wide Easement  
 Beaver Dam Brook", and together with the fee in those  
 portions of Oak Street, Taralli Terrace and First Street on  
 which said Lots "A", "B", "C", "D" and "E" abut, excepting  
 however, that portion of the fee of said First Street which  
 lies southwesterly of the projected westerly line of said  
 Lot "B", subject, however, to the rights of others legally

entitled, to use the same for all purposes for which streets are commonly used in the Town of Framingham and with the right to use Taralli Terrace to Second Street, in common with others legally entitled thereto, as streets are commonly used in the Town of Framingham.

Said Lot "E" is subject to a drain easement as shown on said plan, granted by Cornelius J. Maguire et al to the Town of Framingham by instrument dated June 30, 1943, recorded with Middlesex South District Deeds, Book 6692, Page 141.

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EXHIBIT A - BEAVER GARDENSFirst Parcel:

A certain parcel of land situated in Framingham in the County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Westerly	by Willis Street. Two hundred twelve and 36/100 feet;
Northwesterly	by a curving line at the intersection of said Willis Street and Beaver Park Drive as shown on plan hereinafter mentioned, thirty-nine and 27/100 feet;
Northwesterly	Northerly and Northeasterly by said Beaver Park Drive, four hundred eighty-eight and 29/100 feet;
Easterly	by a curving line at the intersection of said Beaver Park Drive and Second Street as shown on said plan, thirty-nine and 27/100 feet;
Southeasterly	by said Second Street, seven hundred forty-six and 18/100 feet; and
Westerly	by lands now or formerly of Henry Felone et al and by Neillian Realty Co., four hundred ninety-six and 53/100 feet.

Said parcel is shown as lot 1 on said plan.

Second Parcel:

Also another certain parcel of land situated in said Framingham bounded and described as follows:

Southwesterly,	Southerly and Southeasterly by Beaver Park Drive, five hundred three and 84/100 feet;
Southwesterly	by a curving line at the intersection of said Beaver Park Drive and Willis Street as shown on said plan hereinafter mentioned, twenty-five and 55/100 feet;
Westerly	by land now or formerly of Neillian Realty Co., twenty-one and 04/100 feet;
Northwesterly	by land now or formerly of Dorothy Steinberg, partly through the middle line of a brook, and again
Northwesterly	by the middle line of a brook on said Steinberg land, about three hundred and seventy-four feet; and
Northeasterly	by land of sundry adjoining owners, five hundred twenty-six and 88/100 feet.

Said parcel is shown as lot 2 on said plan.

The fee in Willis Street and Beaver Park Drive is limited by the line of registration in Land Court Case No. 31322 as shown on plan filed in Registration Book 705, Page 116.

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 705, Page 116, with Certificate 115066.

So much of said lot 2 as is included within the area marked "60 foot Easement for Brook Channel", as approximately shown on said plan, is subject to a taking by the Town of Framingham, dated September 11, 1928, duly recorded in Book 5285, Page 243.

So much of said lots 1 and 2 as is included within the area marked "20 foot wide Drain Easement", as approximately shown on said plan, is subject to an easement set forth in a grant from Annie Snyder to the Town of Framingham, dated June 30, 1943, duly recorded in Book 6692, Page 142.

Said lot 2 is subject to the location of a natural water course over the same, known as Beaver Dam Brook, as approximately shown on said plan.

Third Parcel:

A parcel of unregistered land situated in said Framingham, bounded and described as follows:

Beginning at a point on the northwesterly side of Second Street; and thence running

N30° 15' 42" East by said Second Street 8 feet to land now or formerly of Walter P. Intinerelli et al; thence  
 N27° 29' 18" West by said land now or formerly of Intinerelli et al 255.84 feet to land now or formerly of Anne Gans; thence  
 S62° 30' 42" West by said land now or formerly of Anne Gans 51.31 feet to Lot 2 as shown on Land Court Plan 31322B; thence  
 S27° 38' 18" East by said Lot 2, 237.34 feet to Beaver Park Drive; thence  
 S59° 44' 18" West by said Beaver Park Drive 17.71 feet to a point; and thence in an  
 Easterly direction by a curve to the left with a radius of 25 feet by said Beaver Park Drive 39.27 feet to the point of beginning on said Second Street.

Said parcel is shown on said Land Court Plan 31322B, as filed in the Land Registration Office.

Fourth Parcel:

The fee in and to all of said Beaver Park Drive, both registered and unregistered land, and the fee in the registered portion of Willis Street as shown on said Land Court Plan 31322B, as filed in the Land Registration Office.

Fifth Parcel:

A parcel of land situated in said Framingham bounded and described as follows:

Southeasterly	by the northwesterly line of First Street 61.26 feet;
Southwesterly	by Cross Street, 140 feet;
Northwesterly	by land now or formerly of William E. Durant, Jr., et al, 70 feet; again
Southwesterly	by the same 140 feet; again
Northwesterly	by the southeasterly line of Marian Road by two lines measuring respectively 361.62 feet and 26.27 feet; and
Easterly	by land now or formerly of Beaver Park, Inc. 478.31 feet.

Said parcel is shown on "Plan of Land - Framingham, Mass. owned by: Beaver Park II", dated March 31, 1964, by Bradford Saivetz & Associates, Inc., Consulting Civil Engineer, recorded with Middlesex South District Registry of Deeds as Plan No. 828 of 1964.

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