Zoning Board of Appeals

May 11, 2016

Abrems Quarry

40B

PACKET

Part IV

Posted with Town Clerk on May 6, 2016
Posting # 396

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

Agenda
(Subject to Change)

Wednesday, May 11, 2016
11:00 AM
4 Fairgrounds Road
11:00 AM – 1PM Public Safety Facility – 1st Floor Community Room
1 PM - 4 PM Public Safety Facility – 2nd Floor Training Room

1

- **CALL TO ORDER:**
- **APPROVAL OF THE AGENDA:**
- **APPROVAL OF THE MINUTES:**
  - April 14, 2016

- ~~**OLD BUSINESS:**~~

See Packet Parts I & II

- ~~04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – *a/k/a* SURFSIDE COMMONS 40B 106 Surfside Road Mackinnon / Schwartz Extended Close of Public Hearing deadline September 30, 2016 (180 days from Initial Public Hearing with Extension) Decision Action deadline November 10, 2016 (40 days from close of Public Hearing) The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, as approved by Massachusetts Housing Partnership, in order to allow a multi-family project consisting of 56 rental apartments with fourteen (14) to be designated as affordable units. The apartments will be arranged in two 2 ½ story buildings with thirteen units each and two 3 ½ story buildings with fifteen (15) units each. There will be a total of two 1-bedroom units, forty two 2-bedroom units, and twelve 3-bedroom units. The project will also include a clubhouse and pool. If approved, the property will be permanently deed-restricted for the purpose of providing affordable year-round housing. The file with a copy of the complete and updated list of requested waivers is available at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday or via link to posting of all document related to this project found on Town of Nantucket website below:~~

~~http://www.nantucket-ma.gov/708/Atlantic-Development---106-Surfside-Road~~

~~The Locus, situated at 106 Surfside Road, is shown on Assessor's Map 67 as Parcel 80. Locus is also shown as Block 22 on Plan File 3-D and as Parcels 7 -11 (inclusive) on Plan No. 2014-52. Evidence of owner's title is recorded in Book 1410, Page 205 and Book 1488 Page 213, both on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2) and Limited Use General 3 (LUG-3).~~

- ~~10-16 MHD Partners Real Estate, LLC 4 Goose Cove Lane Brescher/Osgood~~
  ~~Action deadline June 8, 2016~~
  ~~Applicant is requesting Variance relief pursuant to Zoning By-law Section 139-32 from the intensity regulations in the Village Height Overlay District (VHOD). Specifically, applicant intends to relocate an existing cottage from another property onto the subject premises, a vacant oversized lot. In 2009, the VHOD was adopted and the structure, which is 25.5 feet above average mean grade, was rendered pre-existing nonconforming. The maximum allowable height in the VHOD is 25 feet pursuant to Section 139-12.K(1). The structure, upon being relocated, will continue to be nonconforming with respect to height but will conform to all other intensity regulations of the Village Residential zoning district. The Locus is situated at 4 Goose Cove Lane, is shown on Assessor's Map 59.4 as Parcel 30, and as Lot 894 upon Land Court Plan No. 3092-119. Evidence of owner's title is registered at Certificate of Title 25954 on file at the Nantucket County District of the Land Court. The site is zoned Village Residential (VR) and is sited within the Village Height Overlay District (VHOD).~~

See Packet Part III

➢ ~~**NEW BUSINESS:**~~

- ~~11-16 John N. Sullivan and Marie T. Sullivan 5 Appleton Road Sullivan~~
  ~~Action deadline August 9, 2016~~
  ~~Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-16.C by reducing the side yard setback from ten (10) to five (5) feet in order to validate the siting of the existing main dwelling and to site a proposed 400 square foot garage within the ten (10) foot northerly side yard setback. The Locus is situated at 5 Appleton Road, is shown on Assessor's Map 66 as Parcel 390, and as Lot 19 upon Land Court Plan 13554-D. Evidence of owner's title is registered on Certificate of Title No. 22449 at the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).~~

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- ~~12-16 Amos B. Hostetter, Jr., Stephen W. Kidder, & Michael J. Puzo, Tr., A & B Realty Trust~~
  ~~Action deadline August 9, 2016 53 Baxter Road Reade~~
  ~~Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-33.A to alter the pre-existing nonconforming dwelling and garage by relocating them on the lot to increase the distance from the coastal bank, while maintaining the nonconforming front yard setback distances and creating no new nonconformities. The Locus is situated at 53 Baxter Road, is shown on Assessor's Map 49 as Parcel 17, and upon Land Court Plan 20574-A. Evidence of owner's title is registered on Certificate of Title No. 23030 at the Nantucket County District of the Land Court. The site is zoned Sconset Residential 20 (SR-20).~~

- ~~13-16 Anjonic Real Estate 13 Company, LLP & Maureen Dunphy, Tr., One Kite Hill Lane Realty Trust 1 Kite Hill Lane Brescher~~
  ~~Action deadline August 9, 2016~~
  ~~Applicant requests special permit relief pursuant to Zoning By-law Section 139-33.A to alter the pre-existing nonconforming dwelling and, to the extent applicable, Modification of prior Special Permit relief in order to expand the basement beneath the existing front porch. The pre-existing nonconforming side and rear yard setbacks will remain unchanged. The Locus is situated at 1 Kite Hill Lane, is shown on Nantucket Tax Assessor's Map 42.4.4 as Parcel 63. Evidence of owners' title is in Book 1484, Page 185 and Book 1517, Page 231 on file at the Nantucket County Registry of Deeds. The property is zoned Residential Old Historic (ROH).~~

- ~~14-16 17 OSR, LLC 17 Old South Road Dale~~
  ~~Action deadline August 9, 2016~~
  ~~Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 from the provisions of Section 139-16 to allow placement of a seasonal awning within the ten (10) foot front yard setback. The awning would be located over an existing outdoor dining area in the front of the structure associated with the operation of the restaurant known as Fusaro's. The Locus is situated at 17 Old South Road, is shown on Assessor's Map 67 as Parcel 41.2, and as Lot 4 upon Plan File 44-Q. Evidence of owner's title is in Book 1496, Page 25 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).~~

- ~~15-16 Madaket Wheelhouse, LLC 13 Massachusetts Avenue Cohen~~
  ~~Action deadline August 9, 2016~~
  ~~Applicant is seeking relief by Special Permit and Variance pursuant to Zoning By-law Sections 139-33.A and 139-32 in order to alter the pre-existing nonconforming dwelling and garage. Applicant proposes to build two dimensionally compliant additions to the dwelling and to enclose an outdoor shower to be sited .5 feet from the westerly lot line, increasing that pre-existing nonconforming side yard setback encroachment. Applicant also proposes changes to the garage consisting of moving, expanding, and converting it into a secondary dwelling. The Locus is situated at 13 Massachusetts Avenue, is shown on Assessor's Map 60 as Parcel 75, and as Lots 12-15, Block 29 upon Land Court Plan 2408-Y and unregistered land lying north of said Lots. Evidence of owner's title is registered on Certificate of Title No. 25696 at the Nantucket County District of the Land Court and in Book 1494, Page 39 on file at the Registry of Deeds. The site is zoned Village Residential (VR).~~

- ~~16-16 Todd W. Winship & Elizabeth W. Winship and Bess W. Clarke, Tr., Sixteen Monohansett Road Trust 16 Monohansett Road Brescher~~
  ~~Action deadline August 9, 2016~~
  ~~Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver of the ground cover ratio provisions in Section 139-16. Specifically, applicant seeks to validate enclosure of pool cabana breezeway which resulted in total ground cover ratio of 4.2% where 4% is maximum allowed. The Locus is situated at 16 Monohansett Road, is shown on Assessor's Map 79 as Parcel 143, and as Lot 29 upon Plan File 11-A. Evidence of owner's title is in Book 1503, Page 322 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2).~~

- ~~17-16 Nantucket Memorial Airport~~
  ~~**WITHDRAWAL AS A MATTER OF RIGHT AND WITHOUT PREJUDICE**~~

3

➢ **OTHER BUSINESS:**

- 66-00 Abrem Quarry (40B)
  Discussion of draft Monitoring Services Agreement between Nantucket Zoning Board of Appeals and Nantucket Housing Authority and NHA Properties *d/b/a* Housing Nantucket.

➢ **ADJOURNMENT.**

ABREMS QUARRY

FILE NO. 66-00

MONITORING AGREEMENT WITH NHA, INC.

From:	Anne Kuszpa
To:	Leslie Snell; Andrew Vorce; Renee Ceely
Cc:	Eleanor Antonietti
Subject:	Abrem Quary Monitoring Agent
Date:	Tuesday, February 09, 2016 2:19:16 PM
Attachments:	AbremQuary_Regulatory_Agreement.pdf

Dear Leslie, Andrew, Eleanor and Renee,

The issue of monitoring at Abrem Quary has come up again. I'm sure you heard there was a fire at one of the 40B units at 4 Kinikinnik Way. One of the abutters came to our office inquiring who was monitoring the project. They suspected the owner of 4 Kinikinnik was renting out the basement, which is a violation of the Comprehensive Permit and Deed Rider. The Abrem Quary Homeowners Association had contacted me several times previously asking for advice on how to enforce the restrictions of the deed rider.

The problem is the monitoring agent for this project is undefined. The Regulatory Agreement was recorded with a partially executed monitoring agreement, see attached. The documents say CHAPA, but there are no signatures on their behalf. I have spoken with CHAPA and they are definitely not the monitoring agent for this project.

Housing Nantucket is willing to monitor Abrem Quary, and we have performed some of the duties already. However, I am unable to find any documentation authorizing us to play this role. I'd like to officially get an agreement in place but am unsure of who the counter parties would be. I believe they would be:

1. the Municipality (the ZBA? the Selectmen?)
2. Housing Nantucket as Monitoring Agent
3. the Nantucket Housing Authority (as Secondary Monitoring Agent)

Recorded on Bk: 01064 Pg:129, the Monitoring Agreement's Section 6. Successor Monitoring Agent, says "the Municipality shall have the right to appoint a successor to serve as Monitoring Agent for the remaining term of this agreement." What Municipal entity is this? The ZBA, since they signed the Regulatory Agreement?

Once we determine the counter parties, I have a draft monitoring agreement we can submit to the appropriate board for review.

How do the members of this group suggest we move forward? Please give me a call if you'd like to discuss.

Thank you,
Anne

~~~~~~~~~~~~~~~~~~~~

Anne Kuszpa, Executive Director
Housing Nantucket
75 Old South Road
PO Box 3149
Nantucket, MA 02554
Direct Line: 774-333-3927
Main Line: 508-228-4422

www.HousingNantucket.org
~~~~~~~~~~~~~~~~~~~~

From: Lee S. Smith
To: Eleanor Antonietti
Subject: Abrem Quarry Monitoring Agent Opinion Letter
Date: Tuesday, April 12, 2016 2:36:07 PM
Attachments: abrem quarry ltr_001.pdf

Dear Eleanor,

Attached please find a copy of my opinion letter regarding the Abrem Quarry monitoring agent. The hard copy will follow via regular mail. Please let me know if you have any questions or if you would like assistance with an agreement for services with the monitoring agent.

Note that the form of monitoring services agreement attached to the Regulatory Agreement calls for no payments for services to come from the town. If this provision changes in your agreement, it may implicate requirements under G.L. c. 30B. for procuring services.

-Lee

Lee S. Smith, Esq.
Kopelman and Paige, P.C.
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www.k-plaw.com

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KOPELMAN AND PAIGE, P.C.
The Leader in Public Sector Law

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April 12, 2016

Lee S. Smith
lsmith@k-plaw.com

BY ELECTRONIC MAIL
AND BY FIRST CLASS MAIL

Ms. Eleanor W. Antonietti
Zoning Administrator
Land Use Specialist
Planning and Land Use Services
Nantucket Planning Office
2 Fairgrounds Road
Nantucket, MA 02554

Re: Determination of Monitoring Agent for Abrem Quarry

Dear Ms. Antonietti:

You have requested an opinion regarding what entity is the proper "Monitoring Agent" for the Abrem Quarry housing development. In my opinion, the Nantucket Housing Office is the Monitoring Agent of record and the Nantucket Housing Authority is the Secondary Monitoring Agent of record. It is my understanding that "Nantucket Housing Office" was the proprietary, "doing business as" name of NHA Properties, Inc. and that NHA Properties, Inc. currently conducts business as "Housing Nantucket". [1]

The housing development consists of 28 for-sale units located on Folger Avenue and commonly known as "Abrem Quarry" (the "Development"). The Zoning Board of Appeals ("ZBA") issued a comprehensive permit to Nantucket Homes for People, Inc. (the "Developer") for the Development under G.L. c. 40B, §20-23. In connection with the Development, a Regulatory Agreement dated December 1, 2006, including Exhibit A thereto (form of Deed Rider) and Exhibit B thereto (form of Monitoring Services Agreement) was recorded in the Nantucket Registry of Deeds in Book 1064, Page 105. Pursuant to the requirements of the comprehensive permit and the terms of the Regulatory Agreement, the Developer agreed that 7 of the 28 units in the Development would be "affordable units" and that it would retain a monitoring agent "to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement and compliance of the Developer with the Limited Dividend Requirement" (as such terms are defined in the Regulatory Agreement).

The Regulatory Agreement names "Citizens' Housing and Planning Association of Boston", commonly referred to as "CHAPA", as a party to the agreement and as the Monitoring Agent

[1] For the sake of convenience, I will refer to Nantucket Housing Office and Housing Nantucket as NHA Properties, Inc. ("NHA Properties").

selected by the Developer. The Regulatory Agreement also names the Nantucket Housing Authority as the "secondary monitoring agent". CHAPA did not execute the recorded Regulatory Agreement. Inquires with CHAPA also indicate that CHAPA has not acted as the Monitoring Agent for any unit in the Development. See attached letter.

I have researched the title to the following units in the Development:

6B Folger Avenue- See Quitclaim Deed at Book 1112, Page 265
6 Sasemin Way- See Quitclaim Deed at Book 1115, Page 1
4 Kinikinnik Way- See Quitclaim Deed at Book 1116, Page 206
3B Field Avenue- See Quitclaim Deed at Book 1116, Page 292
7 Field Avenue- See Quitclaim Deed at Book 1117, Page 44
4A Folger Avenue- See Quitclaim Deed at Book 1119, Page 1
2 Sasemin Way- See Quitclaim Deed at Book 1119, Page 48

It is my understanding that these are the 7 units in the Development on which the affordability restrictions have been placed (the "Affordable Units"). Each of the Affordable Units was conveyed by a Quitclaim Deed, an attached Deed Rider, and an Eligibility for Purchase Certificate. Each Deed Rider names "Nantucket Housing Office (NHO)" (that is, NHA Properties) as the Monitoring Agent and "Nantucket Housing Authority" as the Secondary Monitoring Agent. Each Eligibility for Purchase Certificate was issued by NHA Properties and states "The signature below represents evidence that NHA Properties, DBA Nantucket Housing Office, the monitoring agent for Abrem Quarry has reviewed and certifies this applicant as acceptable based on program income guidelines."

While a form of Monitoring Services Agreement is attached to the Regulatory Agreement as an exhibit, it is my understanding that despite being named in the Deed Riders and acting as the Monitoring Agent since the time each Affordable unit was initially sold, NHA Properties has not executed such agreement. I recommend that the ZBA enter into a written agreement with NHA Properties to clearly define the responsibilities and expectations of the parties with regard to the services to be provided by NHA Properties as the Monitoring Agent. Further, although the original documents contemplated that the Developer would be a signatory to a Monitoring Services Agreement, given that the Developer conveyed all the Affordable Units in 2007, it is my opinion that the ZBA may contract directly with NHA Properties instead. Note that Section 6 of the form of Monitoring Services Agreement contemplates this succession in interest, as it provides that a successor Monitoring Agent may be appointed by the ZBA (the "Municipality" is defined in the Regulatory Agreement as the ZBA).

In summary, the deeds to the 7 Affordable Units at Abrem Quarry indicate that NHA Properties, now doing business as Housing Nantucket, is the monitoring Agent for the Development.

Since there is no record of an executed written agreement for the monitoring services between NHA Properties and the Developer or the ZBA, I recommend that the parties enter into an agreement substantially similar to the Monitoring Services Agreement that is attached as Exhibit B to the Regulatory Agreement.

Please let me know if you have any questions or if I can be of further assistance.

Very truly yours,

Lee S. Smith

LSS/ekh
Enc.
cc: Town Manager

552556/NANT/0001

C H A P A

Citizens' Housing and
Planning Association, Inc.

President
Jeanne Pinado

Vice President
Charleen Regan

Treasurer
Joseph Flatley

Clerk
Naomi Sweitzer

Executive Director
Brenda Clement

April 7, 2016

Lee S. Smith, Esq.
Kopelman and Paige, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110

Re: Monitoring at Nantucket Homes for People site known as Abrem Quarry

Dear Lee:

I wanted to follow up on your inquiry regarding a development on Nantucket known as Abrem Quarry which names CHAPA as its Monitoring Agent. I have checked our database, our files and surveyed my colleagues. I conclude that this is not a development that CHAPA does or has monitored.

If you have any questions, please call me at CHAPA at 617-742-0820.

Sincerely,

Carol Marine
Senior Program Manager

18 Tremont Street • Suite 401 • Boston, MA 02108 • Telephone (617) 742-0820 • Fax (617) 742-3953
Website: www.chapa.org

United Way
United Way of Massachusetts Bay and Merrimack Valley

From:	Anne Kuszpa
To:	Eleanor Antonietti
Subject:	Re: FW: Abrem Quarry Monitoring Agent Opinion Letter
Date:	Wednesday, April 13, 2016 4:04:29 PM
Attachments:	image001.png Abrem_Supplementary Monitoring Agreement2016.docx

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Thanks, Eleanor. This is very helpful.

I've prepared the attached Monitoring Services Agreement based on Exhibit B of the Abrem Quary Regulatory Agreement and Housing Nantucket's monitoring agreement for Sachem's Path.

One request- we would like the Zoning Officer's assistance in enforcing the conditions of the Comprehensive Permit. For example, if affordable unit owners continue to violate Comprehensive Permit conditions after warnings from Housing Nantucket, we would notify the Zoning Officer. The Zoning Officer would sent a letter from the Town stating the unit owner was not compliant with the conditions of the Comprehensive Permit. If the owner continued to be non-compliant, then Housing Nantucket would proceed with the legal process as outlined in section 3. The reason behind this extra step is to convey the issue has escalated in importance before we actually engage legal help and start incurring costs.

I am not sure how to put this in legalese, so if you are amenable to this condition, will you please have Town Counsel add it?

Thank you,

Anne

~~~~~~~~~~~~~~~~~~~~

Anne Kuszpa, Executive Director
Housing Nantucket
75 Old South Road
PO Box 3149
Nantucket, MA 02554
Direct Line: 774-333-3927
Main Line: 508-228-4422

www.HousingNantucket.org

On Tue, Apr 12, 2016 at 3:12 PM, Eleanor Antonietti <eantonietti@nantucket-ma.gov> wrote:
~~~~~~~~~~~~~~~~~~~~

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made this ___ day of _____, 2016, by and between the ZONING BOARD OF APPEALS for the Town of Nantucket, ("ZBA"), and NHA Properties Inc., dba Housing Nantucket, having an address at 75 Old South Road, Nantucket, MA 02554 (the "Monitoring Agent").

RECITALS

WHEREAS, a housing development known as "Abrem Quary" ("the Project") has been constructed in the Town of Nantucket (the "Municipality"), and

WHEREAS, the Project is subject to a comprehensive permit (the "Comprehensive Permit") from the ZBA under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds/Registry District of the Land Court (the "Registry") in Book 01057 at Page 266; and

WHEREAS, the Comprehensive Permit has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to a Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees; and

WHEREAS, pursuant to the terms of the Comprehensive Permit and a Regulatory Agreement of even date, recorded at said Registry in Book 01057, Page 266, the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for the Nantucket County (the "Base Income") as published from time to time by the Department of Housing and Community Development of the Commonwealth of Massachusetts or successor agency ("DHCD"); and

WHEREAS, the Affordable Units are subject to deed riders governing resale (the "Affordability Requirement") in perpetuity, or to the extent permissible by law, but in no event for a period less than 99 years; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirements of the Comprehensive Permit, as more fully described herein.

(a) Affordability Requirement.

(i) Resales. The Monitoring Agent agrees to monitor resales of Affordable Units (including review of income and asset certifications, deeds, deed riders in the manner described above for initial sales) for compliance with the terms of the Affordable Housing Restriction, and issuance of certifications, as appropriate, in connection with approval of resales. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process.

Nothing in this Section 1 shall limit or otherwise restrict the rights of the Monitoring Agent and the Municipality to exercise their respective options to purchase the home(s) for Buyers earning below 80% AMI upon re-sale as provided in the Affordable Housing Restriction.

On resale of an Affordable Unit, at the request of the purchaser, the Monitoring Agent through their designee shall, if necessary under the terms of the Affordable Housing Restriction, issue a Resale Price Certificate recalculating the Resale Price Multiplier in accordance with the terms of the Affordable Housing Restriction, and the purchaser may record the new Resale Price Certificate immediately after the recording of the deed to such Affordable Unit. The Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate shall apply to each subsequent resale of the Affordable Unit. With respect to all resales, the Monitoring Agent may designate an appropriate third party (with the ZBA's approval) to carry out the responsibilities of the Monitoring Agent.

(b) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance by the owners of the Affordable Units with the requirements of the Affordable Housing Restriction, including without limitation the owner-occupancy requirement and the Resale Restrictions (including recalculating the Resale Price Multiplier, if necessary). The services hereunder shall also include considerations of requests for refinancing, approval of capital improvements, further encumbrances and leasing an Affordable Unit. The services hereunder shall not include any construction monitoring. The services hereunder shall include follow-up discussions with the owners of the Affordable Units, if appropriate, after an event of noncompliance. The Monitoring Agent shall be entitled to a reasonable fee for supplemental monitoring services.

2. Monitoring Services Fee. As provided in the Affordable Housing Restriction for each Affordable Unit, the Monitoring Agent shall be entitled to a fee of up to two and a half percent (hereinafter, the "Re-sale Fee") of the Maximum Re-sale Price, to be paid by the seller of the Affordable Unit at each closing as a condition precedent to closing, for the services with respect to monitoring each subsequent sales transaction for compliance with the Resale Restrictions and the other terms of the Affordable Housing Restriction. Such fee shall be payable for all transfers of Affordable Units, including those to an Eligible Purchaser or any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit. The ZBA shall have no responsibility for payment of any fee to Monitoring Agent hereunder.

3. Enforcement Services. In the event of a violation of the provisions of a Affordable Housing Restriction, the Monitoring Agent shall have the right to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant Affordable Housing Restriction. The form of Affordable Housing Restriction shall provide for payment by the unit owner of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the unit owner thereunder and shall grant to the Monitoring Agent a lien on the unit, junior to the lien of any institutional holder of a first mortgage on the unit to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing a Affordable Housing Restriction against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from the ZBA in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described above for payment of the Monitoring Agent's costs and expenses.

4. Term. The monitoring services are to be provided for so long as there is any Affordable Unit subject to an Affordable Housing Restriction. The term of this Agreement shall end on the date six (6) months after the later to occur of the latest expiration date of the term of the Affordable Housing Restriction attached to any of the Affordable Units.

5. Responsibility of Monitoring Agent. The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Successor Monitoring Agent/Further Delegation/Conflict of Interest. (a) This Agreement is terminable at will by the Monitoring Agent or the ZBA with sixty (60) days notice to the other parties. In addition, this Agreement is terminable immediately by the ZBA should the Monitoring Agent be dissolved or become incapable of fulfilling its obligations during the term of this Agreement. In the event of termination of this Agreement, the ZBA shall promptly appoint a successor monitoring agent to serve as Monitoring Agent for the remaining term of this Agreement.

(b) The Monitoring Agent shall not delegate all or any portion of its obligations hereunder without the prior approval of the ZBA. If the Monitoring Agent performs any functions such as running a lottery, which would be subject to oversight by the Monitoring Agent, the Monitoring Agent must delegate oversight of such functions to the ZBA or an entity approved by the ZBA.

7. Indemnity. The ZBA agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent acting in bad faith and with gross negligence.

8. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

9. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

10. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

11. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsels for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the ZBA or any employee or agent of any of the foregoing, except for the agreements set forth herein.

13. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement or the Affordable Housing Restriction.

[signature page follows]

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

_____ as designated representative of the Nantucket Housing Authority;

By:_____

NHA PROPERTIES INC

By:_____
Name:

From: Lee S. Smith
To: Eleanor Antonietti
Cc: John Giorgio
Subject: Abrem Quarry Monitoring Agent Services Agreement
Date: Tuesday, May 03, 2016 10:10:05 AM
Attachments: image001.png
KP-#553847-v2-Monitoring_Services_Agreement.DOCX

Hi Eleanor,

Attached please find the Monitoring Services Agreement with my proposed edits. I have attempted to keep the document close to the form that was recorded as an attachment to the Regulatory Agreement. Please note in particular that Housing Nantucket has proposed collecting a "re-sale fee" of 2.5% of the max sale price. The recorded Deed Riders call for a re-sale fee of ¾ of 1% of the max re-sale price.

Please let me know if you have any questions or would like to discuss the matter.

Thank you.

-Lee

Lee S. Smith, Esq.
Kopelman and Paige, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 654 1809
F: (617) 654 1735
lsmith@k-plaw.com
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From: Eleanor Antonietti [mailto:eantonietti@nantucket-ma.gov]
Sent: Monday, April 25, 2016 3:25 PM
To: Lee S. Smith
Subject: FW: FW: Abrem Quarry Monitoring Agent Opinion Letter

Good afternoon Lee:
Could you please review the attached submitted by Anne Kuszpa at your nearest convenience. I am going to have the Zoning Board of Appeals sign this, if it passes your and their muster.

Eleanor W. Antonietti
Zoning Administrator
Land Use Specialist

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made this ___ day of _____, 2016, by and between the Town of Nantucket Zoning Board of Appeals, having an address at 2 Fairgrounds Road, Nantucket, MA 02554, ("ZBA"), NHA Properties Inc., d/b/a Housing Nantucket, having an address at 75 Old South Road, Nantucket, MA 02554 (the "Monitoring Agent"), and Nantucket Housing Authority, having an address of 3 Manta Drive, Nantucket, MA 02554 (the "Secondary Monitoring Agent".

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RECITALS

WHEREAS, a housing development known as "Abrem Quarry" ("the Project") has been constructed in the Town of Nantucket (the "Municipality"); and

WHEREAS, the Project is subject to a comprehensive permit (the "Comprehensive Permit") from the ZBA under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds (the "Registry") in Book 1057 at Page 266; and

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WHEREAS, the Comprehensive Permit has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to a Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees; and

WHEREAS, pursuant to the terms of the Comprehensive Permit and a Regulatory Agreement dated as of December 1, 2006 and recorded at said Registry in Book 1064, Page 105 (the "Regulatory Agreement"), the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for Nantucket County (the "Base Income") as published from time to time by the Department of Housing and Community Development of the Commonwealth of Massachusetts or successor agency ("DHCD"); and

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WHEREAS, the Affordable Units are subject to deed riders governing re-sale (the "Affordability Requirement") in perpetuity, or to the extent permissible by law, but in no event for a period less than 99 years; and

WHEREAS, pursuant to the requirements of the Comprehensive Permit and the Regulatory Agreement, a monitoring agent shall be retained to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement; and

WHEREAS, NHA Properties Inc. (formerly d/b/a Nantucket Housing Office), is the

Monitoring Agent named in the original deed rider for each of the Affordable Units and Nantucket Housing Authority is the Secondary Monitoring Agent named in the original deed rider for each of the Affordable Units and the parties now desire to formalize the roles and responsibilities of each of the parties by entering into this Agreement,

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the affordability requirements of the Comprehensive Permit, Regulatory Agreement and applicable deed rider, as more fully described herein.

(a) Affordability Requirement; Re-Sales.

The Monitoring Agent agrees to monitor re-sales of Affordable Units (including setting Maximum Re-sale Prices within fourteen days of such requests from sellers of Affordable Units, review of income and asset certifications, deeds, and deed riders in the manner set forth in the applicable deed rider and Regulatory Agreement), for compliance with the terms of the Regulatory Agreement and consistency with the form of deed rider attached to the deed to the applicable Affordable Unit, and issuance of certifications, as appropriate, in connection with approval of re-sales and the payment of recapture amounts to the Municipality. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process in accordance with the applicable deed rider, Regulatory Agreement and applicable state and federal laws, rules and regulations.

(b) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance by the owners of the Affordable Units with the requirements of the Affordability Requirement, including without limitation the owner-occupancy requirement and the re-sale restrictions (including recalculating the Re-sale Price Multiplier, if necessary). The services hereunder shall also include considerations of requests for refinancing, approval of capital improvements, further encumbrances and leasing an Affordable Unit. The services hereunder shall not include any construction monitoring. The services hereunder shall include follow-up discussions with the owners of the Affordable Units, if appropriate, after an event of noncompliance.

2. Monitoring Services Fee. As provided in the deed rider for each Affordable Unit, the Monitoring Agent shall be entitled to a fee of up to two and a half percent (or such other amounts as set forth in the applicable deed rider, hereinafter, the "Re-sale Fee") of the Maximum Re-sale Price, regardless of whether the Affordable Unit is being sold to an Eligible Purchaser, as that term is defined in the Deed Rider, or the Municipality, or to a third party at fair market value under the terms of the deed rider. In the event that the Property is sold for less than the

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Deleted: Nothing in this Section 1 shall limit or otherwise restrict the rights of the Monitoring Agent and the Municipality to exercise their respective options to purchase the home(s) for Buyers earning below 80% AMI upon re-sale as provided in the Affordable Housing Restriction.¶

Deleted: On resale of an Affordable Unit, at the request of the purchaser, the Monitoring Agent through their designee shall, if necessary under the terms of the Affordable Housing Restriction, issue a Resale Price Certificate recalculating the Resale Price Multiplier in accordance with the terms of the Affordable Housing Restriction, and the purchaser may record the new Resale Price Certificate immediately after the recording of the deed to such Affordable Unit. The Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate shall apply to each subsequent resale of the Affordable Unit. With respect to all resales, the Monitoring Agent may designate an appropriate third party (with the ZBA's approval) to carry out the responsibilities of the Monitoring Agent. ¶

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Deleted: The Monitoring Agent shall be entitled to a reasonable fee for supplemental monitoring services.

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Comment [A1]: The Deed Rider calls for a re-sale fee of ¾ of 1% of the max re-sale price. It is also stated to be shared with Nantucket Housing Authority. Please advise.

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Maximum Re-Sale Price, the fee shall be equal to ¾ of 1% of the actual re-sale price (or such other amounts as may be provided in the applicable deed rider). The re-sale fee shall be paid by the seller of the Affordable Unit at each closing as a condition precedent to closing, for the services with respect to monitoring each subsequent sales transaction for compliance with the Affordability Requirement as set forth in this Agreement. Such fee shall be payable for all transfers of Affordable Units, including those to an Eligible Purchaser, the Municipality, or any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit. The ZBA shall have no responsibility for payment of any fee to Monitoring Agent hereunder.

3. Enforcement Services. In the event of a violation of the provisions of the applicable deed rider, the Affordability Requirement, or the Regulatory Agreement, the Monitoring Agent shall have the right, with the prior consent of the ZBA, to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant deed rider, the Affordability Requirement, or the Regulatory Agreement, all as is provided in the relevant deed rider and/or Regulatory Agreement. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing the deed rider, the Affordability Requirement, or the Regulatory Agreement against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

In the event of a violation of the provisions of the Comprehensive Permit, the Zoning Bylaw or the Nantucket Code, the Monitoring Agent shall, with the prior consent of the ZBA, first attempt appropriate enforcement action against the unit owner to compel the unit owner to comply with the relevant requirements thereof by issuing written notice of the alleged violation(s), cease and desist orders, or similar enforcement requests. The Monitoring Agent shall provide the Zoning Enforcement Officer with copies of any and all such notices and orders. In the event that such violations are not cured within a reasonable period of time, the Monitoring Agent shall then refer the matter to the Zoning Enforcement Officer and request that an enforcement action be brought in accordance with the provisions of Chapter 139, Article V, § 139-25 of the Nantucket Code.

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from the ZBA in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described in the applicable deed rider for payment of the Monitoring Agent's costs and expenses.

4. Term. The monitoring services are to be provided for so long as there is any Affordable Unit subject to the Affordability Requirement. The term of this Agreement shall end on the date six (6) months after the later to occur of the latest expiration date of the term of the Affordable Housing Restriction attached to any of the Affordable Units. Notwithstanding the above, this Agreement may be terminated at will by the Monitoring Agent or the ZBA with sixty (60) days written notice to the other parties. In addition, this Agreement may be terminated immediately by the ZBA in the event that the Monitoring Agent be dissolved, becomes incapable of, or otherwise neglects or refuses to fulfill its obligations during the term of this Agreement.

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Deleted: Resale Restrictions and the other terms of the Affordable Housing Restriction.

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Deleted: Affordable Housing Restriction. The form of Affordable Housing Restriction shall provide for payment by the unit owner of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the unit owner thereunder and shall grant to the Monitoring Agent a lien on the unit, junior to the lien of any institutional holder of a first mortgage on the unit to secure payment of such fees and expenses.

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5. Responsibility of Monitoring Agent. The Monitoring Agent shall be responsible for such actions and responsibilities as are set forth in the Regulatory Agreement and applicable deed rider and this Agreement. To the extent such instruments require the Monitoring Agent to act together with the Secondary Monitoring Agent, the Monitoring Agent shall act in good faith to collaborate and perform such actions are required thereunder.

The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Responsibility of Secondary Monitoring Agent. The Secondary Monitoring Agent shall be responsible for such actions and responsibilities as are set forth in the Regulatory Agreement and applicable deed rider. To the extent such instruments require the Monitoring Agent to act together with the Secondary Monitoring Agent, the Secondary Monitoring Agent shall act in good faith to collaborate and perform such actions are required thereunder. In the event that this Agreement is terminated for any reason, the Secondary Monitoring Agent shall act as the primary Monitoring Agent until such time as a successor Monitoring Agent is duly appointed.

7. Successor Monitoring Agent/Further Delegation/Conflict of Interest. In the event of termination of this Agreement, the ZBA shall promptly appoint a successor monitoring agent to serve as Monitoring Agent for the remaining term of this Agreement. The Monitoring Agent shall not delegate all or any portion of its obligations hereunder without the prior approval of the ZBA. If the Monitoring Agent performs any functions such as running a lottery, which would be subject to oversight by the Monitoring Agent, the Monitoring Agent must delegate oversight of such functions to the ZBA or an entity approved by the ZBA.

8. ZBA Designee. The ZBA may designate an agent to act on its behalf with respect to the subject matter of this Agreement. Any such designation shall be made in writing, including the name and contact information of such designee, and provided to the Monitoring Agent and the Secondary Monitoring Agent.

9. Third-Party Beneficiaries. The ZBA shall be entitled to enforce this Agreement and may rely upon the benefits of this Agreement.

10. Indemnity. The ZBA agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent acting in bad faith and with gross negligence.

11. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

12. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

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Deleted: (a) This Agreement is terminable at will by the Monitoring Agent or the ZBA with sixty (60) days notice to the other parties. In addition, this Agreement is terminable immediately by the ZBA should the Monitoring Agent be dissolved or become incapable of fulfilling its obligations during the term of this Agreement.

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13. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

14. Conflict. In the event that any terms of this Agreement conflict with the terms of the Regulatory Agreement or the applicable deed rider, the terms of the Regulatory Agreement or the applicable deed rider shall be controlling.

15. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsels for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the ZBA or any employee or agent of any of the foregoing, except for the agreements set forth herein.

16. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement or the applicable deed rider.

[signature page follows]

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

MUNICIPALITY
Town of Nantucket Zoning Board of Appeals
By:

_____
Name:
Title:

MONITORING AGENT
NHA Properties, Inc., d/b/a Housing Nantucket
By:

_____
Name:
Title:

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¶
By:_____¶
¶

SECONDARY MONITORING AGENT
Nantucket Housing Authority
By:

_____
Name:
Title:

553847.2/NANT/0001

CLEAN Attorney Draft without Tracking

MONITORING SERVICES AGREEMENT

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RECITALS

WHEREAS, a housing development known as "Abrem Quarry" ("the Project") has been constructed in the Town of Nantucket (the "Municipality"); and

WHEREAS, the Project is subject to a comprehensive permit (the "Comprehensive Permit") from the ZBA under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds (the "Registry") in Book 1057 at Page 266; and

WHEREAS, the Comprehensive Permit has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to a Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees; and

WHEREAS, pursuant to the terms of the Comprehensive Permit and a Regulatory Agreement dated as of December 1, 2006 and recorded at said Registry in Book 1064, Page 105 (the "Regulatory Agreement"), the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for Nantucket County (the "Base Income") as published from time to time by the Department of Housing and Community Development of the Commonwealth of Massachusetts or successor agency ("DHCD"); and

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Monitoring Agent named in the original deed rider for each of the Affordable Units and Nantucket Housing Authority is the Secondary Monitoring Agent named in the original deed rider for each of the Affordable Units and the parties now desire to formalize the roles and responsibilities of each of the parties by entering into this Agreement,

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In the event of a violation of the provisions of the Comprehensive Permit, the Zoning Bylaw or the Nantucket Code, the Monitoring Agent shall, with the prior consent of the ZBA, first attempt appropriate enforcement action against the unit owner to compel the unit owner to comply with the relevant requirements thereof by issuing written notice of the alleged violation(s), cease and desist orders, or similar enforcement requests. The Monitoring Agent shall provide the Zoning Enforcement Officer with copies of any and all such notices and orders. In the event that such violations are not cured within a reasonable period of time, the Monitoring Agent shall then refer the matter to the Zoning Enforcement Officer and request that an enforcement action be brought in accordance with the provisions of Chapter 139, Article V, § 139-25 of the Nantucket Code.

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8. ZBA Designee. The ZBA may designate an agent to act on its behalf with respect to the subject matter of this Agreement. Any such designation shall be made in writing, including the name and contact information of such designee, and provided to the Monitoring Agent and the Secondary Monitoring Agent.

9. Third-Party Beneficiaries. The ZBA shall be entitled to enforce this Agreement and may rely upon the benefits of this Agreement.

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16. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement or the applicable deed rider.

[signature page follows]

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

MUNICIPALITY
Town of Nantucket Zoning Board of Appeals
By:

_____
Name:
Title:

MONITORING AGENT
NHA Properties, Inc., d/b/a Housing Nantucket
By:

_____
Name:
Title:

SECONDARY MONITORING AGENT
Nantucket Housing Authority
By:

_____
Name:
Title:

553847.2/NANT/0001

Zoning Board of Appeals

FILE 66-00

ABREMS QUARRY

40B

Comp Permit

RECEIVED

DEUTSCH WILLIAMS BROOKS
DERENSIS & HOLLAND P.C.
ATTORNEYS AT LAW
99 SUMMER STREET
BOSTON, MASSACHUSETTS 02110-1029
(617) 951-2300
FAX (617) 951-2323

'02 SEP 16 A11:20
NANTUCKET
TOWN CLERK

Kimberly M. Saillant, Esq.
ksaillant@dwboston.com

September 12, 2002

VIA FEDERAL EXPRESS
Nancy Sevrens, Chairwoman
Zoning Board of Appeals
22 Vesper Lane
Nantucket, MA 02554

2006 00004260
Bk: 1057 Pg: 266 Page: 1 of 47
Doc: NOTIC 12/26/2006 12:15 PM

Re: *Nantucket Homes for People*
v. *Nantucket Zoning Board of Appeals*
Housing Appeals Committee Docket No. 01-06

Re: *Norman W. Chaleki and Robert Scheide*
v. *Michael O'Mara, William P. Hourihan, D. Neil Parent, and Edward S. Sanford as the duly appointed members of the Town of Nantucket Zoning Board of Appeals and Nantucket Homes for People, Inc., as Applicant and Developer*
Nantucket Superior Court Civil Action No. 01-22

Dear Chairwoman Sevrens:

Enclosed please find the following documents with regard to the above entitled matter:

1. Original Letter of Intent;
2. Comprehensive Permit Decision; and
3. Certification.

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NANTUCKET
TOWN CLERK

Please sign the Certification where indicated and file these documents with the Town Clerk's Office as soon as possible.

If you have any questions whatsoever, please feel free to contact me.

Very truly yours,

Joyce R. Rose, Secretary to
Kimberly M. Saillant, Esq.

Enclosures
cc: Libby Gibson Town & County Administrator
Paul R. DeRensis, Esq.
:ODMA\GRPWISE\DW.Boston.Lib1:108426.1 (0289.93)

ATTEST: A TRUE COPY

NANTUCKET TOWN CLERK

Peter L. Freeman, P.C.
Attorney-at-Law
86 Willow Street
Yarmouthport, Massachusetts 02675

(508) 362-4700
FAX (508) 362-8281

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'02 SEP 16 A11:20
NANTUCKET
TOWN CLERK

LETTER OF INTENT

July 26, 2002

Kimberly M. Saillant, Esquire
Deutsch Williams Brooks DeRensis
Holland & Drachman, P.C.
99 Summer Street
Boston, Massachusetts 02110

Joseph M. Guay, Esquire
108 Surfside Road
P.O. Box 1294
Nantucket, Massachusetts 02554-1294

RE: Nantucket Homes for People, Inc. v. Nantucket Board of Appeals
Housing Appeals Committee No. 01-06

Norman Chaleki and Robert Scheide v. Nantucket Board of Appeals, et al
Nantucket Superior Court Civil Docket No. 01-22

Dear Ms. Saillant and Mr. Guay:

This letter is intended to set forth the terms of the settlement of the above-referenced litigation to which my client, Nantucket Homes for People, Inc., ("Homes") has agreed in regard to the Comprehensive Permit issued by the Nantucket Zoning Board of Appeals ("Board"), Decision No. 066-00, dated April 27, 2001, for the Compass Rose Development. The terms of the settlement are as follows:

1. Homes agrees that the Comprehensive Permit issued by the Board shall be revised to provide that the maximum residential housing units to be built under the Comprehensive Permit shall be reduced from thirty-six (36) units to twenty-eight (28) units.

2. Of the twenty-eight (28) units, 25% (7 units) shall be "affordable" units under the New England Fund program.

3. Condition No. 27 of the Comprehensive Permit, relating to the clean-up of the junk-yard at 20-24 South Shore Road, shall be deleted.

TOWN OF NANTUCKET
ATTEST: TRUE COPY
NANTUCKET TOWN CLERK

4. The reason for the deletion of Condition No. 27 of the Comprehensive Permit is as follows: The reduction of the number of units in the project to 28 results in a reduction in the potential income on the project of at least $400,000.00. This income was intended to be used for the clean-up of the junk-yard, in preparation for Phase Two of the Compass Rose Development project. Homes will now be forced to shift the cost of the clean-up to said Phase Two, rather than doing it and paying for it as part of Phase One and Homes agrees to and shall fulfill its obligations of the terms under Condition No. 27 during Phase Two of the project.

5. It is not Homes' intent to avoid the aforesaid clean-up, which is necessitated by Phase Two, but rather, simply to shift the timing of the clean-up, as provided in Paragraph 4, above.

6. Condition No. 2 of the Comprehensive Permit, relating to the identification of an independent monitoring agent, shall be revised to add a provision for the identification of a secondary monitoring agent, namely, the Nantucket Housing Authority; provided, however, Homes will not be responsible for any additional costs for Nantucket Housing Authority acting as a secondary monitoring agent.

7. Condition No. 7(l.) of the Comprehensive Permit reads as follows: "No unregistered, uninsured, or inoperable vehicles and no trailers, boats, recreational vehicles or campers shall be allowed on the site overnight". This Condition shall be revised to add a restriction prohibiting (i) parking, overnight, of automobiles, trucks, motorcycles, mopeds and all other motorized vehicles on the private roads Folger Avenue, Field Avenue, Cherry Street and Blueberry Lane and prohibiting (ii) parking, at any time, of boats and trailers on the private roads, namely, Folger Avenue, Field Avenue, Cherry Street and Blueberry Lane.

8. Under III, THE PUBLIC HEARING, B. Project Description (1.) Physical Characteristics of the Comprehensive Permit, the Board specified the percentage of single family homes and duplex buildings to be constructed in the Compass Rose Development based on thirty-six (36) housing units. The number of residential housing units is, by agreement, being revised and reduced to twenty-eight (28) residential housing units. Homes agrees and acknowledges that the Compass Rose Development project shall be comprised of twenty-eight (28) single family residential housing units constructed on lots approximately 5,500 to 5,700 sq. ft., of which twenty-seven (27) housing units will be three (3) bedroom units and one (1) housing unit will be a two (2) bedroom unit for a senior or disabled owner/occupant. As stated in Paragraph 2 above, seven (7) of the twenty-eight (28) housing units will be "affordable" units under the New England Fund program.

9. This settlement must be global, that is, it must be agreed to by the Board and by the Plaintiffs in the above-referenced Superior Court case, who must agree to withdraw their appeal, with prejudice. Similarly, Homes will withdraw its appeal before the Housing Appeals Committee, with prejudice

10. This agreement, by execution hereof, shall be memorialized in writing by Homes, the Board and the aforesaid Plaintiffs.

11. This agreement, when executed, shall be non-appealable by all interested parties and all parties to the above referenced litigation hereby waive all rights of appeal of the Comprehensive Permit issued by the Board, Decision No. 066-00, as amended hereby; provided, however, all parties expressly reserve their rights of enforcement of the Comprehensive Permit issued by the Board, as amended hereby. All interested parties shall mean and include Homes, the Board, Norman W. Chaleki, Robert Scheide, and all persons who have contributed financial support for Messrs. Chaleki and Scheide in the pending Nantucket Superior Court case referenced above.

The terms expressed herein are for the purposes of settling the above-referenced litigation, and shall not be construed or used as an admission or waiver of any of my client's rights, which rights are expressly reserved. Provided, however, the settlement terms under this agreement shall be binding and enforceable against my client, Homes, if such settlement terms are agreed to and accepted by the Board and Plaintiffs, Norman W. Chaleki and Robert Scheide by execution hereof.

If your clients are in agreement with the terms of this Letter of Intent, please sign a copy of this letter where indicated and return to me by facsimile and regular mail, as soon as possible.

Thank you.

Very truly yours,

Peter L. Freeman, Attorney for
Nantucket Homes for People, Inc.

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AGREED TO:

**Kimberly M. Saillant, Attorney for
Nantucket Zoning Board of Appeals**

**Joseph M. Guay, Attorney for
Norman Chaleki and Robert Scheide**

CERTIFICATION

I, Nancy Sevrens, as the Chairwoman of the Zoning Board of Appeals for the Town of Nantucket do hereby certify that during a properly noticed Executive Session meeting of August 29, 2002, the Board voted to accept the proposed Letter of Intent dated July 26, 2002, which modifies the Comprehensive Permit granted by the Zoning Board of Appeals with conditions, among others to reduce the number of allowable units from 32 to 28.

Nancy Sevrens, Chairwoman
Zoning Board of Appeals
Town of Nantucket

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TOWN OF NANTUCKET
ZONING BOARD OF APPEALS

DECISION ON APPLICATION OF NANTUCKET HOMES FOR PEOPLE, INC.

FOR A
COMPREHENSIVE PERMIT
FOR THE COMPASS ROSE DEVELOPMENT
FOLGER AND FIELD AVENUES, BLUEBERRY LANE AND CHERRY STREET

I. BACKGROUND OF APPLICATION

An application for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, Sections 20-23 ("the statute") for 56 units of housing was filed with the Nantucket Zoning Board of Appeals ("the Board") by Nantucket Homes for People, Inc. on August 7, 2000. The application is known as the Compass Rose Development. The location of the property that is the subject of this application is bordered by Field Avenue, Folger Avenue, Blueberry Lane, and Cherry Street in the Town of Nantucket. Notice of the Public Hearing on the Application was duly posted at the Town Hall, was mailed to the Applicant, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred feet of the property lines of the subject property, the Nantucket Planning Board and other Town Agencies, and was published in the Nantucket *Inquirer and Mirror* newspaper. A Public Hearing on the Petition was first held in the Large Group Instruction Room of the Nantucket High School at 1:00 PM on September 1, 2000, and was continued to September 27, 2000, and again to October 26, 2000, and again to November 16, 2000, and again to December 7, 2000, and again to January 11, 2001, and again to January 30, 2001, and again to February 13, 2001, and again on February 20, 2001, during which the Board, the neighbors, and other concerned parties discussed changes to the plan with the Applicant. The hearing was closed on February 20, 2001. The applicant granted to the Board three extensions of time, through April 27, 2001, for it to issue its final decision on the application for a Comprehensive Permit. The Board, with the assistance of Mr. Edward Marchant, a consultant, hired by the Town to advise the Board on the 40B statutes and procedural questions, strongly suggested that a reduction in density, a change from condominium ownership to fee simple ownership, and a revision in the site access was warranted. The Board also received a report from the Nantucket Planning Board, dated August 31, 2000, which cited potential traffic and access issues related to the application's density, among other issues. The Applicant submitted a fully revised plan on February 13, 2001, which incorporated the changes prepared by the Board, for the Board's review. The members of the Board hearing this application were Mr. Michael O'Mara, Chairman, Mr. William Hourihan, Mr. D. Neil Parent, Mr. Edward Sanford and Mr. Edward Toole.

The Board has adopted no rules and regulations governing applications filed pursuant to Chapter 40B of the Massachusetts General Laws; accordingly, the model rules prepared by the Commonwealth of Massachusetts, Department of Housing and Community Development, are the rules applicable to this application.

The Public Record of this decision includes, but is not limited to, the application, including reports, plans, and specifications, supplemental materials listed in Exhibit "A"; the correspondence between the applicant and the Board listed in Exhibit "A"; the minutes of the public hearings and meetings held by this Board to deliberate on this decision; agency and peer review reports listed in Exhibit "B"; written testimony and comments received during the public process as contained in Exhibit "C"; and such other exhibits as listed herein or appended hereto.

ATTEST: A TRUE COPY

NANTUCKET TOWN CLERK

II. BACKGROUND OF CHAPTER 40B OF THE MASSACHUSETTS GENERAL LAWS

This is an application, revised as described herein, pursuant to M.G.L. Chapter 40B, Sections 20-23 for a Comprehensive Permit for the construction of 36 homes, a density reduction of twenty (20) homes from the original application. These homes will be sited on lots averaging approximately 5,000 sq. ft. The housing is being developed pursuant to the New England Fund Program ("NEF") of the Federal Home Loan Bank of Boston. Pursuant to NEF, 25% of the units or 9 units will be sold to households whose annual incomes do not exceed 80% of the annual median income for Nantucket as defined by the U.S. Department of Housing and Urban Development ("HUD"), with no more than 30% of their annual income going toward their interest and principal mortgage payments, including real estate taxes, insurance, and any homeowners' association fees. The prices for the affordable units will be between $103,000 and $135,000 for the two and three bedroom homes, respectively, based upon current guidelines.

The statute essentially creates a mandate to local cities and towns to allow the construction of low and moderate income housing that requires relief from otherwise applicable local requirements and regulations, including but not limited to zoning by-laws, subdivision rules and regulations, and local Board of Health and Conservation Commission regulations, when there is a substantial need for low and moderate housing. Rather than applying to the various local boards and departments for otherwise applicable permits, the applicant applies only to the Zoning Board of Appeals for a "Comprehensive Permit." A Zoning Board of Appeals can insist on full compliance with all such local requirements and regulations only if they are, in the words of the statute, "consistent with local needs." They will be considered "consistent with local needs" if they are reasonable, taking into account "the regional need for low and moderate housing considered with the number of low income persons in the city or towns affected and the need to protect the health or safety of the occupants of the proposed housing or of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open space." (Chapter 40B, M.G.L.)

The statute goes on, in section 20, to define certain minimal thresholds of low or moderate income housing. The Town of Nantucket falls short of the minimum: the statutory minimum for low and moderate income housing units is 10% and Nantucket has only 2.51% (based on Commonwealth of Massachusetts, Department of Housing and Community Development statistics). Furthermore, the Town of Nantucket has not met any of the other statutory minima set forth in M.G.L. Chapter 40B § 20 or 760 CMR 31.0. Therefore, the mandate created by the statute to create affordable housing still applies to Nantucket.

III. THE PUBLIC HEARING

A. Jurisdictional Requirements

At the Public Hearing, a presentation was given by the Applicant and Applicant's consultant, Mr. Robert Engler of Stockard, Engler & Brigham of Cambridge, MA. The Applicant's Managing Director, Mr. Clifford Schorer, presented the Compass Rose Development, after Mr. Engler first explained how the Applicant satisfied the jurisdictional requirements of the statute (see D. Findings of Fact, below).

B. Project Description

Mr. Schorer then described the project, with the assistance of the Applicant's engineers, Rich Tabaczynski of Atlantic Design; Holly Darzen of Linea 5, Inc., the Applicant's architect; and the Applicant's attorney, Peter Kyburg.

1.) Physical Characteristics

The land is a 4.0 +/- acre site, with vehicular access over paved roads via Blueberry Lane from South Shore Road, the nearest public road. The surrounding area is primarily residential. The land is bordered by private ways on Folger Avenue, Field Avenue, Blueberry Lane, and

Cherry Street. The Compass Rose Development will consist of 36 homes. There will be nine (9) two-bedroom units and twenty-seven (27) three-bedroom units. Twenty-eight (28) of the homes will be single-family homes. Four (4) homes will be attached single-family homes in two (2) duplex buildings. The two-bedroom unit will consist of approximately 1160-1480 sq. ft. and the three-bedroom unit will consist of approximately 1620-1860 sq. ft.

The development will be connected to municipal water and sewer systems.

2.) Affordability

The nine (9) affordable units will be sold at $103,000 - $135,000 for the 2- and 3-bedroom homes. The eligible affordable home owners will have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance, and any homeowners' association fees. The affordable units will be randomly distributed throughout the entire development.

C. Public Comment

At each of the evenings of the Public Hearing, the Board asked for public comment. Many residents from the surrounding area spoke at various times. They expressed concerns about density, traffic, storm drainage, site plan design, noise, and other "quality of life" issues. The Board also received many questions about the *pro forma* and the ability of the development to maintain long-term affordability.

In addition to input from several pertinent Town departments, including a report by the Nantucket Planning Board, the Board retained two engineering firms at the Applicant's expense to conduct a peer review of the Traffic and Drainage Studies. The engineering peer review report submitted by Horsley and Witten, the Board's engineering consultant, is dated October 20, 2000, revised October 26, 2000, and the traffic peer review report by Rizzo and Associates is dated October 20, 2000.

D. Findings of Fact

1. The Board has jurisdiction to issue a comprehensive permit in accordance with the Act, in accordance with the following:

a. The Applicant, Nantucket Homes for People, Inc., is a non-profit organization within the meaning of the Act.

b. The New England Fund (NEF) has been accepted as an eligible program under the Act by the Housing Appeals Committee. The Applicant proposes to fund the project with NEF funding. The Applicant has received a Project Eligibility letter, pursuant to 760 CMR 31.01 (2), for the project from Citizens Bank, a member bank of the Federal Home Loan Bank Board; therefore, the Applicant fulfills the requirement of 760 CMR 31.01(1)(b) that: "The project shall be fundable by a subsidizing agency under a low and moderate income subsidy program." Thus, the project complies with the regulations concerning fundability by a subsidizing agency.

c. The Applicant has demonstrated that it has control of the property by providing the ZBA with a copy of the deed conveying the title in the property from Raymor Racquet Club, Inc. to the Applicant, Nantucket Homes for People, Inc., dated June 8, 2000, and recorded in the Nantucket Registry of Deeds, Book 663, p. 3, June 8, 2000. (Exhibit A 1. D.)

2. **The Project is consistent with local needs:**

   a. Based on the statistics maintained by the Department of Housing and Community Development and presented by the Applicant (Exhibit A 1. E.), the Town has fallen significantly short (only 2.51%) of the goal of 10% of its year-round housing units dedicated to low and moderate income households. This is despite the fact that the Town and Nantucket Housing Authority has produced 86 units of eligible housing, and there have been numerous housing initiatives inspired by the Town's Comprehensive Community Plan, including actions taken at recent Town Meetings, all in an effort to meet the substantial community need for housing.

3. **The Project raises significant local health and safety issues:**

   a. The Project must rely on municipal sewer and water service in order to support the density of development proposed by the Applicant. The nearest connections are located a significant distance from the site, and the Applicant must extend services from the nearest facilities in the vicinity of Surfside Road.

   b. There are no constructed pedestrian facilities in the neighborhood, or along South Shore Road. The nearest pedestrian and bicycle path is on Surfside Road. The lack of these facilities is deemed to be an unsafe situation for pedestrians and bicyclists given the level of vehicular traffic at the intersection of South Shore, Fairgrounds, and Surfside Road, and along South Shore Road itself. A combined bicycle and pedestrian path along South Shore Road from Surfside Road to Blueberry Lane is necessary to ensure pedestrian and bicycle safety.

   c. To mitigate the traffic impacts identified in b, above, the Board believes that improvements to the intersection of South Shore, Fairgrounds, and Surfside Roads are necessary to ensure vehicle, pedestrian, and bicycle safety, as recommended by the Traffic Safety Advisory Committee (Exhibit B 13).

   d. Blueberry Lane is the only unimpeded access from the site and immediate neighborhood onto South Shore Road. The Nantucket Planning Board, for projects that have significantly fewer units than this project, routinely requires a second access, sometimes solely for emergency purposes. The Board finds that a secondary emergency access is highly desirable for the safety and well-being of the residents of the project, but not required. This conclusion is supported by the report of the Planning Board (Exhibit B 5, and September 1 minutes of Public Hearing).

Relaxation of restrictions are necessary to ensure affordability, but the conditions and restrictions set out below are necessary to protect the public health and safety:

E. **Board Discussion and Vote**

After Board discussion at its meeting held on April 17, 2001, a Motion was made by Edward S. Sanford, seconded by Edward Toole, to GRANT the Comprehensive Permit, and to

allow those waivers requested from the Nantucket local by-laws and regulations, as shown on Exhibit D attached hereto and incorporated herein by reference, and to incorporate the following CONDITIONS into the Comprehensive Permit:

CONDITIONS

1. The Applicant, although approved for 36 units, must seek funding through the HOME program during the next round of applications to the Massachusetts Department of Housing and Community Development ("DHCD"), and shall use its best efforts to secure this funding. The funding sought shall be $45,000.00 per affordable unit or whatever greater amount is allowed. If the Applicant succeeds in securing at least $350,000 for the project, the density shall be reduced by 4 units to a total of 32 single family detached homes on approximately 5,500 square foot lots. If successful in DHCD's Spring 2001 application round, the 32-unit plan, as submitted, shall become the record plan. If unsuccessful in DHCD's Spring 2001 application round, the 36-unit plan, as submitted, shall become the record plan.

2. The Applicant shall identify an independent monitoring agent, acceptable to the Board, to monitor the project, pursuant to the Regulatory Agreement described in Paragraph 3 below. The Applicant shall bear all costs for the monitoring agent's contract/services. Citizens' Housing and Planning Association, of Boston, MA ("CHAPA") has been identified by the Applicant as an independent monitoring agent, and is acceptable to the Board.

3. The Applicant, the Board, Citizens Bank, and CHAPA, shall execute a Regulatory Agreement, substantially in the form as attached herewith as Exhibit F, but subject to the review and approval of Town Counsel prior to recording in the Nantucket Registry of Deeds, which shall incorporate the following Conditions as to Affordability:

   a.) Twenty-five (25%) percent of the units shall remain affordable in perpetuity (or to the maximum extent permitted by law, but in no case less than 99 years from the first deed transfer), meaning that except as hereinafter stated, they shall be sold to people whose annual income, adjusted for family size, does not exceed eighty (80%) percent of the median annual income for Nantucket as defined by HUD. A Deed Rider, substantially in the form attached herewith as Exhibit E, and subject to the review and approval of Town Counsel, shall be executed and recorded for each affordable home. Applicant agrees that prior to the closing of the first Affordable home, Applicant will modify the form of Deed Rider used for the Affordable homes to include any additional reasonable provisions that will further protect the long-term affordability of the Affordable homes, if such language is provided to the Applicant by the monitoring agent and/or Board in a timely manner. The purpose of this condition is to ensure that the actual Deed Rider used and recorded reflects the then current "state-of-the-art" for such deed riders to ensure that Affordable homes are protected for the longest possible legal period and to minimize the risk that such homes may be lost as an affordable housing resource.

   b.) The affordable units shall be marketed and sold to the fullest extent legally permissible, with preference for Nantucket residents, with third party monitoring of the lottery process by CHAPA. Additional oversight of the lottery process may be provided by the Nantucket Housing Authority, at no cost to Applicant.

4. Prior to the start of construction, the Applicant shall record the aforesaid Regulatory Agreement, after execution by all required parties, at the Nantucket Registry of Deeds, with a marginal reference to the deed or deeds for the locus into the Applicant.

5. The Applicant shall establish a legally binding home-owners' association (the "Association") which will maintain the roads and other common areas of the project; will be responsible to maintain, repair and replace the roads and other improvements located in the common areas of the project, as well as contiguous areas and appurtenant facilities to the extent required by the Comprehensive Permit; and will have authority to impose maintenance fees and enforce both the conditions of the Comprehensive Permit and any rules and regulations of the Association. The Association will pay a fair pro rata share with abutters for any improvements or repairs to roads contiguous to the Project.

6. The Applicant, the other parties thereto and the Association required under Paragraph 5 above shall comply with the requirements of the Regulatory Agreement.

7. The following conditions and rules and regulations shall be binding upon the Owners, the Occupants and the Association, under the authority of the Association, its heirs, and assigns:

   a.) No Affordable Units may be rented, and they must remain owner-occupied, consistent with applicable deed restrictions and the Deed Rider.

   b.) If the market-rate unit is owner–occupied, the occupancy of the Market Rate Units may not change more than three times per calendar year. For the purposes of this condition, occupancy shall include owner occupancy and tenancy of any length. Non owner-occupied units shall not be leased for a term of less than twelve (12) months. All leases must be submitted to the Association to ensure compliance.

   c.) No Market Rate Unit may remain vacant for more than ninety days in any calendar year.

   d.) No more than two adult persons per bedroom may occupy any of the Affordable or Market Rate Units. This condition shall not apply to minor children under 18 years of age, except that in no case shall total occupancy of either Affordable or Market Units exceed three (3) persons per bedroom, including adults and minors. Habitable space shall not include attics and basements.

   e.) No units may be expanded beyond the original building envelope.

   f.) No Owner or Occupant may add outbuildings, secondary dwelling units, apartments, or garages. Fences, and sheds for the storage of garbage receptacles, lawnmowers, bicycles, toys, and similar items may be allowed by written consent of the Association, and constructed in compliance with all building codes and HDC guidelines.

   g.) No units shall be occupied as dormitories, employer dormitories, or like housing, as such housing may be defined by the Nantucket Zoning Bylaw. No more than 5 individuals unrelated by marriage are allowed to reside in any dwelling unit.

h.) The Association shall have the authority and lien powers to collect Association fees for common area maintenance, including the power to impose reasonable fines for failure to comply with the conditions of the Comprehensive Permit.

i.) Among other uses, Association fees collected shall be used for contribution in common with other abutters whose properties front and gain access onto Folger Avenue, Field Avenue, Cherry Street, and Blueberry Lane to maintain adjacent portions of these streets, and to provide for snow removal, until, if and when, the Town or County of Nantucket assumes this responsibility.

j.) The Owners and Occupants shall keep their exterior areas in a high state of maintenance and cleanliness, with the Association having the power to enforce compliance and to take such curative or remedial action as the Association may deem necessary, and to place liens on units for the Association's expenses incurred in so doing.

k.) The Association shall keep the roads, catch basins, drainage swales and other common areas and common improvements in a high state of maintenance and cleanliness.

l.) No unregistered, uninsured, or inoperable vehicles and no trailers, boats, recreational vehicles, or campers shall be allowed on site overnight.

m.) There shall be only low-wattage, unidirectional, downward-facing exterior lighting, preventing glare onto adjacent property.

n.) No commercial signs of any kind, including "For Rent" or "For Sale" signs, shall be posted.

o.) There shall be no change in the bylaws of the Association without the approval of 90% of the Owners (29, if a 32-unit project; 33, if a 36-unit project), and Owners may not vote changes inconsistent with the Regulatory Agreement and Deed Rider and any other deed restrictions of the Comprehensive Permit.

p.) All units shall be sheathed in clear or better cedar shingles, using high quality construction materials and techniques, all in accordance with the rules and regulations of the Nantucket Historic District Commission and all applicable codes and laws, except those for which an exception was granted through the Comprehensive Permit process.

q.) All driveways shall be either white gravel or shell, with a minimum of two (2) off-street parking spaces assigned to each unit.

r.) No more than one dog per dwelling unit shall be permitted. All dogs shall be leashed and owners shall be responsible for prompt removal and disposal of animal waste from their dogs from within the layout of Field and Folger Avenues, Cherry Street, and Blueberry Lane, or any other neighborhood public or private way.

8. Deeds to all units, including Market Rate Units, shall include reference to the Association, and the Association's authority to impose maintenance fees and to enforce the rules and regulations of the Association. With respect to Affordable Units, deed restrictions shall include an option to purchase or right of first refusal or right of first offer in favor of the Town of Nantucket. The standard language to

be employed in each deed shall be reviewed and approved by Town Counsel prior to recording of the first deed conveying property in the Project.

9. With respect to the initial sale and any future re-sales of the Affordable Units, priority to purchase must be secured in favor of existing permanent residents of Nantucket to the fullest extent permissible by law.

10. Local pre-marketing of the Market Rate Units shall begin 90 days prior to their general open listing with a Broker. This pre-marketing period shall include only local advertising, local notices, appearances at local social and religious functions, and a series of information sessions. This pre-marketing is targeted directly at owner-occupying Nantucket Residents. If marketing is done in phases, this condition shall apply to each phase.

11. Affordable units shall be distributed randomly throughout the development, and they shall become available in a ratio of not less than one Affordable Unit to every three Market Rate Units until all units are sold.

12. All units shall be single family dwellings on lots of approximately 5,000 to 5,500 sq. ft. and shall be owned in fee simple.

13. The developer agrees that the sales price structure of individual market units, as proposed in the final budget provided to the Board, and attached herewith as Exhibit G, shall not vary if such variances would create a change in the projected surplus of 11% by more than +/- 4%, in other words, a decrease in the proposed surplus to less than 7% or an increase in the proposed surplus to greater than 15%.

    If the project generates a surplus in excess of 15%, all monies above 15% would be turned over to the Town of Nantucket for affordable housing purposes. Further reference is made to a letter from Mr. Schorer to the Zoning Board, dated April 13, 2001, which commits to dedicate any surplus to charitable causes on Nantucket.

    The developer may, at its option, and subject to approval of the Board, reduce the prices of certain units and further restrict the appreciation potential of such units rather than generate a surplus larger than 15%.

    Applicant shall submit an audited cost certification of all revenues and expenses, including any rebates received from suppliers, prepared by a Certified Public Accountant acceptable to the Board. Such cost certification shall comply with the requirements established by the Monitoring Agent.

14. The project will be connected to the Nantucket sanitary sewer system. The Applicant, at his own cost, shall design to Town of Nantucket specifications, and seek State and Department of Public Works approval for, and construct, a connection to the municipal sewer system which will service the maximum number of abutters as defined below. This system shall consist of either an on-site pumping station, oversized to accept gravity feed from other sites, or, if possible and permissible, a gravity feed system to a newly constructed pumping station. The maximum number of abutters shall include those within eight hundred feet of the project as of the date of this decision (approximately 30 single family homes), the potential assisted living project (based upon calculations provided by the potential developer), and phase two, as outlined in the original application of the Compass Rose Development. Upon completion and acceptance of these improvements, the applicant shall promptly convey the improvements to the Town.

15. The Applicant shall construct, with the assistance of the Wannacomet Water Company, a new water main down South Shore Road and a loop of supply pipe sized to service the same project area as defined in # 14, above, so that other properties in the area will be able to tie into the water main or the supply loop. This water main and loop shall contain fire hydrants as required by the Nantucket Fire Department, and shall be designed to Wannacomet Water Company and State specifications. Upon completion and acceptance of these improvements, the applicant shall promptly convey the improvements to the Town.

16. The Applicant agrees to construct at its expense a bicycle path running parallel to South Shore Road in accordance with plans prepared and permitted by the Town and approved by the Board of Selectmen which bicycle path shall connect Blueberry Lane with the Surfside Road Bicycle Path.

17. Prior to the start of construction, the Applicant shall submit final plans for road and drainage improvements to Field and Folger Avenues, Cherry Street, and Blueberry Lane as described in 20, below, in accordance with the standards for such improvements contained in the Planning Board's ***Rules and Regulations Governing the Subdivision of Land.*** These plans shall include plans for the staging of equipment and construction materials and soil stockpiles, removed from South Shore Road and Blueberry Lane, to the extent feasible. Said plans shall be reviewed by the Board's engineering consultant, at the expense of the Applicant, and shall be acceptable to the Building Commissioner. The Town of Nantucket has agreed to assume the responsibility for the timely design and permitting of improvements to the intersection of Surfside Road, South Shore Road, and Fairgrounds Road, provided that the Applicant reimburses Town for the Town's costs associated with such design and permitting.

18. The applicant shall incorporate in the plans for road, sewer, water, and drainage improvements measures to control erosion, sedimentation, and dust during construction.

19. Prior to the start of construction, a pre-construction meeting shall be held among the Applicant; the Applicant's contractors; utility company representatives; the Board's representatives; representatives of the DPW and the Wannacomet Water Company; and the Board's engineers who will be involved in the inspection of the road and drainage improvements. The Applicant shall select and have on-site a Clerk of the Works, acceptable to the Board.

20. The Applicant shall perform at his own cost, or with State funding, as appropriate, the following improvements prior to the issuance of the first Certificate of Occupancy for units within the Project, except as otherwise noted herein. An exception to this requirement is hereby granted to the Applicant who is allowed to construct one structure as a marketing model, only. A certificate of occupancy for this marketing model shall be given only upon compliance with the requirements for this # 20:

    a.) Pavement of Folger Avenue from Blueberry Lane to Cherry Street with bituminous concrete. The final course of pavement will be deferred, but in no case longer than the issuance of a Certificate of Occupancy for 50% of the units in the Project. The applicant may delay the installation of the final course to beyond the 50% buildout threshold upon receipt by the Zoning Board of a guarantee acceptable to the Board for 110% of the value of the final course, satisfactory to the Planning Board's consulting engineer (see condition 20.l., page 10). In any event, the final course of pavement shall not be installed later than the issuance of the final Certificate of Occupancy for the project.

b.) Grading and improvement of Field Avenue from Blueberry Lane to Cherry Street with hard-pack material, or a "gravel spec" road, if the former is unacceptable to the Board, following consultation with its consulting engineer.

c.) Drainage improvements to mitigate storm water runoff and drainage problems at the intersections of Field Avenue and Blueberry Lane, and Field Avenue and Cherry Street, Folger Avenue and Cherry Street, and Folger Avenue and Blueberry Lane.

d.) Improvements to the intersection of South Shore Road, Fairgrounds Road, and Surfside Road, as described in a memorandum from the Traffic Safety Committee to the Board of Selectmen, dated February 17, 2001, and as agreed to by the Board of Selectmen at a Board of Selectmen's meeting of April 18, 2001.

e.) Placement of advisory 30 MPH speed limit signs along Surfside Road approaching the intersection of Fairgrounds Road and Surfside Road, as agreed to by the Board of Selectmen at a Board of Selectmen's meeting of April 18, 2001.

f.) The sewer and water improvements in 14 and 15, above.

g.) The bicycle path listed in 16, above.

h.) The Applicant agrees to request of the Town and the Electric Company street light improvements at the intersection of Fairgrounds Road, South Shore Road, and Surfside Road, and the intersection of Blueberry Lane and South Shore Road.

i.) The Planning Board has agreed to lend staff assistance to the Zoning Board to oversee and administer the completion of improvements listed in this condition # 20 in the same manner that it oversees subdivision improvements approved by the Planning Board.

21. Should the applicant or the Board of Selectmen secure secondary emergency access from the applicant's property and its surrounding streets to South Shore Road, the applicant has agreed to install break-away barriers as required by the Fire Department, and to incorporate the maintenance of such right-of-way improvements among the Association's responsibilities.

22. The construction of road and drainage improvements within the streets cited in 20, above, shall be inspected by the Board's engineering consultant at the cost of the Applicant, according to the standard protocol for such inspections required by the Planning Board for subdivision road and drainage improvements.

23. Following completion of the road and drainage improvements described in 20, above (except the bicycle path improvements), the Applicant shall prepare at his own cost as-built plans acceptable to the Building Commissioner, upon consultation with the Board's engineering consultant. These plans shall document substantial compliance with the specifications of the improvements required by the Board.

24. The Applicant has agreed to seek approval from the Historic District Commission ("HDC") for the exterior designs of the 32 or 36 homes to be built, and any and all other structures and improvements on the property (e.g. screening fences for trash collection and removal areas), and has agreed to comply with all requirements of any such HDC approval.

25. The sample schematic landscaping plan is appended herewith as Exhibit H. Prior to the start of construction, the Applicant shall provide to the Building Commissioner for his approval a final landscaping plan designed to achieve the most attractive appearance, screening and sound buffering that is practical. The final landscaping plan shall include screening of parking areas from view from the street along common driveways, to the extent feasible. The building Commissioner may seek the advice of the Zoning Board as to the acceptability of this Plan.

26. The Applicant shall employ no fewer than four distinct styles of homes which meet HDC guidelines.

27. Upon issuance of this Comprehensive Permit, the expiration of all appeal periods, and the issuance of a Building Permit, the Applicant agrees to begin a surface clean-up of the junkyard at 20-24 South Shore Road. This surface clean-up shall include the removal of all automobiles, trucks, buses, and debris, and their disposal in a manner that complies with all requirements of law. This clean-up shall be completed within 10 months.

28. Driveways shall not be sited directly opposite abutters' driveways on Field Avenue and Folger Avenue.

29. The width of common driveways shall be no more than 12 feet.

30. Paved driveway aprons shall be provided where driveways exit onto Blueberry Lane and Folger Avenue.

31. Except to the extent modified by the above conditions, the Applicant shall be bound by the submissions contained in the application (as revised) for approval and shall be bound by the representations made by it, or on its behalf, at the public hearings held to consider the granting of this permit.

32. The terms, provisions, and conditions of this decision shall bind, burden, and benefit the successors and assigns of the Applicant.

33. Any provision or condition of this decision that requires compliance with federal or state statutes, regulations, guidelines, or procedures shall apply to any amendment of such statutes, regulations, guidelines, or procedures with the same effect as if mentioned in each instance where a statute, regulation, guideline, or procedure is referred to.

34. Upon execution by the members of the ZBA, the Clerk of the ZBA is directed to file this decision with the Town Clerk and send a copy of this decision to the applicant by certified mail.

35. Any person aggrieved by this decision may appeal pursuant to Section 21 of the Act within 20 days after this decision is filed with the Town Clerk.

36. Subsequent to the end of all applicable appeal periods and prior to the commencement of construction, the Applicant shall record this decision in the Nantucket Registry of Deeds, and shall provide the ZBA, the Zoning Enforcement Officer, and the Building Commissioner with documentation (book and page) of the filing of this decision or a copy of the decision with all recording information thereon.

37. The Applicant shall be subject to the requirement that plans be submitted to the Building Department in connection with the approval of building permits for any and all structures that are a part of this project.

38. This Comprehensive Permit shall not be transferable without the prior written consent of the Board.

Upon consideration of the Motion, the Board voted UNANIMOUSLY to GRANT the Comprehensive Permit, subject to the conditions included herewith.

Dated: APRIL 27, 2001

NANTUCKET ZONING BOARD OF APPEALS

Michael O'Mara, Chairman

William Hourihan

D. Neil Parent

Edward S. Sanford

Edward Toole

RECEIVED
'01 APR 27 P3:37
NANTUCKET TOWN CLERK

Date:_____

I hereby certify that notice of approval of this application for a COMPREHENSIVE PERMIT submitted by Nantucket Homes for People, Inc. to the Nantucket Zoning Board of Appeals was received and recorded at this office on _____ and that no appeal was received during the twenty (20) days next after such receipt and recording of said notice.

Attest:

Catherine Flanagan Stover,

Town Clerk

Index of Exhibits

A: Application Materials, Supplemental Information, and Applicant Correspondence
B: Agency Reports, Peer Review Reports, and Correspondence
C: Public Testimony and Exhibits
D: List of Zoning Exceptions
E: Deed Rider
F: Regulatory Agreement
G: Pro Forma
H: Landscape Plan

Exhibit A
Compass Rose
Application Materials, Supplemental Information, and Applicant Correspondence

1. Application package, entitled: "Compass Rose: A Village Community at the Heart of Nantucket, Nantucket Homes for People, Inc., Not-for-Profit Developer. Package includes, but is not limited to:

   a. Phase I Environmental Site Assessment Update, 2, 4, and 6 Folger Avenue, Prepared for Mr. Clifford Schorer, February 25, 2000.
   b. Articles of Organization: Nantucket Homes for People, Inc.
   c. January 5, 2001 letter to Clifford Schorer from Roland Tabaczynski, PE, Project Manager, Atlantic Design Engineers, Sandwich, MA. Re: Stormwater Issues
   d. Deed to Raymor Racquet Club, Inc.
   e. Massachusetts Department of Housing and Community Development Subsidized Housing Inventory
   f. Traffic Impact Assessment, Nantucket Homes for People, Inc. by Atlantic Design Engineers, Revised January 11, 2001.
   g. Proposed Deed Rider for FHLBB New England Fund Ownership Project.
   h. Nantucket Homes for People, Proposed Site Plan, revised 1/02/01, Total Units: 32
   i. Nantucket Homes for People, Proposed Site Plan, revised 1/02/01, Total Units: 36
   j. Elevations and Floor Plans (Unlabelled, except general description)

2. Sample regulations and decisions provided to the Zoning Board of Appeals and its staff by Mr. Edward Marchant, consultant to the Zoning Board of Appeals.
3. August 7, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Michael J. Wilson, Law Offices of Peter Kyburg, P.C., re: filing of Compass Rose application.
4. September 14, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: Development budget.
5. October 2, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: attached September 28, 2000 letter from Bowditch and Dewey concerning 501(c)(3) and IRS filing.
6. October 19, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: list of Schorer's projects.
7. October 19, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: financials for 44 units.
8. October 25, 2000 letter to Dirk Roggeveen, Special Administrator for Compass Rose Comprehensive Permit from Rich Tabaczynski re: Traffic Impact assessment: response to Rizzo comments.
9. November 13, 2000 letter to Cliff Schorer from Dirk Roggeveen, Special Administrator for Compass Rose Comprehensive Permit re: alternative development scenario and financials for 28 units.
10. November 16, 2000 letter to Cliff Schorer from Rich Tabaczynski PE re: septic issues.
11. November 30, 2000 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: IRS tax-exempt status; project budget; revised plan of 11/29/00.
12. January 11, 2001 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: January 11, 2001 letter to Attorney Howard Levin.
13. January 17, 2001 memo to the Zoning Board of Appeals from Town Administrator Libby Gibson reminding the Board of authorization for continuing access to Town Counsel.

14. January 29, 2001 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: Meeting on water and sewer issues.
15. January 30, 2001 Memo to Nantucket Board of Appeals from Bob Engler, consultant to Nantucket Homes for People, Inc. re: Lottery process for the designated affordable units.
16. March 1, 2001 letter to Mr. Michael O'Mara and members of the Nantucket Zoning Board of Appeals from Mr. Cliff Schorer, Managing Director, Nantucket Homes for People, Inc. re: draft decision of 2/20/01.

EXHIBIT A

Application for a Comprehensive Permit Pursuant to M.G.L. Chapter 40B

A. Zoning By-Law Exceptions:

1. Applicant requests relief from Section 139-7A, Permitted Uses Section (or Section 139-7E) in Limited Use General II District, to allow the construction of twenty-one (21) multi-family dwelling units, for a total of fifty-six (56) units on four (4), one (1) acre lots.

2. Applicant requests relief from Section 139-7E (1), to allow more than two (2) dwelling units per lot.

3. Applicant requests relief from Section 139-16, Intensity Regulation, as follows:

a. Front Yard Set Back. Applicant requests relief from thirty-five (35) foot requirement to twenty-five (25) feet.

b. Applicant requests relief from ground cover ratio from 4% to 19%.

4. Applicant requests relief from Section 139-7E (2) and (3), to allow the use of two (2) trailers as temporary office and shelter (housing for four (4) workers including security) incidental to construction on the site for not more than 18 months.

5. Applicant requests relief from Section 139-24, Rate of Development, to allow for the immediate issuance of building permits for construction, when appropriate.

B. Rules and Regulations of the Planning Board and Subdivision Control Law Exceptions:

Applicant requests relief from the Rules and Regulations of the Nantucket Planning Board and the Subdivision Control Law, as applicable, including but not limited to, 4.19-Bike Paths, and 4.20-Street Lighting.

Exhibit E
Compass Rose
Deed Rider

PROPOSED DEED RIDER
For
FHLBB New England Fund

Ownership Project

(annexed to and made part of that certain deed (the "Deed")
from Nantucket Homes for People, Inc. ("Grantor")
to _____ ("Grantee")
dated _____, 200__.)

WITNESSETH:

WHEREAS, the Massachusetts Not-for-Profit Corporation (the "Charity") is the owner of a certain parcel of land located in Nantucket, Massachusetts (the "Land");

WHEREAS, the Municipality wishes to provide affordable housing to individuals and families of low and moderate incomes by facilitating the development of a multifamily housing complex on the Land in order to provide such affordable housing;

WHEREAS, the Developer of the Land has received a comprehensive permit under Chapter 40B of M.G.L. for the purpose of constructing thirty six (36) residential units (the "Project") comprised of twenty seven (27) units to be sold by the Project Developer at market rates and nine (9) units to be sold by the Project Developer to households with low and moderate incomes in accordance with the terms and provisions of the Regulatory Agreement by and between the Project Developer and the Member, as part of the New England Fund Program(the "Regulatory Agreement");

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

WHEREAS, pursuant to the Regulatory Agreement for this Project, eligible purchasers such as the Grantee are given the opportunity to purchase certain property at a discount of the property's appraised fair market value if the purchaser agrees to convey the property on resale to an eligible purchaser located by the Municipality or, to the Municipality, for a "Maximum Resale Price" equal to the appraised fair market value of the property at the time of resale, as determined by the Monitoring Agent, (as specified in the Regulatory Agreement)multiplied by the applicable Discount Rate (as hereinafter defined), or, if there is no eligible purchaser who can qualify to purchase the property at the normal Maximum Resale Price, then to an eligible purchaser for a

lesser, modified Maximum Resale Price equal to the amount for which an eligible purchaser can qualify; [Also see §2(e), below.]

WHEREAS, the Grantor and the Grantee are participating in the NEF Program, and in accordance with the NEF Program the Grantor is conveying that certain real property more particularly describe din the Deed ("Property") to the Grantee at a consideration which is less than the appraised value of the Property; and

WHEREAS, a Discount Rate equal to ____% of the appraised fair market value of the Property (the "Discount Rate") is hereby assigned to the Property, and such Discount Rate shall be used in determining the Maximum Resale Price of the Property ;

NOW THEREFORE, as further consideration from the Grantee to the Grantor, and the Municipality for the conveyance of the Property at a discount in accordance with the Regulatory Agreement, the Grantee, his heirs, successors and assigns, hereby agrees that the Property shall be subject to the following rights and restrictions which are hereby imposed for the benefit of, and shall be enforceable by, the Grantor's assignees and designees, or the Monitoring Agent, or the Municipality, acting by and through its Chief Elected Official.

1. Right of First Refusal: (a) When the Grantee or any successor in title to the Grantee shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Grantee shall first notify the Monitoring Agent and subsequently the Municipality in writing of the Grantee's intention to so convey the property (the "Notice"). The Notice shall contain an appraisal of the fair market value of the Property (assuming the Property is free of all restrictions set forth herein) acceptable to the Monitoring Agent prepared by a real estate appraiser acceptable to the Monitoring Agent and qualified to appraise property for secondary mortgage markets and recognized as utilizing acceptable professional appraisal standards in Massachusetts, and the Notice shall set forth the Discount Rate and the Maximum Resale Price of the Property. Within thirty (30) days of the giving of the Notice by the Grantee, the Municipality shall notify the Grantee in writing as to whether the Municipality is proceeding to locate an eligible purchaser of the Property or the Municipality shall exercise its right of first refusal to purchase the Property (the "Municipality's Notice"). For the purpose of this Deed Rider, an "eligible purchaser" shall mean a purchaser who satisfies the criteria set forth in the Regulatory Agreement, and who, if located by the Municipality, is ready and willing to purchase the Property within ninety (90) days after the Grantee gives the Notice.

(b) In the event that (i) the Municipality's Notice states that the Municipality does not intend to proceed to locate an eligible purchaser and that the Municipality does not intend to exercise its right of first refusal to purchase the Property, or the Municipality fails to give the Municipality's Notice within thirty (30) days, the Grantee must use diligent efforts to find an eligible purchaser within a one hundred twenty (120) day period from the date the Property is put on the market, as determined by the date of the first advertisement for sale, as set forth below. The term "diligent efforts" as used herein shall mean (A) the placement of an advertisement in the real estate section of at least one newspaper of general circulation for a period of three consecutive weeks which sets forth a customary description of the unit for sale, the Maximum Resale Price, Grantee's telephone number, and the phrase: *"Sale of unit subject to certain guidelines and restrictions with respect to the maintenance and retention of affordable housing*

for households of low and moderate income. " and (B) the receipt of satisfactory evidence that the new purchaser qualifies as an eligible purchaser. If the Grantee is unable to locate an eligible purchaser within one hundred twenty (120) days from the date the Property is put on the market, the Grantee may convey the Property to any third party at fair market value, free of all restrictions set forth herein, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Resale Price shall be immediately and directly paid to the Municipality after review by the Monitoring Agent Upon receipt of this excess amount, if any, the Municipality, shall issue to the third party a certificate in recordable form (the "Compliance Certificate") indicating the Municipality's receipt of the excess amount. This Compliance Certificate is to be recorded in the appropriate Registry of Deeds or registered with the appropriate Registry District of the Land Court and such Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any, has been paid to the Municipality, or that no excess amount is payable, and that the rights, restrictions, agreements and covenants set forth herein are null and void. The sale price to a third party shall be subject to the Monitoring Agent's approval, with due consideration given to the value set forth in the appraisal accompanying the Notice. The Monitoring Agent's approval of the sale price shall be evidenced by its issuance of acceptance to the Municipality.

(c) In the event the Municipality, within said thirty (30) day period, notifies the Grantee that the Municipality is proceeding to locate an eligible purchaser or that the Municipality shall exercise the Municipality's right of first refusal to purchase the Property, the Municipality may locate an eligible purchaser, who shall purchase the Property at the Maximum Resale Price subject to Deed Rider, within sixty (60) days of the date that the Notice is given, or the Municipality may purchase the Property itself at the Maximum Resale Price with sixty (60) days of the date that the Notice is given. If more than one eligible purchaser is located by the Municipality, the Municipality shall conduct a lottery or other like procedure to determine which eligible purchaser shall be entitled to the conveyance of the Property.

(d) If an eligible purchaser is selected to purchase the Property, or if the Municipality elects to purchase the Property, the Property shall be conveyed by the Grantee to such eligible purchaser or to the Municipality as the case may be, by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed (ii) any lien for municipal betterments assessed after the date of the Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the Deed from the Grantor to Grantee, (v) a Regulatory Agreement with the Project Developer dated _____ and recorded with the _____ Registry of Deeds in Book ____, Page ____, the ("Regulatory Agreement"). The Regulatory Agreement cannot be amended without the consent of the Monitoring Agent. (vi) such additional easements, restrictions, covenants and agreements of record as the Municipality and the Monitoring Agent consents to, such consent not to be unreasonably withheld or delayed, and (vii) in the event that the Property is conveyed to an eligible purchaser, a Deed Rider satisfactory in form and substance to the Monitoring Agent which the Grantee hereby agrees to annex to said deed.

(e) Said deed shall be delivered and the purchase price paid (the "Closing") at the Registry of Deeds in the County where the Property is located, or at the option of the eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property), exercised by written notice to the Grantee at least five (5) days prior to the delivery of the deed, at such other place as the eligible purchaser (of the Municipality, as the case may be, if the Municipality is purchasing the Property) may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property) to the Grantee, which date shall be at least five (5) days after the date on which such notice is given, and if the eligible purchaser is a purchaser located by the Municipality, or if the Municipality is purchasing the Property no later than sixty (60) days after the Notice is given by the Grantee.

(f) To enable Grantee to make conveyance as herein provided, Grantee may if he so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests; all instruments so procured to be recorded simultaneously with the delivery of said deed.

(g) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value and any common area charges or association fees, if any, shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the eligible purchaser or by the Municipality.

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

(i) If Grantee shall be unable to give title or to make conveyance as above stipulated, or if any change of condition in the Property not included in the above exception shall occur, then the Closing shall be extended for up to thirty (30) days and Grantee shall remove any defect in title or to restore the Property to the condition hereby provided for. The Grantee shall use best efforts to remove any such defects in the title whether voluntary or involuntary and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property) shall have the election, at either the original or any extended time for performance, to accept such title as the Grantee can deliver to the Property in its then condition and to pay therefore the purchase price without deduction, in which case the Grantee shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been taken by a public authority, then the Grantee shall, unless the Grantee has previously restored the Property to its former condition, either:

(i) pay over or assign to the eligible purchaser or the Municipality, as the case may be, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonable expended by the Grantee for the partial restoration, or

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

2. Resale and Transfer Restrictions: Except as otherwise stated herein, the Property or any interest therein, shall not at any time be sold by the Grantee, the Grantee's successors and assigns, and no attempted sale shall be valid, unless:

(a) the aggregate value of all consideration and payments of every kind given or paid by the eligible purchaser (as located and defined in accordance with Section 1 above) or the Municipality, as the case may be, to the then owner of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and (i) if the Property is conveyed to an eligible purchaser, a certificate (the "Eligible Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Eligible Purchaser Certificate refers to the Property, the Grantee, the eligible purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the eligible purchaser is in compliance with this Deed Rider and the Regulatory Agreement, and there is also recorded a new Deed Rider executed by the eligible purchaser which new Deed Rider the Eligible Purchaser Certificate certifies is satisfactory in form and substance to the Monitoring Agent; (ii) if the Property is conveyed to the Municipality, a Certificate (the "Municipal Purchaser Certificate") is obtained from the Monitoring Agent and signed and acknowledged by the Municipality and the Monitoring Agent and recorded with the Registry of Deeds, which Municipal Purchaser Certificate refers to the Property, the Grantee, the Municipality, and the Maximum Resale Price for the Property and states that the proposed conveyance, sale or transfer of the Property to the Municipality is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider and there is also recorded a new Deed Rider which Deed Rider is satisfactory in form and substance to the Monitoring Agent; or (iii) if the Property is conveyed to a third party in accordance with Section 1, the Monitoring Agent execute and deliver the Compliance Certificate in accordance with Section 1;

(b) Any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate or an Eligible Purchaser Certificate or a Municipal Purchaser Certificate referring to the Property as conclusive evidence of the matters stated therein and may record such Certificate in connection with conveyance of the Property, provided, in the case of an Eligible Purchaser Certificate and a Municipal Purchaser Certificate the consideration recited in the deed or other instrument conveying the Property upon such resale shall not be greater than the consideration stated in the Eligible Purchaser Certificate or the Municipal Purchaser Certificate as the case may be. If the Property is conveyed to the Municipality, any future sale of the Property by the Municipality shall be subject to the Regulatory Agreement and the Deed from the Municipality shall contain a Deed Rider in form and substance satisfactory to the Monitoring Agent together with an Eligible Purchaser Certificate from the Monitoring Agent.

(c) Within ten (10) days of the closing of the conveyance of the Property from Grantor to Grantee, the Grantee shall deliver to the Monitoring Agent and to the Municipality a true and certified copy of the Deed of the Property, together with information as to the place of recording thereof in the public records. Failure of the Grantee, or Grantee's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance.

(d) Notwithstanding anything to the contrary contained in this Deed Rider, the Maximum Resale Price shall not be less than the purchase price which the Grantee paid for the Property plus the costs of approved capital improvements and marketing expenses, as determined by the Monitoring Agent.

(e) The Grantee understands and agrees that nothing in this Deed Rider or the Regulatory Agreement in any way constitutes a promise or guarantee by the Grantor, Monitoring Agent or Municipality that the Grantee shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

3. Restrictions Against Leasing and Junior Encumbrances: The Property shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent, provided, however, that this provision shall not apply to a first mortgage granted in connection with this conveyance. Any rents, profits, or proceeds from any transaction described in the last preceding sentence which transaction has not received the prior written consent of the Monitoring Agent shall be paid to and be the property of the Municipality. In the event that the Monitoring Agent, in the exercise of its absolute discretion consent to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction which exceed the carrying costs of the Property as determined by the Monitoring Agent in their sole discretion shall be paid to and be the property of the Municipality. Notwithstanding the restrictions outlined in the paragraph above, any Property purchased by the Municipality, under its Right of First Refusal, may be rented by the Municipality, at its discretion, so long as the income limits for the renter household meet the income requirements as defined in the Regulatory Agreement.

4. Rights of Mortgagees: (a) Notwithstanding anything herein to the contrary, but subject to the next succeeding paragraph hereof, if the holder of record (other than the Grantor or any person related to the Grantor by blood, adoption, or marriage, or any entity in which the Grantor has a financial interest (an "Interested Party")) 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 (other than an Interested Party) shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Property in lieu of foreclosure, and provided that such holder has given the Monitoring Agent and the Municipality not less than (60) days prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure, the rights and restrictions contained herein shall not apply to such holder upon such acquisition of the Property, any purchaser (other than an Interested Party) of the Property at a foreclosure sale conducted by such holder, or any purchaser (other than an Interested Party) of the Property from such holder, and such Property shall thereupon and thereafter be free from all such rights and restrictions.

(b) In the event such holder, conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Property is sold for a price in excess of the greater of (i) the sum of the outstanding principal balance of the note secured by such mortgage plus all future advances, accrued interest and all reasonable costs and expenses which the holder is entitled to recover pursuant to the terms of the mortgage; provided the original principal and advances shall not exceed the Maximum Resale Price and (ii) the Maximum Resale Price applicable on the date of the sale, such excess shall be paid to the Municipality in consideration of the loss of the value and benefit of the rights and restrictions herein contained held by the Municipality and released by the Municipality pursuant to this section in connection with such proceeding (provided, that in the event that such excess shall be so paid to the Municipality by such holder, the Municipality shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Municipality in accordance herewith, provided that such holder shall give the Monitoring Agent and the Municipality prompt notice of any such claim and shall not object to the intervention by the Municipality in any proceeding relating thereto.) In order to determine the Maximum Resale Price of the Property at the time of foreclosure or other proceeding, the Municipality may, at its own expense, obtain an appraisal of the fair market value of the Property satisfactory to such holder. The Maximum Resale Price shall be equal to the appraised fair market value so obtained, multiplied by the Discount Rate assigned to the Property. If the holder disagrees with such appraised value, the holder may obtain a second appraisal, at the holder's expense and the Maximum Resale Price shall be equal to the average of the two appraisal amounts multiplied by the Discount Rate. To the extent the Grantee possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Grantee hereby assigns its interest in such amount to said holder for payment to the Municipality.

5. Covenants to Run With the Property: (a) The Grantor and the Grantee, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grant and assign to the Municipality, the Municipality's agents, successors, designees and assigns the right of first refusal to purchase the Property as set forth herein, and to the Monitoring Agent and the Municipality the right to enforce the rights and restrictions, covenants and agreements set forth in this Deed Rider. The Grantor and the Grantee hereby grant to the Monitoring Agent and the Municipality the right to enter upon the Property for the purpose of enforcing any and all of the restrictions, covenants and agreements herein contained, and of taking all actions with respect to the Property which the Monitoring Agent and/or Municipality may determine to be necessary or appropriate, with or without court order, to prevent, remedy or abate any violation of the restrictions, covenants and agreements set forth herein. The rights hereby granted to the Monitoring Agent and the Municipality shall be in addition to and not in limitation of any other rights and remedies available to the Grantor or the Monitoring Agent or to the Municipality for enforcement of the restrictions, rights, covenants and agreements set forth in this Deed Rider. It is intended and agreed that all of the agreements, covenants, rights and restrictions set forth above shall be deemed to be covenants running with the Property and shall be binding upon and enforceable against the Grantee, the Grantee's successors and assigns and any party holding title to the Property for the benefit of and enforceable by the Monitoring Agent and/or the Municipality, the Monitoring Agent' and/or Municipality's agents, successors, designees and assigns for a period which is the shortest of (i) ninety-nine years from the creation of the restriction, (ii) upon the recording of a Compliance Certificate, or (iii) upon the recording

of an Eligible Purchaser Certificate and a new Deed Rider executed by the eligible purchaser referenced in the Eligible Purchaser Certificate, which new Deed Rider the Eligible Purchaser Certificate certifies is in form and substance satisfactory to the Municipal Purchaser Certificate as set forth herein. The Monitoring Agent shall be entitled to a fee of one-half of one percent of the established maximum sales price of the unit to the Municipality or an eligible purchaser for the services performed according to the Monitoring Services Agreement (and referenced in the Regulatory Agreement). This fee shall be paid by the Grantee as a closing cost at the time of closing.

(b) This Deed Rider and all of the agreements, restrictions, rights and covenants contained herein shall be deemed to be an affordable housing restriction as that term is defined in M.G.L. c. 184, § 31 and as that term is used in M.G.L. c. 184, §§ 26, 31, 32, and 33.

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

(d) Without limitation on any other rights or remedies of the Grantor, the Monitoring Agent, the Municipality, their agents, successors, designees and assigns, any sale or other transfer or conveyance of the Property in violation of the provisions of this Deed Rider, shall, to the maximum extent permitted by law, be voidable by the Municipality or the Monitoring Agent, their agents, successors, designees and assigns by suit in equity to enforce such rights, restrictions, covenants, and agreements.

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

Municipality: Town of Nantucket
Town Administrator
Nantucket, MA

Grantor: Nantucket Homes for People, Inc.
10 Turnpike Rd.
Southborough, MA 01772

Grantee:

Monitoring Agent: CHAPA
18 Tremont St. Suite 401
Boston, MA 02108

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

7. Further Assurances: The Grantee agrees from time to time, as may be reasonably required by the Monitoring Agent or the Municipality, to furnish the Monitoring Agent and the Municipality with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and all other information pertaining to the Property or the Grantee's eligibility for and conformance with the Regulatory Agreement for this Project.

8. Waiver: Nothing contained herein shall limit the rights of the Monitoring Agent and/or the Municipality to release or waive, from time to time, in whole or in part, any of the rights, restrictions, covenants or agreements contained herein with respect to the Property. Any such release or waiver must be made in writing and must be executed by the Monitoring Agent and/or the Municipality or designee.

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

10. Responsibility of the Monitoring Agent. The Monitoring Agent shal not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

11. Indemnity. The Developer agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent acting in bad faith and with gross negligence.

Executed as a sealed instrument this _____ day of _____, 200_.

Grantor:

By_____

Name
Title

Grantee:

By_____
Name
Title

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss _____, 200_

Then personally appeared the above-named _____, Grantor, and acknowledged the foregoing instrument to be his/her free act and deed, before me.

_____
Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss _____, 200_

Then personally appeared the above-named _____, Grantee(s), and acknowledged the foregoing instrument to be his/her free act and deed, before me.

_____
Notary Public
My commission expires:

Exhibit F
Compass Rose
Regulatory Agreement

PROPOSED REGULATORY AGREEMENT

[FHLBB-NEW ENGLAND FUND]
For Ownership Projects

This Regulatory Agreement (this "Agreement") is made this _____ day of _____, 200_ by Nantucket Homes for People , a Massachusetts Not-for-Profit Corporation having an address at 10 Turnpike Rd. Southborough, MA. 01772 ("Developer") and Citizen's Bank (the "Member"), a member institution of the Federal Home Loan Bank of Boston.

BACKGROUND:

A. The Developer intends to construct a 36-unit homeownership development on a four acre site on Folger Avenue in Nantucket, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

B. The Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals for the Town of Nantucket (the "Municipality") under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Registry of Deeds in Book ____, Page ____;

C. The Comprehensive Permit has specified that 9 units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") and will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for the Boston Primary Metropolitan Statistical Area (the "Base Income") as published from time to time by the Department of Housing and Community Development or successor agency ("DHCD"), and that those affordable units will remain affordable for a period of 99 years;

D. The Project is being financed by the member with the proceeds from an advance provided by the Federal Home Loan Bank of Boston's New England Fund ("NEF") and the NEF requires that the project provide the number of Affordable Units described above;

E. Pursuant to the requirements of the Comprehensive Permit and this Regulatory Agreement, the Developer has agreed to retain Citizens' Housing and Planning Association, Inc. (the "Monitoring Agent") to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement and compliance of the Developer with the Limited Dividend Requirement.

NOW THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer and the Member hereby agree and covenant as follows:

1. Unit Distribution. The distribution of the Affordable Units by unit size shall be as set forth below:

	0 BR	1 BR	2 BR	3 BR	4 BR
Number of Units	_____	_____	3	6	_____
Maximum Sales Price	_____	_____	$118,000	$135,000.	_____
Discount Rate	_____	_____	_____	_____	_____

The maximum sales price shall be established so that a household earning the Base Income for a family of four would pay no more than 30% of gross income for the sum of annual debt service on a mortgage of 90% of the sales price (including principal and interest) plus property taxes, insurance and any condominium/homeowner association fees. The Discount Rate shall be established by NEF lender's appraisal and NEF guidelines.

2. Affordability. The Affordable Units shall be sold to households who have an annual income equal to or less than the Base Income. The Base Income will be adjusted from time to time according to DHCD guidelines. The maximum sales price for the Affordable Units at subsequent re-sales shall be determined by applying a discount rate, established at the time of initial sale, to the appraised value at the time of resale. The discount rate is the percentage of the unit's fair market value for which the unit sold, as determined by an appraiser at the time of the initial sale. This rate shall be applied to the fair market value of the unit at the time of resale, as determined by an appraiser retained by the seller of the Affordable Unit. The unit must be sold to a household earning no more than the Base Income.

3. Deed Riders. At the time of sale of the Affordable Units by the Developer, the Developer shall execute and shall as a condition of sale cause the purchasers of the Affordable Units to execute a deed rider in the form of Exhibit B attached hereto and made a part hereof (each a "Deed Rider"). Each Deed Rider shall require the unit owner at the time he/she desires to sell the Affordable Unit to notify the Monitoring Agent (CHAPA) of the discounted purchase price based on a appraisal ordered by the seller and more particularly described in the Deed Rider. The owner of the Affordable Unit must thereafter offer the unit to the Municipality which may or may not exercise its right-of-first refusal and if not, the seller must find a purchaser who meets the income guidelines.

If, despite using due diligence to do so, the Affordable Unit owner is unable to find an eligible purchaser within a (60) day period from the end of the Municipality's first (30) day right of first refusal, then said owner must again offer the unit to the Municipality which,

within thirty (30) days of notice of such offer may or may not exercise its second right –of-refusal: and if not , the seller can sell the unit to any person, regardless of his/her income and at any price, free of any future resale restrictions, provided that the difference between the actual resale price and the discounted purchase price shall be paid to the Municipality for deposit in an affordable housing fund to be used by the Municipality to support other affordable housing within the municipality.

The Deed Rider shall require the Affordable Unit owner and any purchaser to execute at the time of resale a similar Deed Rider which shall be attached to and made a part of the deed from the owner to the purchaser, so that the affordability of each Affordable Unit will be preserved each time that subsequent resale of the Affordable Unit occurs during the period of affordability as specified in Section 11 of this Agreement ("the term")..

4. Dividend Limitation. Developer agrees that the profit to the Developer or to the partners, shareholders, or other owners of Developer or of the Project shall not exceed twenty percent (20%) of total development costs of the Project, exclusive of development fees (the "Allowable Profit"). Upon issuance of a final Certificate of Occupancy for all of the units in the Project, the Developer shall deliver to the Monitoring Agent an itemized statement of total development costs together with a statement of gross sales revenues from the Project received by the Developer to date certified by the Developer ("Certified Cost and Income Statement"). "Profit", when calculated by the Monitoring Agent to determine the Allowable Profit, shall be measured as the excess of certified income, less any brokerage commissions and selling expenses over certified costs and less all development costs related to the project except costs incurred by the developer as administrative and overhead expenses (which shall be considered as part of Developer Profit). Acceptable development costs include, but are not limited to, the cost of site acquisition, defined as that value which can be underwritten by the Project and which can be supported by the Member's appraisal upon which its construction loan is based.

If all units in the Project have not been sold as of the date the Certified Cost and Income Statement is delivered to the Monitoring Agent, the Developer shall at least once every ninety (90) days thereafter, until such time as all of the units are sold, deliver to the Monitoring Agent an updated Certified Cost and Income Statement. After all units in the Project have been sold, the Developer shall deliver to the Monitoring Agent a final Certified Cost and Income Statement. All profits from the Project in excess of the Allowable Profit shall be paid by the Developer to the Municipality for deposit in an affordable housing fund to be used by the Municipality for the purposes of encouraging, creating or subsidizing the construction or rehabilitation of affordable housing elsewhere in the Municipality.

5. Affirmative Marketing. The Developer shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin or any other basis prohibited by law in the selection of the buyers for the Affordable Units. The Developer shall affirmatively market the Affordable Units to minority households through direct outreach efforts to local churches, social service and civic organizations as well as local and

area-wide newsprint media where minority households are most likely to be contacted. This outreach effort must continue for a period of at least 60 days prior to the selection of buyers for the Affordable Units. The Developer agrees to maintain for at least five (5) years following the sale of the Affordable Units, a record of all newspaper ads, outreach letters, translations, leaflets and any other outreach efforts, which may be inspected by the Monitoring Agent or the Municipality at any time upon request..

6. Recording. Upon execution hereof, the Developer shall immediately cause this Agreement to be recorded with the Registry of Deeds for the County where the Project is located and/or, if the Project consists in whole or in part of registered land, to be filed with the Registry District of the Land Court for the County where the Project is located. Upon recording and/or filing as applicable, the Developer shall immediately transmit to the Bank and the Monitoring Agent evidence of such recording and/or filing.

7. Representations. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a Not-for-Profit Corporation duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own properties and assets and to carry on its business as now being conducted, and (iii) has full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the Project free and clear of any lien or encumbrance, subject to the encumbrances created pursuant to this Agreement, any loan documents relating to the Project, or other permitted encumbrances.

8. Governing Law/Amendments/Severability. This Agreement shall be governed by the laws of The Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof. Reference to days in this agreement shall mean calendar days except as otherwise noted herein.

9. Monitoring Agent. The Developer shall retain the Monitoring Agent for purposes of monitoring Developer's performance hereunder pursuant to an agreement acceptable to the Monitoring Agent and the Member. All notices and reports required to be submitted hereunder shall be submitted directly to the Monitoring Agent. The Monitoring Agent shall have authority to act in all matters relating to this Agreement.

10. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

Developer:

Nantucket Homes for People, Inc.
10 Turnpike Rd.
Southborough, MA 01772

Monitoring Agent:

Citizens Housing and Planning Association, Inc.
18 Tremont Street
Boston, Massachusetts 02108

11. Term. The term of this Agreement shall be ninety-nine (99) years, provided that, after conveyance of any unit to an eligible purchasing household, this Agreement shall terminate with respect to that unit if that unit is acquired by foreclosure or instrument in lieu of foreclosure so long as the holder of the mortgage on that unit has given the Bank and the Monitoring Agent and the Municipality not less than sixty (60) days' prior written notice of the holder's intention to foreclose the mortgage or to accept an instrument in lieu of foreclosure.

Upon the expiration of the term of this Agreement, each of the then owners of Affordable Units shall be bound to pay to the Municipality all proceeds of sale in excess of the discounted purchase price upon sale of such Unit, which sale shall be at arms length and for fair market value of such Unit.

12. Successors and Assigns. The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the

Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of The Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

13. Default. If any default, violation or breach by the Developer hereunder is not cured to the satisfaction of the Monitoring Agent within thirty (30) days after notice to the Developer thereof, then the Monitoring Agent may send notification to the Member and the FHLBB that the Developer is in violation of the terms and conditions hereof. The Member may exercise any remedy available to it. The Municipality or the Monitoring Agent may also exercise any legal remedy available to it. The Developer shall pay all costs and expenses, including legal fees, incurred by Monitoring Agent in enforcing this Agreement and Developer hereby agrees that the Member and its agents, including the Monitoring Agent, shall have a lien on the Project to secure payment of any such costs and expenses. The Monitoring Agent, may perfect such a lien on the Project by recording a certificate setting forth the amount of the costs and expenses due and owing in the Registry of Deeds or the Registry District of the Land Court for the county in which the Project is located. A purchaser of the Project or any portion thereof shall be liable for the payment of any unpaid costs and expenses which were the subject of a perfected lien prior to the purchaser's acquisition of the Project or portion thereof.

14. Mortgagee Consent. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed a consent to this Agreement.

15 Responsibility of Monitoring Agent. The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

16. Indemnity The Developer agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship to the Project under this Agreement and not involving the Monitoring Agent acting in bad faith and with gross negligence

17. Amendments. This Agreement shall not be amended without written consent of the Monitoring Agent.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as a sealed instrument as of the date first above written.

DEVELOPER:

_____

By:_____

MEMBER:

_____

By:_____

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 200_

Then personally appeared the above-named _____, the _____ of _____ and acknowledged the foregoing instrument to be the free act and deed of _____, before me.

_____
Notary Public
My Commission Expires:

334383

Exhibit G
Compass Rose
Pro Forma

COMPASS ROSE
Nantucket, MA
DEVELOPMENT BUDGET

32 UNITS — Feb. 14, '01

	PER UNIT	TOTAL
HARD COSTS		
Acquisition	26,523	848,750
Site Development-Foundations/Landscaping	27,957	894,620
Utilities/Drainage (+off-site work)	24,113	771,600
Construction	152,650	4,884,800
Contingency	10,236	327,551
Sub-Total Hard Costs	241,479	7,727,321
SOFT COSTS		
Permits/surveys/sewer tie-in fees	1,000	32,000
archit/engin	1,219	39,000
site engin (envir + civil)	2,563	82,000
legal/title & recording	2,511	80,350
insurance	563	18,000
taxes	456	14,600
brokerage fees	3,125	100,000
financing/applic fees	1,750	56,000
clerk of the works	1,063	34,000
inspecting engineer	1,438	46,000
accounting/audits	438	14,000
marketing-affordable units	138	4,400
construction loan interest	7,331	234,600
soft cost contingency	813	26,000
Development consultant	2,031	65,000
Sub-total Soft Costs	26,436	845,950
TOTAL DEVELOPMENT COSTS	267,915	8,573,271

SOURCES				
HOME GRANT (ESTIMATE)			350,000	
MODERATE INCOME UNITS - I	2	103,000	206,000	6.3%
MODERATE INCOME UNITS - II	1	118,000	118,000	3.1%
MODERATE INCOME UNITS - III	5	136,000	680,000	15.7%
SENIOR & DISABLED UNITS	1	235,000	235,000	3.1%
MARKET UNITS - I	3	295,000	885,000	9.4%
MARKET UNITS - II	20	349,500	6,990,000	62.5%
GROSS SALES REVENUES			9,464,000	100.0%
PROFIT (LOSS)			890,729	
PERCENTAGE PROFIT			10%	

AFFORDABLE UNITS	Development Fee	(257,198)	3.0%
	Junkyard Cleanup	(455,000)	
	Net Surplus	176,531	1.9%

COMPASS ROSE 36 UNITS Nov-4-2000
Nantucket, MA
DEVELOPMENT BUDGET

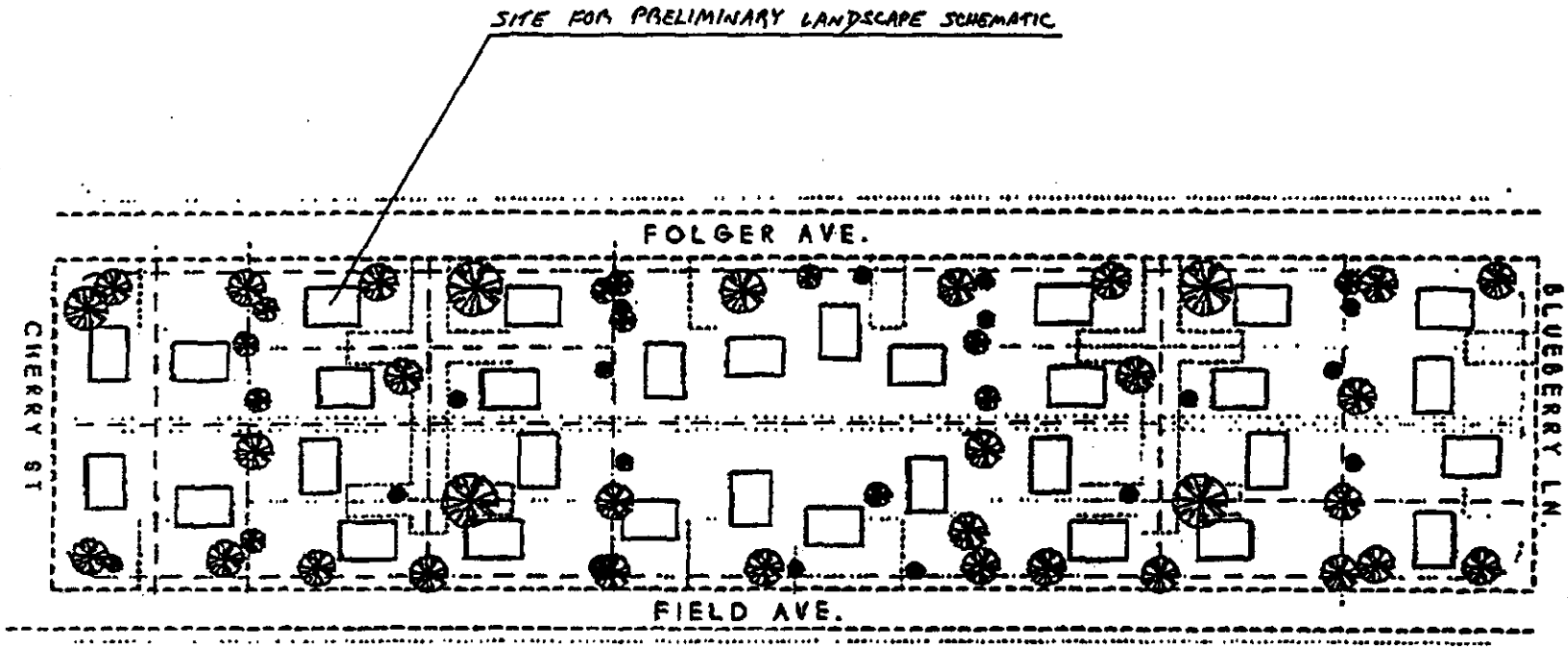
	PER UNIT	TOTAL
HARD COSTS		
Acquisition	23,576	848,750
Site Development-Foundations/Landscaping	26,800	964,800
Utilities/Drainage (+off-site work)	21,433	771,600
Construction	152,650	5,495,400
Contingency	10,044	361,590
Sub-Total Hard Costs	234,504	8,442,140
SOFT COSTS		
Permits/surveys/sewer tie-in fees	1,000	36,000
archit/engin	1,083	39,000
site engin (envir + civil)	2,278	82,000
legal/title & recording	2,356	84,800
insurance	500	18,000
taxes	406	14,600
brokerage fees	2,778	100,000
financing/applic fees	1,556	56,000
clerk of the works	944	34,000
inspecting engineer	1,278	46,000
accounting/audits	389	14,000
marketing-affordable units	122	4,400
construction loan interest	6,739	242,600
soft cost contingency	722	26,000
Development consultant	1,806	65,000
Sub-total Soft Costs	23,956	862,400
TOTAL DEVELOPMENT COSTS	258,459	9,304,540

SOURCES

MODERATE INCOME UNITS - I	3	103,000	309,000	8.3%
MODERATE INCOME UNITS - II	2	118,000	236,000	5.5%
MODERATE INCOME UNITS - III	4	136,000	544,000	11.1%
SENIOR & DISABLED UNITS	1	235,000	235,000	2.7%
MARKET UNITS - I	3	295,000	885,000	8.3%
MARKET UNITS - II	23	349,500	8,038,500	63.8%
GROSS SALES REVENUES			10,247,500	100.0%
PROFIT (LOSS)			942,960	
PERCENTAGE PROFIT			10%	

AFFORDABLE UNITS	Development Fee	(279,136)	3.0%
	Junkyard Cleanup	(455,000)	
	Net Surplus	208,824	2.0%

Exhibit H
Compass Rose
Landscaping Plan

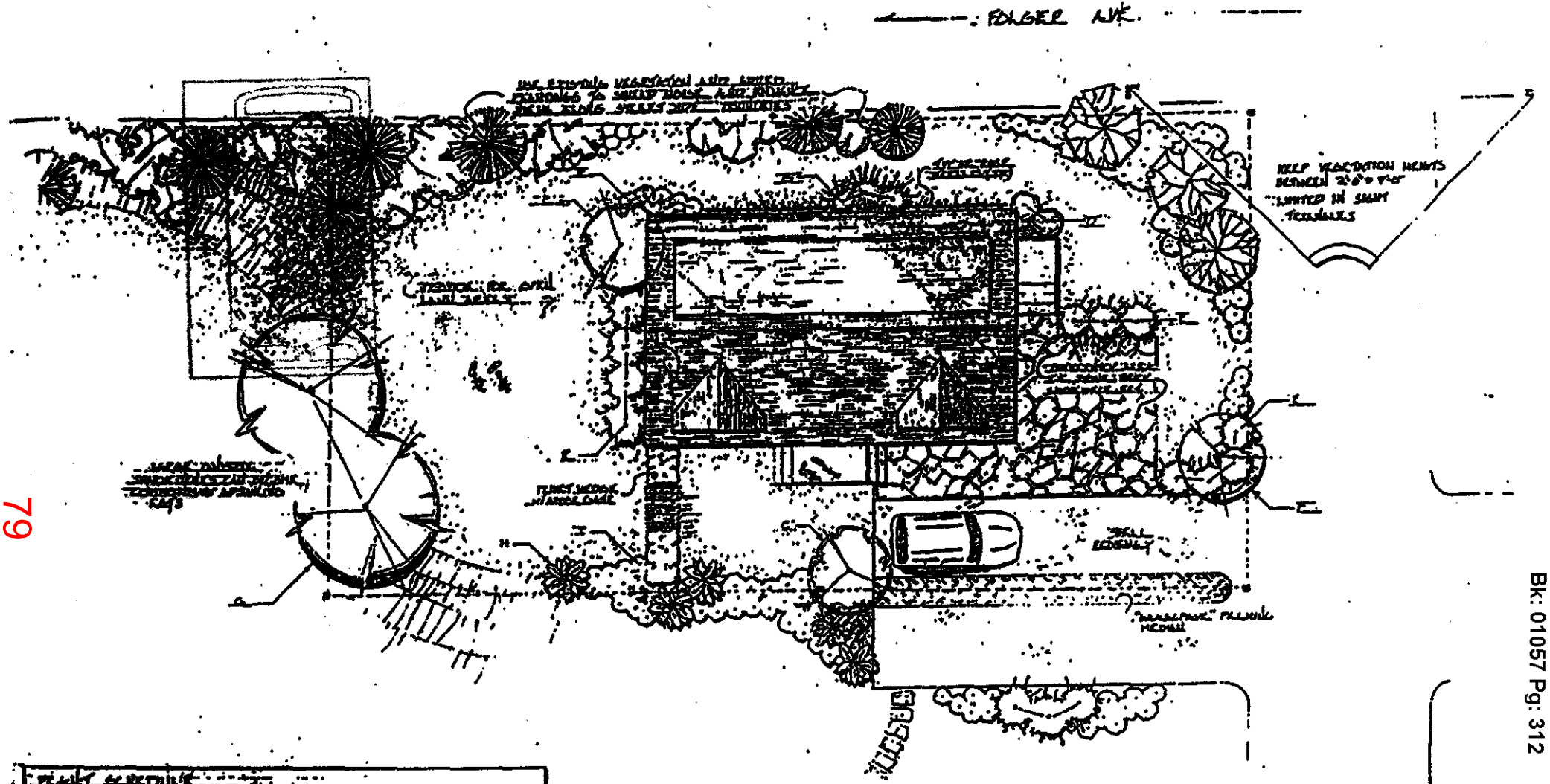


NANTUCKET HOMES FOR PEOPLE
Proposed Site Plan REV 1/02/01

TOTAL UNITS 32
TOTAL PARKING 64
LOT AREA: APPROX. 173,700 S.F.

SETBACK FROM BLUEBERRY LN. & CHERRY ST.: 15 FT.
SETBACK FROM FOLGER AVE. & FIELD AVE.: 10 FT.

Proposed Property Line
Proposed Utility Easement
Approx. Edge of Road



PRELIMINARY
LANDSCAPE SCHEMATIC
NANTUCKET HOMES FOR PEOPLE

REVISIONS DATE

SHEET

NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Fetterman Register of Deeds

Bk: 01057 Pg: 312

ABREMS QUARRY

FILE NO. 66-00

REGULATORY AGREEMENT

2007 00000358
Bk: 1064 Pg: 105 Page: 1 of 28
Doc: AGR 01/29/2007 03:14 PM

REGULATORY AGREEMENT

[FHLBB-NEW ENGLAND FUND]

For Ownership Projects

This Regulatory Agreement (this "Agreement") is made this 1st day of December, 2006, by Nantucket Homes for People, Inc., a Massachusetts Not for Profit corporation having an address at 10 Turnpike Road, Southborough, MA. 01772 ("Developer") and Wainwright Bank & Trust Company, 63 Franklin Street, Boston, MA 02110 (the "Bank"), a member institution of the Federal Home Loan Bank of Boston, the Town of Nantucket Zoning Board of Appeals ("Municipality") and Citizens' Housing and Planning Association of Boston ("CHAPA"), having an address of 18 Tremont Street, Boston, Massachusetts 02108.

BACKGROUND:

A. The Developer intends to construct a twenty-eight (28) unit homeownership development on a four (4) +/-acre site on Folger Avenue, Nantucket, MA, more particularly described in Exhibit A attached to and made a part of this Agreement (the "Project");

B. The Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals for the Town of Nantucket (the "Municipality") under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds Registry District of the Land Court (the "Registry") in Book 1057, at Page 266 / as Document No .

C. A "Letter of Intent" has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to this Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by the U.S. Department of Housing and Urban Development ("HUD), and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees.

D. Pursuant to the terms of this Regulatory Agreement, the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for the Nantucket County (the "Base Income") as published from time to time by HUD or successor agency;

E. The Project is being financed under the Federal Home Loan Bank of Boston's New England Fund ("NEF") and the NEF requires that the Developer provide the number of Affordable Units described above;

F. Pursuant to the requirement of the Comprehensive Permit and this Regulatory Agreement, the Developer has agreed to retain CHAPA (the "Monitoring Agent") to perform monitoring and enforcement services regarding compliance of the Project with the Affordability

Requirement and compliance of the Developer with the Limited Dividend Requirement. The Developer agrees that the Nantucket Housing Authority ("Nantucket Housing") will act as the secondary monitoring agent. The Developer will not be responsible for any costs or fees for the Nantucket Housing Authority.

NOW THEREFORE, in consideration of the agreements and covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Developer and the Bank agree and covenant as follows:

1. Unit Designation. The distribution of the Affordable Units by unit size shall be as set forth below:

	Units/Lots
	3BR
Number of Units	7
Initial Affordable Price	$ 242,000

The maximum sales price shall be established so that a household earning the Base Income for a family of four would pay no more than 30% of the gross income for the sum of annual debt service on a mortgage of 95% of the sales price (including principal and interest) plus property taxes, insurance, and any condominium/homeowner association fees. The Discount Rate shall be established by NEF lender's appraisal and NEF guidelines.

2. Affordability. The Affordable Units shall be sold to households who have an annual income equal to or less than the Base Income. The Base Income will be adjusted from time to time according to DHCD guidelines. The maximum sales price for the Affordable Units at subsequent re-sales shall be determined by applying a discount rate, established at the time of initial sale, to the appraised value at time of resale. The discount rate is the percentage of the unit's fair market value for which the unit is sold, as determined by an appraiser at the time of the initial sale. This rate shall be applied to the fair market value of the unit at the time of resale, as determined by an appraiser retained by the seller of the Affordable Unit. The unit must be sold to a household earning no more than a Base Income.

3. Deed Riders. At the time of sale of the Affordable Units by the Developer, the Developer shall execute and shall as a condition of sale cause the purchasers of the Affordable Units to execute a deed rider substantially in the form of Exhibit A attached to and made a part of this Agreement (each a "Deed Rider"). Each Deed Rider shall require the unit owner at the time he/she desires to sell the Affordable Unit to notify the Monitoring Agent and Nantucket Housing so that the Monitoring Agent can make a determination of the price at which the unit may be sold (the "Maximum Re-sale Price"). The owner of the Affordable Unit must thereafter offer the unit to the Municipality at which Maximum Re-sale Price which may or may not

exercise its right-of-first refusal and if not, the seller must find a purchaser who meets the income guidelines.

If, despite using due diligence to do so, the Affordable Unit owner is unable to find an eligible purchaser within a sixty (60) day period from the end of the Municipality's first (30) day right of first refusal, then said owner must again offer the unit to the Municipality which, within thirty (30) days of notice of such offer may or may not exercise its second right of refusal; and if not, the seller can sell the unit to any person, regardless of his/her income and at any price, free of any future sale restrictions, provided that the difference between the actual resale price and the discounted purchase price shall be paid to the Municipality for deposit in an affordable housing fund to be used by the Municipality to support other affordable housing within the municipality.

The Deed Rider requires the Affordable Unit owner and any purchaser to execute at the time of resale a similar Deed Rider which shall be attached to and made a part of the deed from the owner to the purchaser, so that the affordability of each Affordable Unit will be preserved each time that subsequent resale of the Affordable Unit occurs during the period of affordability specified in this Agreement.

4. Dividend Limitation. Developer agrees that the profit to the Developer or to the partners, shareholders, or other owners of Developer or of the Project shall not exceed fifteen percent (15%) of total development costs of the Project, exclusive of development fees (the "Allowable Profit"). Upon issuance of a final Certificate of Occupancy for all of the units in the Project, the Developer shall deliver to the Monitoring Agent and Nantucket Housing an itemized statement of total development costs together with a statement of gross sales revenues from the Project received by the Developer to date certified by the Developer ("Certified Cost and Income Statement"). "Profit" when calculated by the Monitoring Agent to determine the Allowable Profit, shall be measured as the excess of certified income, less any brokerage commissions and selling expenses over certified costs and less all development costs related to the project except costs incurred by the developer as administrative and overhead expenses (which shall be considered as part of the Developer Profit). Acceptable development costs include, but are not limited to; the cost of site acquisition, defined as that value which can be underwritten by the Project and which can be supported by the Member's appraisal upon which its construction loan is based.

If all units in the Project which have not been sold as of the date the Certified Cost and Income Statement is delivered to the Monitoring Agent and Nantucket Housing, the Developer shall at least once every ninety (90) days thereafter, until such time as all of the units are sold, deliver to the Monitoring Agent and Nantucket Housing an updated Certified Cost and Income Statement. After all units in the Project which are offered for sale have been sold, the Developer shall deliver to the Monitoring Agent and Nantucket Housing a final Certified Cost and Income Statement. All profits from the Project in excess of the Allowable Profit shall be paid by the Developer to the Municipality. The Municipality shall deposit such funds into an affordable housing fund, if one exists in the Municipality, to be used by the Municipality for the purposes of encouraging, creating or subsidizing the construction or rehabilitation of affordable housing elsewhere in the Municipality

5. Affirmative Marketing. The Developer shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin or any other basis prohibited by law in the selection of the buyers for the Affordable Units. The Developer shall affirmatively market the Affordable Units to minority households through direct outreach efforts to local churches, social service and civic organizations as well as local and area-wide newsprint media where minority households are most likely to be contacted. This outreach effort must continue for a period of at least 60 days prior to the selection of buyers for the Affordable Units. The Developer agrees to maintain for at least five (5) years following the sale of the Affordable Units, a record of all newspaper ads, outreach letters translations, leaflets and any other outreach efforts which may be inspected by the Monitoring Agent, Nantucket Housing or the Municipality upon request.

6. Recording. Upon execution of this Agreement, the Developer shall immediately cause this Agreement to be recorded or filed with the Registry of Deeds for the County where the Project is located and/or if the Project consists in whole or in part of registered land, to be filed with the Registry District of the Land Court for the County where the Project is located. Upon recording and/or filing as applicable, the Developer shall immediately transmit to the Bank, the Monitoring Agent and Nantucket Housing evidence of such recording and/or filing.

7. Representations. The Developer represents, covenants and warrants as follows:

(a) The Developer (i) is a Not-for-Profit corporation duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this state, (ii) has the power and authority to own properties and assets and to carry on its business as now being conducted, and (iii) has full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the Project free and clear of any lien or encumbrance, subject to the encumbrances created pursuant to this Agreement, any loan documents relating to the Project, or other permitted encumbrances.

8. Governing Law/Amendments/Severability. This Agreement shall be governed by the laws of The Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties to this Agreement. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions of this Agreement.

9. Monitoring Agents. The Developer shall retain the Monitoring Agent and for purposes of monitoring Developer's performance under this Agreement pursuant to an agreement acceptable to the Monitoring Agent and the Bank in the form attached hereto as Exhibit B. Nantucket Housing will act as an independent, secondary monitoring agent. The Developer will not be responsible for any costs associated with Nantucket Housing acting as the secondary monitoring agent.

All notices and reports required to be submitted under this Agreement shall be submitted directly to the Monitoring Agent and Nantucket Housing. The Monitoring Agent and Nantucket Housing shall have authority to act in all matters relating to this Agreement.

2 Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties to this Agreement at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

Municipality:	Nantucket Zoning Board of Appeals 1 East Chestnut Street Nantucket, MA 02554
Developer:	Nantucket Homes for People, Inc. 10 Turnpike Road Southborough, Massachusetts 01 772
Monitoring Agent:	Citizens' Housing and Planning Association, Inc. 18Tremont Street Boston, Massachusetts 02108
Secondary Monitoring Agent:	Nantucket Housing Authority 147 Orange Street Nantucket, Massachusetts 02554
Bank:	Wainwright Bank & Trust Company 63 Franklin Street Boston, MA 02110

11. Term. The term of this Agreement shall be in perpetuity, or to the extent permissible by law, but in no event less than ninety-nine (99) years, provided that, after the time of conveyance of any unit to an eligible purchasing household, this Agreement shall terminate with respect to that unit to an eligible purchasing household, this Agreement shall terminate with respect to that unit if that unit is acquired by foreclosure or instrument in lieu of foreclosure so long as the holder of the mortgage on that unit has given the Bank, the Monitoring Agent, Nantucket Housing, and the Municipality not less than sixty (60) days prior written notice of the holders intention to foreclose the mortgage or to accept an instrument in lieu of foreclosure.

Upon the expiration of the term of each Deed Rider, each of the then owners of Affordable Units shall be bound to pay to the Municipality all proceeds of the sale in excess of the discounted purchase price upon sale of such Unit, which sale shall be at arms length and for fair market value of such Unit.

12. Successors and Assigns. The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained in this Agreement shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns for the term of the Agreement. Developer agrees that any and all requirements of the laws of The Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

13. Default. If any default, violation or breach by the Developer under this Agreement is not cured to the satisfaction of the Monitoring Agent, Nantucket Housing or the Municipality as the case may be, within thirty (30) days after notice to the Developer thereof, then the Monitoring Agent, Nantucket Housing or the Municipality as the case may be, may send notification to the Bank and the FHLBB that the Developer is in violation of the terms and conditions of this Agreement. The Bank and/or the FHLBB may exercise any remedy available to it, including calling its advance under the NEF or increasing the interest rate on such advance. The Municipality, Monitoring Agent or Nantucket Housing may also exercise any legal remedy available to them. The Developer shall pay all costs and expenses, including legal fees, incurred by Monitoring Agent, Nantucket Housing and/or Municipality in enforcing this Agreement, and, in the event of any action by the Monitoring Agent, Nantucket Housing and/or Municipality against the Developer, the Monitoring Agent, Nantucket Housing and/or Municipality shall be entitled to seek an attachment against the Developer's property including, without limitation, its interest in the Project. The Monitoring Agent, Nantucket Housing and/or Municipality may perfect a lien on the Project by recording/filing one or more certificates setting forth the amount of the costs and expenses due and owing in the Registry. A purchaser of the Project or any portion of it shall be liable for the payment of any unpaid costs and expenses which were the subject of a recorded/filed certificate prior to the purchaser' s acquisition of the Project or portion thereof.

14. Mortgagee Consent. The Developer represents and warrants that it has obtained the consent or subordination of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions of this Agreement and that all such mortgagees have executed a consent or subordination to this Agreement which shall be recorded/filed herewith.

15. Responsibility of Monitoring Agent. The Monitoring Agent, Nantucket Housing and Municipality shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

16. Indemnification. The Developer, for itself and its successors and assigns, agrees to indemnify and hold harmless the Monitoring Agent, Nantucket Housing and Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, Nantucket Housing and Municipality by reason of its relationship to the Project under this Agreement and not involving the Monitoring Agent, Nantucket Housing or Municipality acting in bad faith and with gross negligence.

17. Amendments This Agreement shall not be amended without written consent of the Monitoring Agent , Nantucket Housing and Municipality.

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be executed as a sealed instrument as of the date first above written.

DEVELOPER:
Nantucket Homes for People, Inc.

By: _____
MANAGING DIRECTOR and President and Treasurer

BANK:
Wainwright Bank and Trust Company

By: _____
Vice President

MUNICIPALITY:
Town of Nantucket Zoning Board of Appeals

By: _____ 1.22.07
Michael O'MARA acting chairman for this matter

_____
David R. Wiley

_____
Nancy J. Sourens, Chairman ZBA

Commonwealth of Massachusetts

_____County, ss

On this 1 th day of 12, 2006, before me, the undersigned notary public, personally appeared Clifford J. Schorer, proved to me through satisfactory evidence, which were _____, 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 Managing Dir Nantucket Homes, Inc., a Massachusetts Not for Profit corporation.

_____

My commission expires: May 26, 2011

Commonwealth of Massachusetts

Barnstable County, ss

On this 4th day of Dec, 2006, before me, the undersigned notary public, personally appeared Stephen Pratt-Otto, proved to me through satisfactory evidence, which were personally known, 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 Vice President of Wainwright Bank, a Massachusetts bank and trust company. and Trust Company

Andrew Webster

My commission expires:

ANDREW WEBSTER
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 21, 2012

Commonwealth of Massachusetts

Nantucket County, ss

On this 22nd th day of January, 2006, before me, the undersigned notary public, personally appeared Michael J. O'Mara, proved to me through satisfactory evidence, which were

_____, 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 the chairman of the Town of Nantucket Zoning Board of Appeals.

Holly J. Visco

My commission expires:

HOLLY J. VISCO
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 24, 2009

EXHIBIT A

DEED RIDER
For
FHLBB New England Fund

Ownership Project

(annexed to and made part of that certain deed (the "Deed")
from Nantucket Homes for People, Inc.("Grantor")
to ("Grantee")
dated ,2004

WITNESSETH:

WHEREAS, a comprehensive permit for land in the Town of Nantucket, Massachusetts (the "Municipality") has been granted under Chapter 40B of M.G.L. for the purpose of constructing twenty-eight (28) residential units (the "Project") comprised of units to be sold by the Grantor at market rates, seven (7) units to be sold to households with low and moderate incomes in accordance with the terms and provisions of the Regulatory Agreement by and between the Nantucket Homes for People, Inc. (the "Developer"), Wainwright Bank and Trust (the "Bank"), and the Town of Nantucket ("Municipality") as part of the New England Fund ("NEF") Program (the "Regulatory Agreement") which Regulatory Agreement is dated ,2004 and is recorded/filed with the Nantucket County Registry of Deeds/Registry District of the Land Court (the "Registry") in Book ,at Page /as Document No.

WHEREAS, the Municipality has determined that the rights and restrictions granted in this Deed Rider to the Municipality serve the public's interest in the creation and retention of affordable housing for persons and families of low and moderate income and in the restricting the resale price of property in order to assure its affordability by future low and moderate income purchasers;

WHEREAS, pursuant to the Regulatory Agreement, eligible purchasers such as the Grantee are given the opportunity to purchase certain property at a discount of the property's appraised fair market value if the purchaser agrees to convey the property on resale to an income-eligible purchaser ("Eligible Purchaser") located by the Municipality or, to the Municipality, for a "Maximum Re-sale Price;

WHEREAS, the "Maximum Re-sale Price" is intended to ensure long-term affordability of the Property to a household at 80% of Nantucket County area median income as defined by the U.S. Department of Housing and Urban Development ("HUD") or successor agency;

WHEREAS, the "Maximum Re-sale Price" shall be determined by a Monitoring Agent and Nantucket Housing, as described in the Regulatory Agreement, to be a price such that a household earning no greater than 80% of the median income for Nantucket County for a family of four would pay no more than 30% of gross income for the sum of annual debt service on a mortgage of 95% of the Maximum Re-sale Price (including principal and interest at current interest rates) plus property taxes, property insurance (unless covered by the condominium fees), private mortgage insurance and any required condominium/homeowner association fees.

WHEREAS, the Grantor and the Grantee are participating in the NEF Program, and in accordance with the NEF Program the Grantor is conveying that certain real property more particularly described in the Deed to which this Deed Rider is attached ("Property") to the Grantee at a consideration which is less than the appraised value of the Property; and

NOW THEREFORE, as further consideration from the Grantee to the Grantor and the Municipality for the conveyance of the Property at an affordable price in accordance with the Regulatory Agreement, the Grantee, his/her heirs, successors and assigns, agrees that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of and shall be enforceable by, the Grantor's assignees and designees, or the Monitoring Agent, or Nantucket Housing, or the Municipality, acting by and through its chief elected official.

1. Right of First Refusal. (a) When the Grantee or any successor in title to the Grantee shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Grantee shall first notify the Monitoring Agent and Nantucket Housing and subsequently the Municipality in writing of the Grantee's intention to so convey the Property (the "Notice"). The Notice shall contain an appraisal of the fair market value of the Property (assuming the Property is free of all restrictions set forth herein) acceptable to the Monitoring Agent prepared by a real estate appraiser acceptable to the Monitoring Agent and qualified to appraise property for secondary mortgage markets and recognized as utilizing acceptable professional appraisal standards in Massachusetts, and the Notice shall set forth the Discount Rate and the Maximum Resale Price of the Property. Within thirty (30) days of the giving of the Notice by the Grantee, the Municipality shall notify the Grantee in writing as to whether the Municipality is proceeding to locate an eligible purchaser of the Property or the Municipality shall exercise its right of first refusal to purchase the Property (the "Municipalities Notice"). For the purpose of this Deed Rider, an "eligible purchaser" shall mean a purchaser who satisfies the criteria set forth in the Regulatory Agreement and who, if located by the Municipality is ready and willing to purchase the Property within ninety (90) days after the Grantee gives the Notice.

(b) In the event that (i) the Municipality's Notice states that the Municipality does not intend to proceed to locate an eligible purchaser and that the Municipality does not intend to exercise its right of first refusal to purchase the Property, or the Municipality fails to give the

Municipality's Notice within thirty (30) days, the Grantee must use diligent efforts to find an eligible purchaser within a one hundred twenty (120) day period from the date the Property is put on the market, as determined by the date of the first advertisement for sale, as set forth below. The term "diligent efforts" shall mean (A) the placement of an advertisement in the real estate section of at least one newspaper of general circulation for a period of three consecutive weeks which sets forth a customary description of the unit for sale, a single price which is not in excess of the Maximum Re-sale Price, Grantee's telephone number, and the phrase: *"Sale of unit subject to certain guidelines and restrictions with respect to the maintenance and retention of affordable housing for households of low and moderate income."* and (B) the receipt of satisfactory evidence that the new purchaser qualifies as an eligible purchaser. If the Grantee is unable to locate an eligible purchaser within one hundred twenty (120) days from the date the Property is put on the market, the Grantee may convey the Property to any third party at no less than the fair market value, free of all restrictions set forth in this Deed Rider, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Re-sale Price shall be immediately and directly paid to the Municipality after review by the Monitoring Agent and Nantucket Housing. Upon receipt of this excess amount, if any, the Municipality, the Monitoring Agent and Nantucket Housing shall issue to the third party a certificate in recordable form (the "Compliance Certificate") indicating the Municipality's receipt of the excess amount, if applicable, or indicating that no excess amount is payable, and stating that the Municipality has elected not to exercise its right of first refusal, and indicating the Monitoring Agent and Nantucket Housing approvals of the sale of the Property to the third party consistent with the terms of this Deed Rider. This Compliance Certificate is to be recorded in the appropriate Registry of Deeds or registered with the appropriate Registry District of the Land Court and such Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any, has been paid to the Municipality, or that no excess amount is payable, and that the rights, restrictions, agreements and covenants set forth in this Deed Rider are null and void. The sale price to a third party shall be subject to the Monitoring Agent and Nantucket Housing approvals and the Monitoring Agent or Nantucket Housing may withhold their approval if in their judgment the purchase price is not consistent with the requirements of this Deed Rider and the Regulatory Agreement. The Monitoring Agent and Nantucket Housing approvals of the sale price shall be evidenced by their issuance of this Compliance Certificate. Funds received by a Municipality under this paragraph shall be deposited in an affordable housing fund to be used by the Municipality to support other affordable housing within the municipality.

(c) In the event the Municipality, within said sixty (60) day period, notifies the Grantee that the Municipality is proceeding to locate an eligible purchaser or that the Municipality shall exercise the Municipality's right of first refusal to purchase the Property, the Municipality may locate an eligible purchaser, who shall purchase the Property at a price not in excess of the Maximum Re-sale Price subject to a Deed Rider, within ninety (90) days of the date that the Municipality's Notice is given, or the Municipality may purchase the Property itself at a price not in excess of the Maximum Re-sale Price within ninety (90) days of the date that the Municipality's Notice is given. If more than one eligible purchaser is located by the Municipality, the Municipality shall conduct a lottery or other like procedure to determine which eligible purchaser shall be entitled to the conveyance of the Property.

(d) If an eligible purchaser is selected to purchase the Property, or if the Municipality elects to purchase the Property, the Property shall be conveyed by the Grantee to such eligible purchaser or to the Municipality as the case may be, by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed (ii) any lien for municipal betterments assessed after the date of the Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the Deed from the Grantor to Grantee, (v) the Regulatory Agreement which cannot be amended without the consent of the Monitoring Agent and Nantucket Housing, (vi) such additional easements, restrictions, covenants and agreements of record as the Municipality, the Monitoring Agent and Nantucket Housing consent to, such consent not to be unreasonably withheld or delayed, and (vii) in the event that the Property is conveyed to an eligible purchaser, a Deed Rider satisfactory in form and substance to the Monitoring Agent, Nantucket Housing and Municipality which the Grantee agrees to annex to said deed.

(e) Said deed shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property), exercised by written notice to the Grantee at least five (5) days prior to the delivery of the deed, at such other place as the eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property) may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property) to the Grantee, which date shall be at least five (5) days after the date on which such notice is given, and if the eligible purchaser is a purchaser located by the Municipality, or if the Municipality is purchasing the Property no later than ninety (90) days after the Municipality's Notice is given to the Grantee.

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

(g) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value and any common area charges or association fees, if any, shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the eligible purchaser or by the Municipality.

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

(i) If Grantee shall be unable to give title or to make conveyance as above stipulated, or if any change of condition in the Property not included in the above exception shall occur, then the Closing shall be extended for up to thirty (30) days and Grantee shall remove any defect in title or restore the Property to the condition required by this Deed Rider. The Grantee shall use best efforts to remove any such defects in the title whether voluntary or involuntary and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The eligible purchaser (or the Municipality, as the case may be, if the Municipality is purchasing the Property) shall have the election, at either the original or any extended time for performance, to accept such title as the Grantee can deliver to the Property in its then condition and to pay therefore the purchase price without deduction, in which case the Grantee shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been taken by a public authority, then the Grantee shall, unless the Grantee has previously restored the Property to its former condition, either:

(i) pay over or assign to the eligible purchaser or the Municipality, as the case may be, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Grantee for the partial restoration, or

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

(j) If the Municipality fails to locate an Eligible Purchaser to purchase the Property within ninety (90) days after the Notice is received by the Municipality, and the Municipality does not purchase the Property during said period, then following expiration of ninety (90) days after the Municipality receives the Notice from the Grantee, the Grantee may convey the Property to any third party at no less than fair market value, free and clear of all rights and restrictions contained herein, including, but not limited to the Maximum Resale Price, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Resale Price (the "Windfall Amount") shall be immediately and directly paid to the Municipality. Upon receipt of this excess amount, if any, the Municipality shall issue to the third party and to the Monitoring Agent and Nantucket Housing a Compliance Certificate in recordable form indicating the Municipality's receipt of the excess amount, if any, and indicating that the Municipality has elected not to exercise its right to locate an Eligible Purchaser and its right of first refusal hereunder and that all rights, restrictions, agreements and covenants contained herein are henceforth null and void, and indicating the Monitoring Agent and Nantucket Housing approvals of the sale of the Property to the third party consistent with the terms of this Deed Rider. This Compliance Certificate is to be recorded in

the Registry and such Compliance Certificate may be relied upon by the then owner of the Property and by third parties as constituting conclusive evidence that such excess amount, if any, has been paid to the Municipality and that the rights, restrictions, agreements and covenants set forth herein are null and void. The sale price to a third party shall be subject to the Monitoring Agent and Nantucket Housing approvals, with due consideration given to the value set forth in the appraisal accompanying the Notice, and the Monitoring Agent and/or Nantucket Housing may withhold its approval if in its sole judgment the purchase price is not consistent with the requirements of this Deed Rider and the Regulatory Agreement. The Monitoring Agent and Nantucket Housing approvals of the sale price shall be evidenced by its issuance of its acceptance of the Municipality's Compliance Certificate.

2. Resale and Transfer Restrictions.

(a) Except as otherwise stated in this Agreement, the Property or any interest therein, shall not at any time be sold by the Grantee, the Grantee's successors and assigns, and no attempted sale shall be valid, unless:

(i) the aggregate value of all consideration and payments of every kind given or paid by the eligible purchaser (as located and defined in accordance with Section 1 above) or the Municipality, as the case may be, to the then owner of the Property for and in connection with the transfer of such Property, prior to customary closing adjustments for fuel, taxes, or similar items, is not in excess of the Maximum Re-sale Price for the Property; and(A) if the Property is conveyed to an Eligible Purchaser, a certificate (the "Eligible Purchaser Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Eligible Purchaser Certificate refers to the Property, the Grantee, the Eligible Purchaser thereof and the Maximum Re-sale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the Eligible Purchaser is in compliance with this Deed Rider and the Regulatory Agreement, and there is also recorded a new Deed Rider executed by the Eligible Purchaser which new Deed Rider the Eligible Purchaser Certificate certifies is satisfactory in form and substance to the Monitoring Agent, Nantucket Housing and Municipality; or (B) if the Property is conveyed to the Municipality, a Certificate (the "Municipal Purchaser Certificate") is obtained from the Monitoring Agent and Nantucket Housing and signed and acknowledged by the Municipality, the Monitoring Agent and Nantucket Housing and recorded with the Registry of Deeds, which Municipal Purchaser Certificate refers to the Property, the Grantee, the Municipality, the Maximum Re-sale Price and states that the proposed conveyance, sale or transfer of the Property to the Municipality is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider and there is also recorded a new Deed Rider which Deed Rider is satisfactory in form and substance to the Monitoring Agent and Nantucket Housing; or

(ii) if the Property is conveyed to a third party in accordance with Section 1(b) or (j), the Monitoring Agent, Nantucket Housing and Municipality executes and delivers the Compliance Certificate in accordance with Section 1(b) or (j);

(b) Any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate accepted by the Monitoring Agent and Nantucket Housing or an Eligible Purchaser Certificate or a Municipal Purchaser Certificate referring to the Property as conclusive evidence of the matters stated therein and may record such Certificate in connection with conveyance of the Property, provided, in the case of an Eligible Purchaser Certificate and a Municipal Purchaser Certificate the consideration recited in the deed or other instrument conveying the Property upon such re-sale shall not be greater than the maximum permitted price stated in the Eligible Purchaser Certificate or the Municipal Purchaser Certificate as the case may be. If the Property is conveyed to the Municipality, any future sale of the Property by the Municipality shall be subject to the Regulatory Agreement and the Deed from the Municipality shall contain a Deed Rider in form and substance satisfactory to the Monitoring Agent and Nantucket Housing together with an Eligible Purchaser Certificate from the Monitoring Agent and Nantucket Housing.

(c) Within ten (10) days of the closing of the conveyance of the Property from Grantor to Grantee, the Grantee shall deliver to the Monitoring Agent, Nantucket Housing and to the Municipality a true and certified copy of the deed of the Property, together with information as to the place of recording thereof in the public records. Failure of the Grantee, or Grantee's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance.

(d) Notwithstanding anything to the contrary contained in this Deed Rider, the Maximum Re-sale Price shall not be less than the purchase price paid by the Grantee which at the time of purchase complied with the requirements of the preceding deed rider and of the Regulatory Agreement and which is recited in an Eligible Purchaser Certificate or a Municipal Purchaser Certificate recorded/filed with the Registry.

(e) The Grantee understands and agrees that nothing in this Deed Rider or the Regulatory Agreement in any way constitutes a promise or guarantee by the Municipality, the Monitoring Agent, Nantucket Housing or any other person or entity that the Grantee shall actually receive the Maximum Re-sale Price for the Property or any other price for the Property.

3. Termination. If the affordability restriction is required to terminate by law, then at the end of the ninety-ninth (99th) year from the date of this Deed Rider (the "Termination Date"), the Grantee may sell the Property at a price equal to the fair market value of the Property as of the date of sale and not subject to this Deed Rider, provided, however that the Grantee, at the time of such sale must pay to the Municipality the difference between the fair market value as so determined and the Maximum Re-sale Price which the owner would have been bound to market the Property for were this Deed Rider to have remained in effect (the "Windfall Amount"), and upon such payment the Property will be deeded free and clear of this Deed Rider. In the event that the Grantee fails to make a Windfall Amount payment under this Deed Rider, the Municipality shall have the right to seek payment from the purchaser of the Property, and his/her

successors and assigns, which right shall be prior to the encumbrance of any mortgage on the Property. This provision shall survive the expiration of the term of this Deed Rider, provided however that the Grantee shall have the right to accelerate the expiration of this provision by making a Windfall Amount payment to the Municipality through refinancing, or from other sources, in an amount equal to the difference between the fair market value of the Property, as determined by an appraisal satisfactory to the Monitoring Agent, and the Maximum Re-sale Price at the time of said appraisal. [For example, if at the Termination Date the fair market value of the Property is $500,000, the Maximum Re-sale Price is determined by the Monitoring Agent and Nantucket Housing to be $200,000, the Grantee could terminate the provisions of this section without selling the Property by making a Windfall Amount payment to the Municipality in the amount of $300,000 ($500,000 –$200,000)]. In the event of such a Windfall Amount payment, and the payment by the Grantee to the Monitoring Agent of a fee equal to three-fourths of one percent of the Maximum Re-sale Price, the owner shall hold the Property free and clear of this Deed Rider. For purposes of this section, the Maximum Re-sale Price shall be determined by the Monitoring Agent and approved by Nantucket Housing in the same manner as set forth under Section 1 above.

4. Restrictions Against Leasing and Junior Encumbrances. At the time of the recording of this Deed Rider, there shall be no outstanding liens or mortgages except those that may be permitted by the Municipality. The Property shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent and Nantucket Housing, provided, however, that this provision shall not apply to a first mortgage granted in connection with this conveyance for a principal amount less than the price approved by the Monitoring Agent and Nantucket Housing in the Eligible Purchaser Certificate, the Municipal Purchase Certificate. All mortgages and liens shall be subordinate to this Deed Rider unless otherwise permitted by the Municipality in writing. Any rents, profits, or proceeds from any transaction which has not received the prior written consent of the Monitoring Agent and Nantucket Housing shall be paid to and be the property of the Municipality. In the event that the Monitoring Agent and Nantucket Housing, in the exercise of its absolute discretion, consents to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction which exceed the carrying costs of the Property as determined by the Monitoring Agent and Nantucket Housing in their discretion shall be paid to and be the property of the Municipality. Notwithstanding the restrictions outlined in this paragraph, any Property purchased by the Municipality, under its Right of First Refusal, may be rented by the Municipality, at its discretion, so long as the income limits for the lessee household do not exceed the Base Income as defined in the Regulatory Agreement. Funds received by a Municipality under this paragraph shall be deposited in an affordable housing fund, if one exists in the Municipality, to be used by the Municipality to support other affordable housing within the municipality; otherwise the funds shall be deposited into the Municipality's general fund.

5. Covenants to Run With the Property. (a) The Grantor and the Grantee, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, grant and assign to the Municipality, the Municipality's agents, successors, designees and assigns the right of first refusal to purchase the Property as set forth in this Deed Rider, and to the Monitoring Agent, Nantucket Housing and the Municipality the right to enforce the rights and restrictions,

covenants and agreements set forth in this Deed Rider. The rights granted to the Monitoring Agent, Nantucket Housing and the Municipality shall be in addition to and not in limitation of any other rights and remedies available to the Grantor or the Monitoring Agent or to the Municipality for enforcement of the restrictions, rights, covenants and agreements set forth in this Deed Rider. It is intended and agreed that all of the agreements, covenants, rights and restrictions set forth in this Deed Rider shall be deemed to be covenants running with the Property and shall be binding upon and enforceable against the Grantee, the Grantee's successors and assigns and any party holding title to the Property for the benefit of and enforceable by the Monitoring Agent, Nantucket Housing and/or the Municipality, the Monitoring Agent's, Nantucket Housing's agents and/or Municipality's agents, successors, designees and assigns for a period which is the shortest of (i) ninety-nine years from the date hereof, (ii) upon the recording of a Compliance Certificate as provided under Section 1(b) or 1(j) herein, (iii) upon the recording of an Eligible Purchaser Certificate and a new Deed Rider executed by the eligible purchaser referenced in the Eligible Purchaser Certificate, which new Deed Rider is certified in the Eligible Purchaser Certificate to be in form and substance satisfactory; or (iv) upon the recording of a Municipal Purchaser Certificate as set forth in this Deed Rider, provided however that the provisions of Section 3 shall survive the expiration of the term of this Deed Rider as provided therein.

(b) The Grantor and the Grantee grant to the Monitoring Agent, Nantucket Housing and the Municipality the right to enter upon the Property for the purpose of enforcing any and all of the restrictions, covenants and agreements contained in this Deed Rider, and of taking all actions with respect to the Property which the Monitoring Agent, Nantucket Housing and/or Municipality may determine to be necessary or appropriate, with or without court order, to prevent, remedy or abate any violation of the restrictions, covenants and agreements set forth in this Deed Rider.

(c) The Monitoring Agent and Nantucket housing shall be entitled to a joint fee of three-fourths of one percent (hereinafter, the "Re-sale Fee") of the Maximum Re-sale Price regardless of whether the Affordable Unit is being sold to an Eligible Purchaser, or the Municipality, or to a third party at fair market value under the provisions of Section 1(b) or 1(j) herein. The joint fee shall be evenly split between the Monitoring Agent and Nantucket Housing. In the event that the Property is sold for less than the Maximum Re-sale Price, the fee shall be equal to ¾ of 1% of the actual re-sale price. The fee shall the Monitoring Agent and Nantucket Housing's compensation for the services performed under the Monitoring Services Agreement (and referenced in the Regulatory Agreement). This fee shall be paid by the Grantee as a closing cost at the time of closing, and payment of the fee of the Monitoring Agent and Nantucket Housing shall be a condition to delivery and recording of its compliance certificate, failing which the Monitoring Agent and Nantucket Housing shall have a claim against the Grantee and persons claiming under the grantee for which the Monitoring Agent and Nantucket Housing may seek an attachment against the Property.

(d) This Deed Rider and all of the agreements, restrictions, rights and covenants contained in this Deed Rider shall be deemed to be an affordable housing restriction as that term is defined in M.G.L. c. 184, § 31 and as that term is used in M.G.L. c. 184, §§ 26, 31, 32, and 33.

(e) The Grantee intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Deed Rider and the covenants, agreements, rights and restrictions contained in this Deed Rider shall be and are covenants running with the land, encumbering the Property for the term of this Deed Rider, and are binding upon the Grantee's successors in title, (ii) are not merely personal covenants of the Grantee, and (iii) shall bind the Grantee, its successors and assigns and enure to the benefit of the Municipality and their successors and assigns for the term of the Deed Rider. Grantee agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(f) Without limitation on any other rights or remedies of the Grantor, the Monitoring Agent, Nantucket Housing, the Municipality, their agents, successors, designees and assigns, any sale or other transfer or conveyance of the Property in violation of the provisions of this Deed Rider, shall, to the maximum extent permitted by law, be voidable by the Municipality or the Monitoring Agent or Nantucket Housing, or their agents, successors, designees and assigns by suit in equity to enforce such rights, restrictions, covenants, and agreements.

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

Municipality:

Zoning Board of Appeals
Town of Nantucket
1 East Chestnut Street
Nantucket, MA 02554

Grantor:

Nantucket Homes for People, Inc.
10 Turnpike Road
Southborough, MA 01772

Grantee

Monitoring Agent: Secondary Monitoring Agent

Citizens Housing and Planning Association
18 Tremont Street
Boston, MA 02108

Nantucket Housing
147 Orange Street
Nantucket, MA 02554

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

7. Further Assurances. The Grantee agrees from time to time, as may be reasonably required by the Monitoring Agent, Nantucket Housing or the Municipality, to furnish the Monitoring Agent, Nantucket Housing and the Municipality with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and all other information pertaining to the Property or the Grantee's eligibility for and conformance with the Regulatory Agreement for this Project. The Municipality is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Deed Rider; and the Grantee on behalf of itself and its successors and assigns appoints the Municipality its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantee and its successors and assigns agrees to execute any such instruments upon request. The benefits of this Deed Rider shall be in gross and shall be assignable by the Municipality (subject to the approval of DHCD). The Grantee and the Municipality intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

8. Waiver. Nothing contained in this Deed Rider shall limit the rights of the Monitoring Agent, Nantucket Housing and the Municipality to release or waive, from time to time, in whole or in part, any of the rights, restrictions, covenants or agreements contained in this Deed Rider with respect to the Property. Any such release or waiver must be made in writing and must be executed by the Monitoring Agent, Nantucket Housing and the Municipality or designee. The Municipality is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Deed Rider, and the Grantee on behalf of itself and its successors and assigns appoints the Municipality its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantee and its successors and assigns agree to execute any such instruments upon request. The benefits of this Deed Rider shall be in gross and shall be assignable by the Municipality (subject to the approval of DHCD). The Grantee and the Municipality intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

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

10. Responsibility of the Monitoring Agent. The Monitoring Agent, Nantucket Housing and Municipality shall not be held liable for any action taken or omitted under this Deed Rider so long as it shall have acted in good faith and without gross negligence.

11. Indemnity. The Grantor and the Grantee agree to indemnify and hold harmless the Monitoring Agent, Nantucket Housing and Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, Nantucket Housing or Municipality by reason of its relationship with the Project under this Deed Rider and not involving claims that the Monitoring Agent, Nantucket Housing or Municipality acted in bad faith and with gross negligence.

Executed as a sealed instrument this of , 2004 .

Grantor: Nantucket Homes for People, Inc.

By:

Its

Grantee:

Commonwealth of Massachusetts

_____County, ss

On this _____th day of_____, 2004, before me, the undersigned notary public, personally appeared Clifford J. Schorer, proved to me through satisfactory evidence, which were _____, 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 _____ Nantucket Homes, Inc., a Massachusetts Not for Profit corporation.

_____

My commission expires:

Commonwealth of Massachusetts

_____County, ss

On this _____th day of_____, 2004, before me, the undersigned notary public, personally appeared (GRANTEE) proved to me through satisfactory evidence, which were _____, to be the person whose name is signed on the preceding or attached document in my presence.

_____

My commission expires:

EXHIBIT B

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made as of the _____ day of _____, 2004, by and between Nantucket Homes for People, Inc., a Massachusetts Not for Profit Corporation, having an address at 10 Turnpike Road, Southborough, Massachusetts,

01772 ("Developer"), Citizens' Housing Planning Association, Inc.("CHAPA"), having an address at 18 Tremont Street, Boston, Massachusetts, 02108 ("Monitoring Agent") and Nantucket Housing Authority (" Nantucket Housing") having an address of 147 Orange Street, Nantucket, Massachusetts, 02554.

RECITALS

WHEREAS, the Developer intends to construct a housing development known as "Compass Rose Development" in the Town of Nantucket (the "Municipality"), more particularly described in Exhibit A attached hereto and made a part hereof (the "Project"); and

WHEREAS, the Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals for the Town of Nantucket (the "Municipality") under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds/Registry District of the Land Court (the "Registry") in Book _____ at Page _____ as Document or Instrument No._____; and

WHEREAS, the Comprehensive Permit has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to a Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees; and

WHEREAS, pursuant to the terms of the Comprehensive Permit and a Regulatory Agreement of even date, recorded at said Registry in Book ____, Page _____(or as instrument/document no. _____), the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for the Nantucket County (the "Base Income") as published from time to time by the Department of Housing and Community Development of the Commonwealth of Massachusetts or successor agency ("DHCD"); and

WHEREAS, the Affordable Units will be subject to deed riders governing resale (the "Affordability Requirement") in perpetuity, or to the extent permissible by law, but in no event for a period less than 99 years; and

WHEREAS, the Project is being financed under the Federal Home Loan Bank of Boston's New England Fund ("NEF") and the NEF requires that the Developer provide the number of Affordable Units described above; and

WHEREAS, pursuant to the Comprehensive Permit, the NEF Program Guidelines and the Regulatory Agreement, the Developer may not receive profit in excess of 15% of total development costs of the Project (the "Limited Dividend Requirement"); and

WHEREAS, Pursuant to the requirements of the Comprehensive Permit and the Regulatory Agreement, the Developer has agreed to retain the Monitoring Agent to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement and compliance of the Developer with the Limited Dividend Requirement; and

WHEREAS, Pursuant to the requirements of the Comprehensive Permit and the Regulatory Agreement, the Developer has agreed that Nantucket Housing will act as the secondary monitoring agent to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement and compliance of the Developer with the Limited Dividend Requirement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Monitoring Services. Monitoring Agent and Nantucket Housing shall monitor the compliance of the Project with the Affordability Requirement and the compliance of the Developer with the Limited Dividend Requirement, as more fully described herein.

A. Limited Dividend Requirement. In accordance with Section 4 of the Regulatory Agreement, the Developer agrees to deliver to the Monitoring Agent and Nantucket Housing the Certified Cost and Income Statements, as defined in the Regulatory Agreement, at the times required thereunder. The Monitoring Agent and Nantucket Housing agrees to review the adequacy and completeness of the Certified Cost and Income Statements and determine the Developer's substantive compliance with the Limited Dividend Requirement. Upon completion of its review of the Certified Cost and Income Statement, the Monitoring Agent and Nantucket Housing will deliver to the Municipality a copy of such statement together with the Monitoring Agent's and Nantucket Housing's determination of whether the Limited Dividend Requirement has been met. If all of the units in the Project have not been sold at the time the Developer is required to deliver the initial Certified Cost and Income Statement to the Monitoring Agent and Nantucket Housing, the Monitoring Agent and Nantucket Housing will continue to review the subsequent Certified Cost and Income Statements delivered pursuant to the Regulatory Agreement and notify the Municipality until all of the units are sold and compliance with the Limited Dividend Requirement can be determined.

B. Affordability Requirement. The Developer agrees to deliver to the Monitoring Agent and Nantucket Housing the income certifications, deeds and deed riders with respect to initial sales of Affordable Units as required under the Regulatory Agreement (the "Initial Sales Data"). The Monitoring Agent and Nantucket Housing agree to review the Initial Sales Data and determine the substantive compliance of the Project with the Affordability Requirement. Upon completion of its review of Initial Sales Data, the Monitoring Agent and Nantucket Housing will deliver to the Municipality a copy of such data together with the Monitoring Agent's and Nantucket Housing's determination of whether the Affordability Requirement has been met. The Monitoring Agent and Nantucket Housing also agree to monitor re-sales of Affordable Units (including setting Maximum Re-sale Prices within fourteen days of such requests from sellers of Affordable Units, and reviewing income certifications, deeds and deed riders) for compliance

with the terms of the Regulatory Agreement and consistency with the form of deed rider attached thereto, and issuance of certifications, as appropriate, approval of re-sales and the payment of recapture amounts to the Municipality.

C. Annual Reports. The Monitoring Agent and Nantucket Housing agree to prepare and deliver annually a report (the "Annual Compliance Report") to the Zoning Enforcement Officer of the Municipality on (x) the compliance of the Developer with reporting requirements required under the Regulatory Agreement and with the Limited Dividend Requirement, and (y) compliance of the Project with the Affordability Requirement. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the Municipality against the Developer. The Monitoring Agent and Nantucket Housing shall deliver the Annual Compliance Report within 120 days of the end of each calendar year during the term of this Agreement.

D. Supplemental Monitoring Services. The Monitoring Agent and Nantucket Housing shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Project and the Developer with the Affordability Requirement and the Limited Dividend Requirement. The services hereunder shall not include any construction period monitoring. The services hereunder shall include follow-up discussions with the Developer, if appropriate, after an event of noncompliance.

2. Monitoring Services Fee. The Developer shall **not** be responsible for any costs or fees for Nantucket Housing. The Monitoring Agent shall receive a fee of $_____ from the Developer at the time of construction loan closing. Such fee shall constitute payment for the services of the Monitoring Agent with respect to compliance of the Developer with the Limited Dividend Requirement and with respect to the initial sales of the Affordable Units with the Affordability Requirement. As provided in the Deed Rider with each Affordable Unit, the Monitoring Agent shall receive a fee of three-fourths of one percent (hereinafter, the "Re-sale Fee") of the Maximum Re-sale Price regardless of whether the Affordable Unit is being sold to an Eligible Purchaser, as that term is defined in the Deed Rider, or the Municipality, or to a third party at fair market value under the provisions of Section 1(b) or 1(j) of the Deed Rider. In the event that the Property is sold for less than the Maximum Re-sale Price, the fee shall be equal to ¾ of 1% of the actual re-sale price. The Re-Sale Fee shall be paid by the Seller of the Affordable Unit at each closing as a condition precedent to closing, for the services with respect to monitoring each subsequent sales transaction for compliance with the Affordability Requirement as set forth in this Agreement. Such fee shall be payable for all transfers of Affordable Units, including those to the Municipality, an Eligible Purchaser on any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit. The Municipality shall have no responsibility for payment of any fee to Monitoring Agent hereunder. The Municipality shall be responsible for payment of any fee to Nantucket Housing hereunder.

3. Enforcement Services. In the event of serious or repeated violations of the substantive or reporting requirements of the Regulatory Agreement or a failure by the Developer to take appropriate actions to cure a default under the Regulatory Agreement, the Monitoring Agent and/or Nantucket Housing shall have the right, with the prior consent of the Municipality, to take appropriate enforcement action against the Developer, including, without limitation, legal action to compel the Developer to comply with the requirements of the Regulatory Agreement. The Regulatory Agreement provides for payment by the Developer of fees and expenses (including legal fees) of the Monitoring Agent and/or Nantucket Housing in the event enforcement action is taken against the Developer thereunder and grants to the Monitoring Agent and/or Nantucket Housing a lien on the Project to secure payment of such fees and expenses. The Monitoring Agent and/or Nantucket Housing shall be entitled to seek recovery of its fees and expenses incurred in enforcing the Regulatory Agreement against the Developer and to assert a lien on the Project to secure payment by the Developer of such fees and expenses.

In the event of a violation of the provisions of a Deed Rider, the Monitoring Agent and/or Nantucket Housing shall have the right, with the prior consent of the Municipality to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant deed rider. The form of Deed Rider will provide for payment by the unit owner of fees and expenses (including legal fees) of the Monitoring Agent and/or Nantucket Housing in the event enforcement action is taken against the unit owner thereunder and will grant to the Monitoring Agent and/or Nantucket Housing a lien on the unit to secure payment of such fees and expenses. The Monitoring Agent and/or Nantucket Housing shall be entitled to seek recovery of its fees and expenses incurred in enforcing a deed rider against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

The Monitoring Agent and/or Nantucket Housing shall not be entitled to seek any compensation or reimbursement from the Municipality in connection with the enforcement services under this Section, it being understood that the Monitoring Agent and/or Nantucket Housing shall look solely to the reimbursement rights described above for payment of the Monitoring Agent's and/or Nantucket Housing's costs and expenses. Nothing in this Agreement shall be construed to require the Monitoring Agent and/or Nantucket Housing to expend more than $20,000 in enforcing the provisions of the Regulatory Agreement or to take any particular enforcement action against the Developer.

4. Term. The term of this Agreement shall run concurrently with the term of the Regulatory Agreement, and shall terminate upon termination of the Regulatory Agreement.

5. Responsibility of Monitoring Agent. The Monitoring Agent and/or Nantucket Housing shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Successor Monitoring Agent. Should the Monitoring Agent be dissolved or become incapable of fulfilling its obligations during the term of this Agreement, the Municipality shall have the right to appoint a successor to serve as Monitoring Agent for the remaining term

of this Agreement. The Monitoring Agent shall give the Municipality at least six months written notice prior to any such dissolution or incapacity in order to allow the Municipality to locate a successor to assume the rights and obligations of the Monitoring Agent under this Agreement and the Regulatory Agreement.

7. Indemnity. The Developer agrees to indemnify and hold harmless the Monitoring Agent, Nantucket Housing and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, Nantucket Housing or the Municipality by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent, Nantucket Housing or the Municipality acting in bad faith and with gross negligence.

8. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

9. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

10. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

11. Third-Party Beneficiaries. The Municipality shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.

12. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsel for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent and Nantucket Housing acknowledges that the Monitoring Agent and Nantucket Housing are not relying on any statement, representation, warranty, covenant or agreement of any kind made by the Developer or the Municipality or any employee or agent of any of the foregoing, except for the agreements set forth herein.

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

Nantucket Homes for People, Inc.

By:_____
Title:_____

CITIZENS HOUSING AND PLANNING
ASSOCATION, INC.

By:_____
Title:_____

Nantucket Housing Authority

By: _____
Title: _____

Commonwealth of Massachusetts

Dukes County, ss

On this _____th day of_____, 2004, before me, the undersigned notary public, personally appeared_____, proved to me through satisfactory evidence, which were _____, 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 _____ of Nantucket Housing Authority.

_____

My commission expires:

Commonwealth of Massachusetts

_____County, ss

On this _____th day of_____, 2004, before me, the undersigned notary public, personally appeared Clifford J. Schorer, proved to me through satisfactory evidence, which were

_____, 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 _____ Nantucket Homes, Inc., a Massachusetts Not for Profit corporation.

_____

My commission expires:

Commonwealth of Massachusetts

Suffolk County, ss

On this _____th day of_____, 2004, before me, the undersigned notary public, personally appeared_____, proved to me through satisfactory evidence, which were _____, 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 _____ of the Citizens' Housing and Planning Association, Inc., a corporation.

_____

My commission expires:

NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Ferreira, Register of Deeds

Zoning Board of Appeals

May 11, 2016

End of packet

Part IV