

112

When Recorded Return to:
Randy Archuleta
Utah Housing Finance Agency
177 East 100 South
Salt Lake City, Utah 84111

BOOK 315

040159

PAGE 112-118

EN PT AB Ground

BK 211

RECORDED AT REQUEST OF
First General Title

1991 APR -9 PM 3:12

DONNA S. MCKENDRICK
TOLEVE COUNTY RECORDER

DEPUTY MW FEB 13th

AMENDMENT TO
LOW-INCOME HOUSING CREDIT COMMITMENT AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

This Amendment to Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants (the "Amended Agreement") is made this 27th day of March, 1991, by and between Willow Creek Apartments, a Utah limited partnership, its successors and assigns (the "Owner"), and Utah Housing Finance Agency ("UHFA"), a body politic and corporate of the State of Utah.

RECITALS

WHEREAS, Owner made application to UHFA for an allocation of 1990 low-income housing tax credits pursuant to section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), with respect to the construction or rehabilitation of that certain qualified low-income building or buildings located upon and being a part of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Project");

WHEREAS, UHFA made an allocation of 1990 low-income housing tax credits to Owner on the condition, amongst other requirements, that the Owner enter into a certain agreement with

respect to the Project to be recorded as a restrictive covenant with respect to the Project;

WHEREAS, Owner and UHFA executed a Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants, dated November 20, 1990, (the "Original Agreement"), which Original Agreement was thereafter recorded in the real property records of the County of Tooele, Utah, on November 29, 1990, Book 311, at Page Numbers 110-120;

WHEREAS, the Revenue Reconsideration Act of 1990 amended section 42 of the Code, making certain revisions with respect to the low-income housing tax credit program;

WHEREAS, paragraph 14 of the Original Agreement provides that the Original Agreement may be amended as necessary to reflect changes in the law governing the low-income housing tax credit program.

NOW THEREFORE, in consideration of the mutual premises set forth above, and based on the mutual covenants and promises set forth in the Original Agreement, and as hereinafter set forth, and such other valuable consideration the receipt and sufficiency of which is hereby acknowledged, Owner and UHFA agree as follows:

1. Paragraph 8 of the Original Agreement is hereby amended and restated in its entirety to read as follows:

8. Owner and UHFA agree that the extended use period, as used in section 42 of the Code and this Agreement, means the period beginning on the first day in the compliance period, as defined in section 42 of the Code, on which a qualified low-income building is a part of a qualified low-income housing

project and ending on the date which is 15 years after the close of the compliance period; however, notwithstanding the foregoing to the contrary, the extended use period shall terminate upon the occurrence of either of the following:

(a) On the date the qualified low-income building is acquired by foreclosure (or instrument in lieu of foreclosure), unless the IRS determines that such acquisition is part of an arrangement of the taxpayer a purpose of which is to terminate the extended use period; or

(b) One year from the date Owner submits a written request to UHFA to find a person ("qualified buyer") to acquire the Owner's interest in the low-income portion of the qualified low-income building, PROVIDED THAT (i) UHFA is unable to present during such one year period a qualified contract, as defined in section 42(h)(6)(F) of the Code, as amended, for the acquisition of the low-income portion of the qualified low-income building by any person who will continue to operate such portion as a qualified low-income building, and (ii) Owner shall not request that UHFA find a qualified buyer, and Owner hereby waives its right to do so for purposes of this paragraph 8(b) and section 42 of the Code, until the expiration of 30 years from the date the qualified low-income building is placed in service.

2. The Original Agreement is hereby amended to add at the end thereof new paragraphs 20, 21, 22 and 23 as follows:

20. Owner acknowledges that UHFA, or its delegate, is required to monitor the Project's compliance with the requirements of section 42 of the Code and the covenants of this Agreement. Accordingly, Owner agrees to request and obtain, each year, from low-income tenants, sufficient documentation to substantiate the income earned by all low-income tenants residing within a low-income unit of the Project. As a condition to leasing a low-income unit, a low-income tenant shall be required to provide sufficient documentation to substantiate

income levels of all individuals residing therein.

21. Owner shall permit, during normal business hours, upon reasonable notice, any duly authorized representative of UHFA to inspect any books and records of Owner relating to the Project and the incomes of qualifying low-income tenants. Specifically, Owner shall make available to UHFA the documentation substantiating incomes of all low-income tenants. UHFA shall notify the Internal Revenue Service ("IRS") of any non-compliance within the provisions of section 42 of the Code, or of this Agreement, of which it becomes aware.

22. Pursuant to section 42(h)(6)(B)(iii) of the Code, no portion of the Project to which this Agreement applies, may be sold, transferred or conveyed to any person unless all of the Project to which this Agreement applies is sold, transferred or conveyed to such person.

23. UHFA and Owner recognize that the provisions of section 42 of the Code may be amended from time to time. Owner agrees to maintain the Project in compliance and conformity with the requirements of section 42 of the Code, and the regulations issued thereunder, as the same are amended from time to time.

3. Except as amended herein, Owner and UHFA intend the Original Agreement to remain in full force and effect.

4. This Amended Agreement may be executed by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amended Agreement to be signed by their respective duly authorized representatives the day and year first above written.

OWNER:

WILLOW CREEK APARTMENTS, a Utah limited partnership

David E. Jones

By: Grantsville, Inc.
General Partner
By: David E. Jones
President

UHFA:

UTAH HOUSING FINANCE AGENCY

William H. Erickson

By William H. Erickson
Executive Director

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

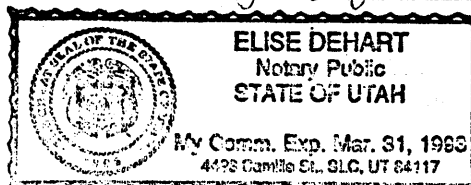
On this 27th day of March, 1991, personally appeared before me David E. Jones, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the President of Grantsville, Inc., and that the foregoing document was signed by him in behalf of Grantsville, Inc., as General Partner of Willow Creek Apartments, a Utah limited partnership, by authority of a resolution of its board of directors, and said David E. Jones acknowledged to me that said corporation executed the same.

Elise DeHart

NOTARY PUBLIC

My Commission Expires:
3-31-93

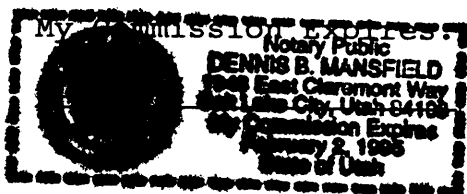
Residing at: Salt Lake



STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this 28th day of March, 1991, personally appeared before me William H. Erickson, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Executive Director of the Utah Housing Finance Agency, and that the foregoing document was signed by him in behalf of the Utah Housing Finance Agency by authority of a resolution of its board of directors, and said William H. Erickson acknowledged to me that said corporation executed the same.

Dennis B. Mansfield
NOTARY PUBLIC
Residing at: Salt Lake City, Utah.



284:030591F

EXHIBIT A

County of Tooele, State of Utah:

Lot 6, Block 21, Plat "A" Grantsville City
Survey, Grantsville City.

- 1-99-29
- 1-99-28
- 1-99-8