

9147368

WHEN RECORDED MAIL TO:  
STATE OF UTAH, OLENE WALKER  
HOUSING LOAN FUND  
324 S STATE STREET #500  
SALT LAKE CITY, UT 84114-9302

Folio 4272019

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08/16/2004 04:16 PM \$15.00  
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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
BY: SBM, DEPUTY - WI 3 P.

Space Above This Line For Recording

**DEED RESTRICTION**

SBM  
FIRST AMERICAN TITLE

THIS DEED RESTRICTION (the "Restriction") is made and effective as of the 13th Day of August, 2004 by DOMINGUEZ PARK III ASSOCIATES, L.L.C., a Utah limited liability company of the State of Utah ("Borrower"), for the benefit of the OLENE WALKER HOUSING LOAN FUND, (the "State"). For good and valuable consideration, Borrower hereby agrees as follows for the benefit of the State:

A. Property encumbered. The restriction shall be recorded against that certain real property located at 3970 South 700 West Salt Lake City, UT 84123, as more fully described as follows:

A part of the Southeast Quarter of Section 35, Township 1 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point in the West line of 700 West Street, being South 89°55'00" West 206.07 feet and North 0°02'30" West 1204.454 feet and South 89°57'30" West 33.00 feet from the Southeast corner of said Section 35; and running thence South 89°57'30" West 30.00 feet; thence South 82°21'49" West 30.27 feet; thence South 89°57'30" West 405.00 feet; thence South 0°02'30" East 32.00 feet; thence South 89°57'30" West 303.23 feet; thence North 220.19 feet; thence North 89°57'30" East 608.07 feet; thence North 0°02'30" West 50.00 feet; thence North 89°57'30" East 160.00 feet to the West line of 700 West Street; thence South 0°02'30" East 234.19 feet along said West line of street to the point of beginning.

Together with a right-of-way and utility easement described as follows: Beginning at a point South 89°55'00" West 206.07 feet and North 0°02'30" West 1168.454 feet and South 89°57'30" West 33.0 feet from the Southeast corner of said Section 35; and running thence South 89°57'30" West 465.0 feet; thence North 0°02'30" West 32.0 feet; thence North 89°57'30" East 405.0 feet; thence North 82°21'40" East 30.27 feet; thence North 89°57'30" East 30.00 feet to the West line of 700 West Street; thence South 0°02'30" East 36.0 feet along said West line to the point of beginning.

Tax Parcel No.: 15-35-400-061-0000

Said property is also known by the street address of:  
3970 South 700 West  
Salt Lake City, UT 84123

B. Nature of Restriction. The project shall carry a Deed Restriction the term of which shall run from the date of execution hereof and remain in effect during the period of affordability under Section 92.252 or Section 92.254 of 24 CFR Part 92 (HOME Investment Partnership Program) as amended from time to time, as applicable, or until the payment in full of the Trust Deed Note of like date, whichever is later. Thereby:

- (1) All Olene Walker Housing Loan Fund monies must be used to assist families whose annual incomes do not exceed 80 percent of the median family income for the area as determined by HUD, with adjustments based on family size. In addition, at least 90 percent of Olene Walker Housing Loan Fund monies used for rental housing must be used to assist families whose annual incomes do not exceed 60 percent of the median family income for the area as determined by HUD;
- (2) Rental housing will qualify as affordable only if the project:
  - (a) has at least 20 percent of the Olene Walker Housing Loan Fund assisted rental units occupied by families who have annual incomes that are 50 percent or less of median income as defined by HUD. These units must sustain the Low rents as described in the following section.
  - (b) has at least 70 percent of the Olene Walker Housing Loan Fund assisted rental units occupied by families who have annual incomes that are 60 percent or less of median income as defined by HUD. These units must sustain the High rents as described in the following section.
  - (c) has the remainder of the Olene Walker Housing Loan Fund assisted rental units occupied by families who have annual incomes that are 80 percent or less of median income as defined by HUD. These units also must sustain the High rents as described in the following section.
- (3) Every Olene Walker Housing Loan Fund assisted unit is subject to rent limitations designed to ensure that rents are affordable to low and very low income people. These maximum rents are to be referred to as HOME rents. There are two HOME rents established for projects: High HOME rents and Low HOME rents:
  - (a) High HOME rents: 80% of HOME assisted rental units must have rents that are the lesser of: The Section 8 Fair Market Rents (FMR'S) or area-wide exception rents for existing housing minus tenant paid utilities OR rents which are 30% of adjusted income for households at 65% of median income minus tenant paid utilities;

- (b) Low HOME rents: 20% of HOME assisted units must have rents which equal 30% of annual income for households at 50% of median income minus tenant paid utilities.
- (4) In projects where Low Income Housing Tax Credits are part of the financing, two sets of rent rules apply:
  - (a) Qualified tax credit units must not exceed tax credit rent limits, while HOME-assisted units must meet HOME rent requirements. If a unit is being counted under both programs, the stricter rent limit applies.
    - (1) Low HOME rent units are subject to the lower of the Low HOME rent and the tax credit rent (usually the tax credit rent).
    - (2) High HOME rent units are subject to the lower of the High HOME rent and the tax credit rent (usually the tax credit rent).
  - (b) When tenants receive additional subsidy through rental assistance programs such as Section 8, additional requirements apply.
    - (1) Under tax credit rules, if the rental assistance program rent limit exceeds the tax credit rent, the unit rent may be raised to the higher limit as long as tenants pay no more than 30 percent of their adjusted monthly income for housing costs.
    - (2) HOME allows the rent to be raised to the rental assistance program limit only if the tenant pays no more than 30 percent of adjusted income, the subsidy is project-based (not tenant-based), and tenant's income is less than 50 percent of the area median income.
    - (3) In a joint tax credit/HOME-assisted unit, the stricter HOME requirements would apply.

C. SEVERELY AND PERSISTENTLY MENTALLY ILL NON-DISCRIMINATION AGREEMENT.

- (1) Rental housing funded with assistance from the State of Utah, Department of Community and Economic Development, Division of Community Development, administrator of the Olene Walker Housing Loan Fund will be available to adults with a serious mental illness as defined in paragraph D below, who experience serious and persistent mental illness, without barrier and without screening to eliminate these individuals from tenancy and/or tenancy waiting lists.
- (2) Rental housing operators/managers shall maintain a list of Community Mental Health Centers (CMHC'S) and shall make referral information available to tenants. Availability of this information shall be demonstrated by a public posting visible to tenants.
- (3) Rental housing operators/managers shall contact the Community Mental Health Center in the catchments area(s) in which this housing exists, and establish a referral relationship with CMHV staff. This working relationship will include an understanding that the manger shall call upon CMHC staff for consultation before taking any adverse actions against tenants who appear to need mental health services. Evidence of this working relationship shall be demonstrated by existence of written agreements between the owner/operator and the appropriate CMHC, by the presence of written referral information available to operators/managers, and by their ability to name the CMHC staff with whom they work and the use of such working relationships.
- (4) Strategies shall be developed to insure access to this housing for homeless individuals referred to the operator/manager by Public Housing Authorities, Community Mental Health Centers, and Homeless Shelter staff. Evidence of compliance with this requirement shall be the submittal of written strategies for inclusion of homeless individuals, and written working agreements with the appropriate agencies and organizations. It shall also include comparative data of successful referrals into this housing.
- (5) This policy will not supersede the selection process required by HUD for units, including SRO units, assisted with mod-rehab funds.

D. DEFINITION OF ADULTS WITH A SERIOUS MENTAL ILLNESS

For epidemiological estimation pursuant to Section 1912 C of Subpart 1 of Part B of Title XIX of the Public Health Services Act, as amended by Public Law 102-321, "Adults With a Serious Mental Health Illness" are persons:

Age 18 and over

Who currently or at any time during the past year,

Have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM-III-R,

That has resulted in functional impairment in one or more major life activities

These disorders include any mental disorder listed in DSM-III-R or ICD-9 or subsequent revisions, (with the exception of DSM-III-R "V" Codes, substance use disorders, developmental disorders including mental retardation and Alzheimer's related dementias, unless they co-occur with another diagnosable mental disorder).

Examples of major life activities of daily living (eating, bathing, dressing); instrumental activities of daily living (maintaining a household, using money, using public transportation); functioning in social, family and vocational/educational contexts; and coping skills and

stress tolerance. Adults who would have met functional impairment criteria during the referenced year without the benefit of treatment or other support services are considered to have serious mental illness. Clearly, any definition of serious mental illness in adults also requires attention to cultural and ethnic norms.

**E. STANDARDIZED METHODS FOR ESTIMATION**

At the present time, practical methods that can be uniformly applied as a State-by State basis have not been developed for estimating the incidence and prevalence of "serious emotional disturbance" in children and "serious mental illness" in adults. It is anticipated that several different types of studies are or will soon be available to facilitate the development of these standardized methods. SAMHSA plans to further consult with the field to develop methods from relevant studies once final definitions of the two populations have been formulated. One potential approach to produce estimates could make use of national rates for prevalence and incidence of the two defined groups, applied to general population counts for each State. Proposed methods will be reviewed, findings compared and summarized, and any issues resolved.

**F. ADDITIONAL AGREEMENTS REQUIRED**

The Borrower has read the foregoing paragraphs C, D and E, and understands that they are to have an agreement with the local Mental Health Center, the local Homeless Shelter, the local Domestic Violence Shelter, and the local Housing Authority to serve the severely and persistently mentally ill and homeless and near homeless. SIX (6) of the units of the development are to be set aside for the severely and persistently mentally ill and the homeless and near homeless, OR ANY OTHER NUMBER OF UNITS DESCRIBED IN THE PARAGRAPH BELOW.

**G. NONCOMPLIANCE WITH DEED RESTRICTION**

If SUBRECIPIENT is found to be out of compliance with this Deed Restriction, the STATE has the option to call the Note due and payable in full. Borrower agrees that FIVE (5) units will be set aside for Special Needs (Transitional Housing, Severely and Persistently Mentally Ill, HIV/AIDS), ONE (1) units will be set aside for homeless or near homeless. A separate agreement with each agency serving the Special Needs Population must be executed between Borrower and the appropriate agency. Borrower agrees to contact each agency when a vacancy occurs, if SIX (6) units are not occupied by Special Needs tenants. In the event that the agencies do not have a qualified client who can fill a unit when it becomes vacant, the unit can be rented to a non-special needs tenant.

**H. TERM**

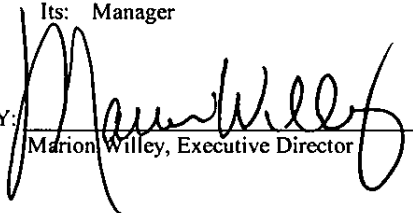
This restriction shall run with the title to the Property and shall be binding upon the successors, assigns, and beneficiaries of the parties. The project shall carry a Deed Restriction the term of which shall run from the date of execution hereof and remain in effect during the period of affordability under Section 92.252 or Section 92.254 of 24 CFR Part 92 (HOME Investment Partnership Program) as amended from time to time, as applicable, or until the Trust Deed Note of like date is paid in full, whichever is later. Upon such occurrence, this restriction shall automatically terminate without need for any other documentation, notice or recorded material. Nevertheless, Borrower and the State shall promptly cooperate together and take the actions and sign the documents that either of them deems necessary to terminate the Restriction and remove all record thereof from the title of the Property.

In witness whereof, this Note has been duly executed this 13th Day of August 2004.

DOMINGUEZ PARK III ASSOCIATES, LLC. a Utah Limited Liability Company ("Borrower")

By: DOMINGUEZ PARK III MANAGEMENT, LLC  
Its: Manager

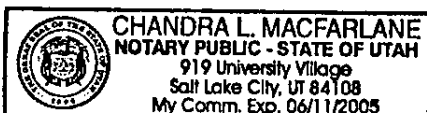
BY: UTAH NON PROFIT HOUSING  
Its: Manager

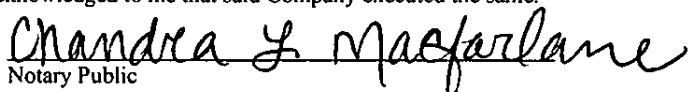
BY:   
Marion Willey, Executive Director

STATE OF UTAH )  
COUNTY OF Salt Lake )

ss:

On the 13th day of August, 2004 personally appeared before me Marion Willey, who being by me duly sworn did say that he is the Executive Director of Utah Non Profit Housing, a Utah Non Profit Corporation the Manager of Dominguez Park III Management LLC., a Utah Limited Liability Company, the managing partner of Dominguez Park III Associates, LLC., a Utah limited liability company, and that the attached instrument was signed on behalf of said Company, and said person acknowledged to me that said Company executed the same.



  
Notary Public