

Upon recording return to:

Farmington City Attorney
160 S. Main St.
Farmington, UT 84025

08-622-0503,0504

DEED RESTRICTION
Affordable Rental Housing
Park Place Apartments
Within the Park Lane Commons Development

This DEED RESTRICTION (this "Deed Restriction") is granted as of April 7th, 2023 by PARK LANE COMMONS, LLC having a mailing address of 1200 W. Red Barn Ln., Farmington, UT 84025; and PARK PLACE LIVING LLC ("Grantors"), for the benefit of FARMINGTON CITY, UTAH having a mailing address of 160 S. Main Street, Farmington, Utah 84025 (the "City"), as such Deed Restriction may be amended from time to time.

WITNESSETH:

A. Grantors hold legal title to Lots 503 and 504 of the Park Lane Commons – Phase 5 Subdivision located along Broadway between Grand Avenue and River Rock Road, and further identified as Parcel Numbers 08-622-0504 and 08-622-0503 in the Records of the Davis County Recorder's Office (referred to collectively as the "Property"), and intends to construct two separate rental housing development projects at the Property, a 30 unit complex on Lot 503 and 24 units on Lot 504. The Property is described in Exhibit A, attached hereto and incorporated by reference.

B. The Property is part of a project known as Park Lane Commons (the "Development"). The Property was developed pursuant to an Agreement under Section 10-9a-535(1) of the Utah Code, which permits the development of a certain number of moderate-income housing units as a condition of approval.

C. On February 15, 2022, the Grantors requested permission to amend the development agreement to permit for the residential development. The Farmington City Council, acting in a legislative capacity, provided approval of the request, conditioned upon the Grantors setting aside at least ten percent (10%) of the units as deed restricted affordable housing for low to moderate income households. As a condition to the approval, Grantors have agreed that this Deed Restriction be imposed upon the Property as a covenant running with the land and binding upon any successors to Grantors, as owner thereof.

D. The City is authorized to monitor compliance with and to enforce the terms of this Deed Restriction.

E. The rights and restrictions granted herein to City serve the public's interest in the creation and retention of affordable housing for persons and households of low and moderate income.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending that owners and renters of the units be bound by its terms, Grantors hereby agree that the Property shall be subject to the following rights and restrictions:

1. **Recitals Incorporated by Reference.** The foregoing recitals are incorporated by reference herein and made a part hereof.
2. **Definitions.** The following terms are defined for purposes of this Deed Restriction:
 - (a) "Affordable" means housing for which the combined rent and tenant-paid utility costs are equal to or less than thirty percent (30%) of the income for those earning eighty percent (80%) than the Area Median Income.
 - (b) "Affordable Units" means a percentage of rental units which shall be leased to those meeting the income qualifications provided in Section 5 of this Deed Restriction and are affordable to those income-qualified tenants.
 - (c) "Area Median Income" or "AMI" means a number calculated annually by the United States Department of Housing and Urban Development (HUD), which is the "middle" number of all of the incomes in the Ogden-Clearfield UT HUD Metro FMR Area, with 50% of individuals in that Area making more than that amount, and 50% making less than that amount.
 - (d) "City" shall mean Farmington City, a political subdivision of the State of Utah.
 - (e) "Household" means all related and unrelated individuals occupying a Unit as a Tenant.
 - (f) "HUD" means the United States Department of Housing and Urban Development.
 - (g) "Notice" means correspondence complying with the provisions of Section 9(b) of this Deed Restriction.
 - (h) "Reasonable Effort" means good faith efforts to advertise a Unit for rent through appropriate local means complying with the provisions of Section 6 of this Deed Restriction, including the following, at a minimum:
 1. Posting an advertisement online;
 2. Notifying the Davis County Housing Authority via e-mail; and
 3. Posting a notice of vacancy on the premises.

(i) "Tenant" means an occupant of a Unit other than an owner or operator.

3. Affordable Units

- (a) Grantors agree to set aside a total of three (3) units as Affordable Units on Lot 503 and three (3) units on Lot 504 within the Project.
- (b) Grantors are not required to identify specific physical units as "affordable units" on any designs or plans. Rather, Grantors are only obligated to rent the specified percentage of units as Affordable Units at any given time as provided for in this Agreement, for the duration of this Deed Restriction.

4. Affordability and Occupancy Requirement.

(a) This Deed Restriction shall remain in effect from the date this Deed Restriction is recorded in the Davis County Recorder's Office and continuing for a period of thirty (30) years thereafter (the "Affordability Period") unless earlier terminated in accordance with Section (9)(h) hereof.

(b) During the Affordability Period, the rents charged by Grantors for each Affordable Unit shall remain Affordable and shall be rented to an individual or household whose gross annual household income at the time tenancy was established did not exceed eighty percent (80%) of AMI, adjusted for Household size, as established from time to time by HUD.

(c) Adjustments for Household size are as follows, and consistent with the AMI for Davis County:

- 1. Studio units: Use the income limit for a one-person household.
- 2. One-bedroom unit: use the income limit for a two-person household
- 3. Two-bedroom unit: use the income limit for a three-person household
- 4. Three-bedroom unit: use the income limit for a four-person household
- 5. Four-bedroom unit: use the income limit for a five-person household

(d) The permitted rental amount includes the following:

- 1. Use and occupancy of the Unit and the associated land and facilities;
- 2. Any separately charged fees and service charges assessed by Grantors, which are required by all Tenants, but is not to include security deposits or application fees;
- 3. Utilities to include garbage collection, sewer, water, electricity, gas and other heating, cooking, refrigeration fuels, but not to include telephone service, cable television, pet deposits, pet fees, parking fees, or high-speed internet access. If a unit Tenant pays all or some of the utilities, then a "utility allowance" shall be determined as the average amount paid per month for those utilities, and the rent shall be reduced by the amount of the "utility allowance."

4. Possessory interest taxes or other fees and charges assessed for use of the associated land and facilities by a public or private entity other than Grantors.

(e) Except as provided in Section 4(a), the Property shall remain Affordable during the Affordability Period.

(f) This Deed Restriction's compliance with the affordability requirements shall be monitored and enforced by the City.

5. Income Qualifications.

(a) Except as provided in Subsection (5)(c), the Affordable Units shall at all times be occupied by Households, adjusted for Household size, earning an average of 80% AMI.

(b) Income qualification shall adhere to the following process:

1. Determine the number of adults and children (all Household members) to occupy the available unit.
2. Collect either 1040 Federal Tax Returns for the most recent year or current pay stub and/or projected income for all Household members generating income.
3. Add together the adjusted gross income for all Household members to determine the total Household income.
4. Review HUD publications to determine whether the total Household income is less than the income of a Household of the same size earning 80% AMI.

(c) Special qualification for Red Barn students and graduates. Grantors are affiliated with Red Barn Academy, a adjacent non-profit residential life-skills program helping individuals escape from addiction, criminality and homelessness. These individuals are particularly susceptible to pressures of homelessness and require additional time to establish job and credit history, in order to escape poverty. It is anticipated that some students or graduates of the Red Barn Academy may establish tenancy in the Project, including the Affordable Units. In recognition of the benefits provided by the Red Barn Academy program, the following income qualifications may be applied to students and graduates from the Red Barn Academy:

1. Rather than treating each adult occupant as a Household member, each Red Barn student or graduate is treated as a one-person Household for purposes of income qualification, even if multiple adults are residing in the unit.
2. Collect either 1040 Federal Tax Returns for the most recent year or current pay stub and/or projected income for the Red Barn student or graduate.

3. Review HUD publications to determine whether the Red Barn student or graduate's income is less than the income of a single-occupant Household earning 80% AMI.

6. Advertisement.

(a) At the time of initial occupancy, Grantors shall use Reasonable Efforts to advertise for qualified Tenants for a period of not less than thirty (30) days and shall thereafter fill the Affordable Units with income qualified applicants. Upon the occurrence of a vacancy in an Affordable Unit, Grantors shall review its wait list of qualified applicants (and may advertise for qualified Tenants if necessary to obtain a qualified Tenant).

(b) If no income qualified applicants have applied for the unit within the advertisement period, then Grantors may rent the unit to a non-income qualified Tenant for a period of one-year. If Grantors exercises this option, then upon the next vacancy in the category (studio, 1-bedroom, etc), Grantors shall engage in the advertisement period for that unit to seek an income-qualified applicant.

(c) The rental of an Affordable Unit to a Tenant who is not income qualified does not limit the applicability of this Deed Restriction in any way with respect to such Tenant's use, occupancy and subsequent lease of the Affordable Unit.

7. Enforcement.

(a) The rights hereby granted shall include the right of the City to enforce this Deed Restriction independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief against any violations including without limitation relief requiring restoration of the Property to its condition prior to any such violation (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the City. Notwithstanding the foregoing, the City may not enforce this Deed Restriction by: (i) voiding a conveyance by Grantors; (ii) terminating Grantor's interest in the Property; or (iii) subjecting Grantors to contractual liability from Tenants, such as damages, specific performance or injunctive relief.

(b) Grantors shall keep accurate and complete records of all Tenants. Grantors shall provide to the City an annual rent roll showing each Affordable Unit occupied, the name of the Tenant or Tenants, rent charged, Household gross income, and the term of the lease. The City shall have the right to audit Grantors' files annually upon thirty (30) days' advance written Notice.

(c) Each Grantor for itself and each Grantor's successors and assigns, hereby grants to the City the right to enter upon the Property, with proper prior written notice, for the purpose of enforcing the restrictions herein contained, or of taking all actions with respect to the Property, which the City may determine to be necessary or appropriate pursuant to

court order, or with the consent of each Grantor to prevent, remedy or abate any violation of this Deed Restriction.

(d) The City may delegate the responsibility of monitoring Grantors for compliance with this Deed Restriction to any not-for-profit or government organization. In no case shall this delegation result in additional fees or financial responsibilities of Grantors. Grantors agree to reasonably cooperate with any delegate of the City to the same extent as required under this Deed Restriction.

8. Covenants to Run with the Property.

(a) A copy of this Deed Restriction, as recorded, shall be provided to the Monitoring Agent and the appropriate official of the Municipality.

(b) At the expiration of the Affordability Period, either City, Grantors or a successor in interest, may record a notice of termination of this Deed Restriction without the other party's consent and acknowledgement.

(c) This Deed Restriction shall be deemed to be a requirement for the development of a certain number of moderate-income housing units as a condition of approval of a land use application, pursuant to a written agreement, as provided in Utah Code Ann. § 10-9a-535(1).

(d) Grantors acknowledge, declare and covenant on behalf of Grantors and Grantors' successors and assigns (i) that this Deed Restriction shall be and are covenants running with the land, encumbering the Property for the Affordability Period, and are binding upon Grantors' successors in title and assigns, (ii) are not merely personal covenants of Grantors, and (iii) shall bind Grantors, and Grantors' successors and assigns, and inure to the benefit of and be enforceable by the City and its successors and assigns, for the Affordability Period.

9. Miscellaneous Provisions.

(a) Amendments. This Deed Restriction may not be rescinded, modified or amended, in whole or in part, without the written consent of the current owner of the Property and the City.

(b) Notice. Any notices, demands or requests that may be given under this Deed Restriction shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, return receipt requested, or via reputable overnight courier, in each case postage prepaid and addressed to the parties at their respective addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice. All such notices, demands or requests shall be deemed to have been given on the day it is hand delivered or mailed:

Grantors:

Attn: Richard A. Haws
Park Lane Commons, LLC
1200 W. Red Barn Lane,
Farmington, UT 84025

Attn: Richard A. Haws
Park Place Living, LLC
1200 W. Red Barn Lane,
Farmington, UT 84025

City:

Attn: Community Development Director
Farmington City
160 S. Main Street
Farmington, UT 84025

(c) 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.

(d) Waiver by City: No waiver by the City of any breach of this Deed Restriction shall be deemed to be a waiver of any other or subsequent breach.

(e) Third Party Beneficiary. The City shall be entitled to enforce this Deed Restriction and may rely upon the benefits hereof.

(f) Gender: Captions. The use of the plural in this Deed Restriction shall include the singular, the singular, the plural and the use of any gender shall be deemed to include all genders. The captions used in this Deed Restriction are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the intent of this Deed Restriction.

(g) Binding Successors. This Deed Restriction shall bind, and the benefits shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns; provided, that Grantors may not assign this Deed Restriction or any of its obligations hereunder without the prior written approval of City pursuant to the terms of this Deed Restriction.

(h) Termination. This Deed Restriction may be terminated by the written, mutual consent of both Grantors and the City of Farmington, which authorization must be rendered by the City Council. If this Deed Restriction is terminated as provided in this

Section 9(h), the then-owner of the Property, or a portion thereof, or City may record a notice of such termination with the Davis County Recorder without the other party's consent and acknowledgement.

(i) Governing Law. This Deed Restriction is being executed and delivered in the State of Utah and shall in all respects be governed by, construed and enforced in accordance with the laws of said State without giving effect to any conflict of law provision or rule. Venue to resolve disputes regarding this Deed Restriction shall lie in the Second District Court of Utah, Farmington Division.

(j) Independent Counsel. GRANTORS ACKNOWLEDGE THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

[signatures appear on next page]

IN WITNESS WHEREOF, the parties hereto each caused this Deed Restriction to be duly executed and delivered by themselves or their respective duly authorized representatives as of the day and year set forth above.

GRANTOR:

[Signature]
Park Lane Commons, LLC

By: Richard A. Haws

Title: Manager

STATE OF UTAH

ss:

COUNTY OF DAVIS

In Davis County on this 20th day of April, 2023, before me personally appeared Richard A. Haws, the Manager of Park Lane Commons LLC, to me known, and known by me to be the party executing the foregoing instrument and he/she acknowledged said instrument, by him/her executed to be his/her free act and deed, in said capacity, and the free act and deed of Park Lane Commons, LLC
Park Place Living, LLC



[Signature]
Notary Public
Printed Name: Kelley Vanetti
My Commission Expires: _____

GRANTOR:

[Signature]
Park Place Living, LLC

By: Richard A. Haws

Title: Manager

STATE OF UTAH

ss:

COUNTY OF DAVIS

In Davis County on this 7th day of April, 2023,
before me personally appeared Richard A. Haws,
the Manager of Park Lane Commons LLC,
to me known, and known by me to be the party executing the foregoing instrument and
he/she acknowledged said instrument, by him/her executed to be his/her free act and
deed, in said capacity, and the free act and deed of
Park Lane Commons LLC
Park Place Living, LLC



Kelley Vanetti
Notary Public
Printed Name: Kelley Vanetti
My Commission Expires: 6/23/24

The terms of this Deed Restriction are acknowledged by:

CITY:

By: [Signature]

Name: Brett Anderson

Title: Mayor

STATE OF UTAH

ss:

COUNTY OF DAVIS

In Davis County on this 16th day of April, 2023, before me personally appeared Brett Anderson, the Mayor of the Farmington City, to me known, and known by me to be the party executing the foregoing instrument, and he/she acknowledged said instrument, by him/her executed to be his/her free act and deed, in said capacity, and the free act and deed of Farmington City.

[Signature]
Notary Public
Printed Name: DeAnn P Carlile
My Commission Expires: 4.5.24

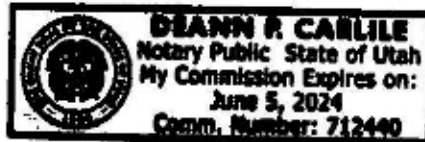


Exhibit A

Property Descriptions

Park Lane Commons, LLC Parcel:

All of Lot 503, Park Lane Commons – Phase 5

Cont. 0.49000 Acres

Park Place Living, LLC Parcel:

All of Lot 504, Park Lane Commons – Phase 5

Cont. 0.49000 Acres