

6
WHEN RECORDED MAIL TO:
STATE OF UTAH,
OLENE WALKER HOUSING LOAN FUND
324 S STATE STREET #500
SALT LAKE CITY, UT 84114-9302



W2327525

EB 2327525 PG 1 OF 5
ERNEST D ROWLEY, WEBER COUNTY RECORDER
12-MAR-08 324 PM FEE \$19.00 DEP JPM
REC FOR: NATIONAL TITLE AGENCY

Recorder's Use
Loan No. HMO939

Space Above This Line For

TRUST DEED
With Assignment of Rents

NTA-4762232-AIS
THIS TRUST DEED, made this 29th day of February, 2008, between KARA MANOR APARTMENTS LLC, a Utah limited liability company, as TRUSTOR, whose address is 223 West 700 South, Suite D, Salt Lake City, Utah 84101, and, OLENE WALKER HOUSING LOAN FUND, as BENEFICIARY, and NATIONAL TITLE AGENCY, LLC, as TRUSTEE,

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in WEBER COUNTY, State of Utah:

PARCEL1:

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT WHICH IS EAST (SOUTH 89°34' EAST) 394.00 FEET ALONG THE QUARTER QUARTER SECTION LINE FROM THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER SECTION; RUNNING THENCE EAST (SOUTH 89°34' EAST) 132.00 FEET PARALLEL TO THE SOUTH LINE OF SAID QUARTER QUARTER SECTION; THENCE NORTH (NORTH 0°22' EAST) 169.00 FEET PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER SECTION; THENCE EAST (SOUTH 89°34' EAST) 132.00 FEET PARALLEL TO THE SOUTH LINE OF SAID QUARTER QUARTER SECTION TO A POINT WHICH IS WEST 666 FEET FROM THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER SECTION; THENCE NORTH (NORTH 0°22' EAST) 324.73 FEET PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER SECTION TO A POINT WHICH IS 136.00 FEET SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF 4900 SOUTH STREET; THENCE WEST (NORTH 89°31' WEST) 132.00 FEET PARALLEL TO SAID SOUTH LINE OF STREET; THENCE SOUTH (SOUTH 0°22' WEST) 133.85 FEET PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER SECTION; THENCE WEST (NORTH 89°34' WEST) 132.00 FEET PARALLEL TO THE SOUTH LINE OF THE QUARTER QUARTER SECTION; THENCE SOUTH (SOUTH 0°22' WEST) 360.00 FEET PARALLEL TO THE WEST LINE OF NORTHWEST QUARTER SECTION TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE SOUTH 33.00 FEET THEREOF, LYING WITHIN THE RIGHT-OF-WAY OF 5000 SOUTH STREET.

PARCEL 2:

BENEFITS, EASEMENTS AND RIGHTS OF WAY GRANTED AND CREATED BY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED SEPTEMBER 28, 1972 IN BOOK 1005 AT PAGE 536, AMENDMENT RECORDED APRIL 23, 1974 IN BOOK 1051 AT PAGE 581 AND RE-RECORDED APRIL 29, 1974 IN BOOK 1052 AT PAGE 202 OF OFFICIAL RECORDS.

Tax Parcel No. 07-06~~6~~7-0026

Said property is also known by the street address of 445 West 4900 South, Washington Terrace, UT 84405

Together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with said property, or any part thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits;

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a TRUST DEED NOTE of even date herewith, in the principal sum of \$648,454.00 made by Trustor, payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained; 3) the payment of such additional loans or advances as hereafter may be made to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property, Trustor further agrees:

(a) To commence construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and

(b) To allow Beneficiary to inspect said property at all times during construction.

2. To provide and maintain insurance, of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses in favor of and in form acceptable to Beneficiary. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. To pay at least 10 days before delinquency all taxes and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including cost of evidence of title, employ counsel, and pay reasonable attorneys fees.

7. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate of ten per cent (10%) per annum until paid, and the repayment thereof shall be secured hereby.

8. Not to sell, convey, dispose, assign, or make any inter vivos transfer of the premises or any part thereof or to vest the title thereto in any other person or persons in any manner whatsoever, or to encumber said property or any part thereof or any interest therein. In the event that the Trustor dies, becomes insolvent, bankrupt, either voluntary or involuntary, or make a general assignment for the benefit of creditors, or if any proceeding for enforcement of a judgment or writ or order of attachment against the property of the Trustor or petition of relief or readjustment of indebtedness is filed by Trustor, such action shall constitute a default under the terms of this instrument and the Note it secures. In the event the Trustor defaults or undertakes any such act or agrees to undertake any act prohibited by this paragraph without written consent of the Beneficiary first obtained, such undertaking or agreement to undertake shall constitute a default under the terms of this instrument and the Note it secures, and the Beneficiary may cause the same to be foreclosed, and the premises sold, according to law and the provisions hereof; if Trustor refinances any of the prior liens on the above described property, the Trust Deed Note of even date hereof is immediately due and payable in full.

IT IS MUTUALLY AGREED THAT:

9. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefore, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

10. At any time and from time to time upon written request of Beneficiary, and presentation of this Trust Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto", and the recitals therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

11. As additional security, Trustor hereby assigns Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option.

12. Upon any default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon

and take possession of said property or any part thereof, in its own name sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

13. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

15. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

16. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given as required by law. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at 10% per annum from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

17. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including a reasonable attorney's fee.

18. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part thereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made, in the manner provided by law.

19. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the note secured hereby. In this Trust Deed, whenever the context requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

20. Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

21. This Trust Deed shall be construed according to the laws of the State of Utah.

22. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the Trustor's address set forth above.

23. Trustor has informed Beneficiary that Trustor intends that the mortgaged property qualify for an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code ("Tax Credits"). In order to receive an allocation of Tax Credits, Trustor will be required to record in the real property records of Weber County, Utah an "extended low-income housing commitment" (as defined in Code Section 42(h)(6)(B)) (the "Extended Use Agreement"). If Trustor demonstrates to the reasonable satisfaction of Beneficiary that the Utah Housing Corporation or applicable federal law requires that the lien of the Trust Deed be subordinate to the

Extended Use Agreement, then Beneficiary shall execute a subordination agreement (the "Subordination Agreement") wherein the lien of this Trust Deed is subordinated to the Extended Use Agreement. The Subordination Agreement will: (a) provide that, if Beneficiary or its successors or assigns (Collectively the "REO Owner") acquires the mortgaged property by foreclosure (or instrument in lieu of foreclosure), then the "extended use period" (as defined in Code Section 42 (h)(6)(D) shall terminate, except for the obligation of the REO Owner to comply with the limitations on evictions of tenancy and increase in rents for the three year period following the REO Owner's acquisition of the mortgaged property, as set forth in Code Section 42(h)(6)(E)(ii); and (b) otherwise be in a form reasonably acceptable to Beneficiary.

24. Lender shall mail a copy of any notice of default and of any notice of sale hereunder to Borrower at the address hereinbefore set forth, with a copy to U.S.A. Institutional Tax Credit Fund LXIII L.P., 340 Pemberwick Road, Greenwich, Connecticut 06831, with a copy to Kutak Rock LLP, 1650 Farnam Street, Omaha, NE 68102, (TRGHT) or their affiliates, successors and /or assigns. TRGHT shall have the right, but not the obligation, to cure any default of Borrower, and Lender agrees to accept cures tendered by TRGHT upon the same terms and conditions provided to Borrower.

In witness whereof, this Note has been executed on this 22nd February, 2008.

KARA MANOR APARTMENTS LLC, a Utah limited liability company
("Borrower")

By: KARA MANOR ASSOCIATES LLC,
A Utah limited liability company,
Its: Manager

BY: WESTERN REGION NONPROFIT HOUSING
CORPORATION, a Utah non-profit corporation
Its: Manager

By: Marion A. Willey
Marion A. Willey, President

STATE OF UTAH)

COUNTY OF SALT LAKE)

On the 22nd day of February, 2008, being duly sworn, Marion A. Wiley, personally appeared and said that he is the President of Western Region Nonprofit Housing Corporation, a Utah non-profit corporation, the Manager of Kara Manor Associates LLC which is the Manager of Borrower Kara Manor Apartments, LLC, and, that he signed the foregoing Trust Deed on behalf of said entities, and that said entities executed the same.

Ann E. Baker
Notary Public

