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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
BY: RDJ, DEPUTY - WI 6 F.

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

Space Above This Line For Recorder s

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DEED RESTRICTION

THIS DEED RESTRICTION (the Restriction) is made and effective as of the 31ST Day of October, 2002 by WESTGATE B.C. ASSOCIATES LLC, a LIMITED LIABILITY COMPANY Of the State of Utah (Subrecipient), for the benefit of the STATE OF UTAH OLENE WALKER HOUSING TRUST FUND, (the State). For good and valuable consideration, Subrecipient 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 264 South Foss Street, Salt Lake City, Utah, as more fully described on **Exhibit A** attached hereto and incorporated herein. That real property and all improvements constructed thereon are hereinafter collectively called the Property.

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 expiration of the Trust Deed Note of like date, whichever is later. Thereby:

- (1) All Olene Walker Housing Trust 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 Trust 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 Trust 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 Trust 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 Trust 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 Trust Fund assisted unit is subject to rent limitations designed to ensure that rents are affordable to low and very low-income people. This project requires 8 assisted units. 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) Lot 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

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- 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, Trustee for the Olene Walker Housing Trust 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, AAdults 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 AV 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 Aserious emotional disturbance in children and Aserious 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. The Subrecipient 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, and the local Housing Authority to serve the severely and persistently mentally ill. **ZERO PER CENT (0%)** of the units of the development are to be set aside for the severely and persistently mentally

iii, OR ANY OTHER NUMBER OF UNITS DESCRIBED IN THE PARAGRAPH BELOW.

G. 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. Subrecipient agrees that ZERO (0) floating units will be set aside for Special Needs (Transitional Housing, Severely and Persistently Mentally Ill, HIV/AIDS). A separate agreement with each agency serving the Special Needs Population must be executed between Subrecipient and the appropriate agency. Subrecipient agrees to contact each agency when a vacancy occurs, if ZERO (0) 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, Subrecipient 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.

THE UNDERSIGNED has caused this Certificate to be executed on the above-stated date.

WESTGATE B.C. ASSOCIATES LLC, a Utah limited liability company

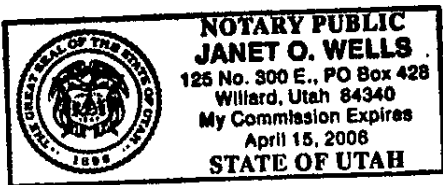
By its Manager, Westgate B.C. Management, LLC, a Utah limited liability company

By its Manager, B.C. Development Group, LLC, a Utah limited liability company

By: DOB
David Baus, Manager

STATE OF UTAH)
)
COUNTY OF Salt Lake)

On the 31 day of Oct., 2002, personally appeared before me _____, who being by me duly sworn did say that he is the Manager of the Utah limited liability company that executed the above and foregoing instrument and that said instrument was signed on behalf of said Utah limited liability company by authority of its by-laws (or by authority of a resolution of its board of directors) and said he acknowledged to me that said limited liability company executed the same.



Janet O. Wells
Notary Public
a Utah limited liability company

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EXHIBIT AB

SEVERELY AND PERSISTENTLY MENTALLY ILL NON-DISCRIMINATION AGREEMENT

Housing units funded with assistance from the State of Utah, Department of Community and Economic Development, Division of Community Development, Trustee for the Olene Walker Housing Trust Fund will be available to individuals who experience serious and persistent mental illness, without barrier and without screening to eliminate these individuals from tenancy and/or tenancy waiting lists. The definition of Adults with a Serious Mental Illness is attached.

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.

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.

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.

This policy will not supersede the selection process required by HUD for units, including SRO units, assisted with mod-rehab funds.

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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, AAdults With a Serious Mental Health Illness are persons:

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STANDARDIZED METHODS FOR ESTIMATION

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The Subrecipient has read the foregoing, and understands that they are to have an agreement with the local Mental Health Center, the local Homeless Shelter, and the local Housing Authority to serve the severely and persistently mentally ill. **ZERO PER CENT (0%)** of the units of the development are to be set aside for the severely and persistently mentally ill, **OR ANY OTHER NUMBER OF UNITS DESCRIBED IN THE ADEED RESTRICTION, B (5).**

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THE UNDERSIGNED has caused this Certificate to be executed on the above-stated date.

WESTGATE B.C. ASSOCIATES LLC, a Utah limited liability company

By its Manager, Westgate B.C. Management, LLC, a Utah limited liability company

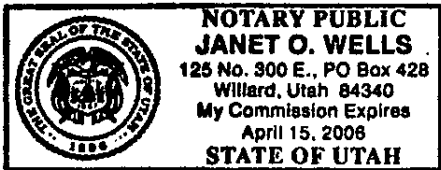
By its Manager, B.C. Development Group, LLC, a Utah limited liability company

By: [Signature]
David Baus, Manager

STATE OF UTAH)
 ss:
COUNTY OF Salt Lake)

On the 31 day of Oct., 2002, personally appeared before me David Baus, who being by me duly sworn did say that he is the Manager of the Utah limited liability company that executed the above and foregoing instrument and that said instrument was signed on behalf of said Utah limited liability company by authority of its by-laws (or by authority of a resolution of its board of directors) and said he acknowledged to me that said limited liability company executed the same.

[Signature]
Notary Public



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EXHIBIT "A "

Escrow No. **013-4028508 (jow)**

A.P.N./Tax ID: **15-03-260-012, 013 and 014, 015, 034, 035, 039**

Beginning at the Southeast Corner of Lot 1, Block 2, IRVING PARK ADDITION, Salt Lake City, Utah Survey being at the intersection of the North right-of-way line of 300 South Street and the West right-of-way line of Foss Avenue, said point being located South 89°58'07" West 33.00 feet along monumented line and North 00°04'23" West 49.00 feet from the Salt Lake City Survey Monument at the intersection of 300 South Street and Foss Avenue; running thence South 89°58'07" West 129.59 feet (129.50 feet by record) along said North right-of-way line to the Southwest corner of Lot 5 of said Block 2; thence North 00°03'58" West 455.87 feet (454.75 feet by record) along the West line of said Lot 5 and then the centerline of a vacated alley to the South boundary line of the Park Willows Condos, Parcel No. 1; thence North 89°58'19" East 129.53 feet (129.50 by record) along said South boundary line to the West right-of-way line of Foss Avenue; thence South 00°04'23" East 455.86 feet (454.75 feet by record) along said right-of-way line to the point of beginning.

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