

Commercial Security Bank  
50 South Main Suite 2000  
Salt Lake City, Utah 84144  
Attention: Steve Harley

BOOK 1421 PAGE 202

#### USE RESTRICTION AGREEMENT

This USE RESTRICTION AGREEMENT (the "Agreement"), dated October 25, 1982, by and between the UTAH HOUSING FINANCE AGENCY (the "Agency"), \* (See below), a Utah Corporation, as mortgage originator, lender and servicer (the "Assignor") and \*\* (See below), a Utah Proprietorship, as owner (the "Mortgagor") of a rental housing development known as Massey Plaza.

#### WITNESSETH:

WHEREAS, the Agency proposes to issue its Multi-Family Housing Development Bonds, 1982 Series B (Section 8 Assisted and FHA Insured Mortgage Loans)(the "Bonds") and, with a portion of the proceeds thereof, to purchase a mortgage loan ("Mortgage Loan") originated and to be serviced by the Assignor, which Mortgage Loan will have been made by the Assignor to the Mortgagor for the construction and operation of the multi-family housing development hereinafter referred to and defined as the Project; and

WHEREAS, the Agency, the Assignor and the Mortgagor have entered into and executed a Multi-Family Housing Development Agreement (the "Development Agreement") dated as of October 14 1982, specifying the terms and conditions upon which the Agency will purchase the Mortgage Loan; and

WHEREAS, the Mortgage Loan will be financed, for both the construction period and thereafter, by the Agency from the proceeds of the Bonds; and

WHEREAS, to assure the tax exemption of interest on the Bonds the parties desire to enter into this Agreement; and

WHEREAS, the Mortgagor is the legal and beneficial owner of the real property (the "Site") situated in Weber County, Utah upon which the Project will be constructed, which real property is described in Exhibit A attached hereto and incorporated herein by reference; and

NOW THEREFORE, in consideration of the premises and the mutual covenants contained in the Development Agreement and herein contained, the parties hereby agree that the Site is held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following restrictions, conditions, covenants and agreements between themselves and all future owners and purchasers of said Site and between themselves and their heirs, successors and assigns:

\*Commercial Security Bank  
\*\*H.C. and Betty P. Massey

14

Section 1. Definitions. For purposes of this Agreement, the following words and phrases shall have the following meaning:

"Code" means the Internal Revenue Code of 1954, as amended and all regulations promulgated thereunder.

"HUD" means the Department of Housing and Urban Development of the United States of America.

"Individuals of Low and Moderate Income" shall be determined by the Secretary of the Treasury in a manner consistent with regulations promulgated by the Department of the Treasury under Section 103 of the Code published October 15, 1982 in the Federal Register.

"Project" means the multi-family housing development to be constructed by Mortgagor in Ogden, Utah consisting of 10 Elderly & 12 Family units.

"Qualified Project Period" means the period beginning on the first day on which 10 percent of the Units in the Project are occupied and ending on the later of--

(i) the date which is 10 years after the date on which 50 percent of the Units in the Project are occupied,

(ii) the date which is a "qualified number" of days after the date on which any of the Units in the Project are occupied, or

(iii) the date on which any assistance provided with respect to the Project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of clause (ii), the term "qualified number" means 50 percent of the number of days which comprise the term of the Bonds with the longest maturity. In the case of a refunding of the Bonds, the longest maturity is equal to the sum of the period the Bonds were outstanding and the longest term of any refunding obligations.

"Unit" means any separate accommodation containing complete facilities for living, sleeping, eating, cooking, and sanitation.

Section 2. Restrictive Covenants. The parties hereto covenant and agree that:

(a) Once available for occupancy, each Unit in the Project will be rented or available for rental on a continuous basis to members of the general public during the

longer of (a) the remaining term of the Bonds or (b) the Qualified Project Period.

(b) At all times during the Qualified Project Period 20 percent or more of the completed Units in the Project will be rented and occupied by Individuals of Low or Moderate Income. For this purpose, a Unit occupied by an individual or family who at the commencement of the occupancy is of low or moderate income is treated as occupied by such an individual or family during their tenancy in such Unit, even though they subsequently cease to be of low or moderate income. Moreover, such Unit is treated as occupied by an individual or family of low or moderate income until reoccupied, other than for a temporary period, at which time the character of the Unit shall be redetermined. In no event shall such temporary period exceed 31 days.

Section 3. Violations of the Restrictions. Upon violation of any of the provisions of this Agreement by Mortgagor or any owner of the Site, the Agency, at its option, may apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against any violation of this Agreement, or for such other relief as may be appropriate, since the injury to the Agency arising from the default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain. However, enforcement of this covenant will not result in any claim against the mortgaged property, the mortgage proceeds, any reserve or deposit made with the mortgagee or another required by the Secretary of HUD in connection with the mortgage transaction, or against the rents or other income from the mortgaged property for payment hereunder.

Section 4. Persons Bound by These Restrictions. All covenants and restrictions herein stated shall run with the land and shall be binding upon Mortgagor, its successors and assigns (including lessees and sublessees of the Project) and all owners, purchasers or occupants thereof shall by acceptance of contracts or deeds be conclusively deemed to have consented and agreed with the present and future owners of said Site and with his or their successors and assigns to conform to and observe the covenants, restrictions and stipulations herein contained for a period from the date hereof until the first to occur of the following:

(a) the expiration of the applicable period set forth in Section 2 hereof; or

(b) the involuntary noncompliance caused by fire, seizure, requisition, change in a federal law or an action of a federal agency which prevents the Agency from enforcing

the requirements of this Agreement, or condemnation or similar event; provided that the Mortgage Loan has been fully paid and discharged. However, in the event of foreclosure or deed-in-lieu of foreclosure of the Mortgage (as hereinafter defined), this Agreement and the covenants hereunder shall automatically terminate.

Section 5. Severability. Invalidation of any one or any portion of any one of the covenants and restrictions contained herein by judgment or court order shall in no wise affect any of the other provisions hereof, which shall remain in full force and effect.

Section 6. Effect of Waiver or Breach or Failure to Enforce. Each and all of the covenants, conditions, restrictions and agreements contained herein shall be deemed and construed to be continuing. It is understood and agreed by and between the parties hereto that no waiver of a breach of any of the covenants, conditions, restrictions, and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions, and agreements; nor shall failure to enforce any one of such restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restriction or condition.

Section 7. Amendment. This Agreement may be amended to reflect changes in Section 103(b)(4)(A) of the Code and the regulations promulgated thereunder subject to the prior written approval of HUD.

Section 8. Subordination of Agreement. This Agreement and the covenants hereunder are subordinate to the mortgage (the "Mortgage") executed by the Mortgagor in conjunction with the Mortgage Loan. In the event of foreclosure or deed-in-lieu of foreclosure of such Mortgage, this Agreement and the covenants hereunder will automatically terminate.

DATED the day and year first above written.

"MORTGAGOR"

By HC Massey Betty P. Massey  
title: \_\_\_\_\_

"ASSIGNOR"

By Stewart Earl Gouley  
title: Asst. Vice President

"AGENCY"

By Rick D. Burtenshaw  
title: Executive Director

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

On the 26th day of October, 1982, personally appeared before me Rick D. Burtenshaw, who being by me duly sworn did say, that he the said Rick D. Burtenshaw is the Executive Director of the Utah Housing Finance Agency, and that the within and foregoing instrument was signed in behalf of said agency by authority of a resolution of its Board of Directors, and said Rick D. Burtenshaw acknowledged to me that said agency executed the same.

Tanya M. Sargent  
NOTARY PUBLIC

My Commission Expires:  
1-13-86

Residing In:  
Salt Lake City Utah



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

On the 26th day of October, 1982, personally appeared before me Steven Kent Earley, who being by me duly sworn did say, that he the said Steven Kent Earley is the Asst. Vice Pres. of Commercial Security Bank, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said Steven Kent Earley acknowledged to me that said corporation executed the same.



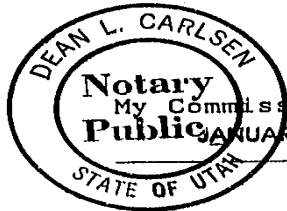
Mary Low Kenworthy  
NOTARY PUBLIC

My Commission Expires:  
April 1, 1983

Residing In:  
Ogden, Utah

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

On the 21st day of March, 1983, personally appeared before me H.C. Massey & Betty P. Massey, who being by me duly sworn did say, that he the said H.C. & Betty P. Massey the Mortgagor, and that the within and foregoing instrument was signed ~~in behalf of said~~ and said Mortgagor acknowledged to me that ~~he~~ they executed the same.



Dean L. Carlson  
NOTARY PUBLIC

My Commission Expires:  
JANUARY 24, 1984

Residing In: Liberty, Utah

EXHIBIT "A"  
LEGAL DESCRIPTION OF PROPERTY  
MASSEY PLAZA  
Ogden, Utah  
Weber County  
Section 221(d)(4)

04-042-00017X  
PARCEL A

Part of Lots 35 and 12, Block 10, South Ogden Survey, Ogden City Survey:

Beginning at a point 122.2 feet East and 231 feet South of the Northwest corner of said Lot 35 and running thence North 0°58' East 151.5 feet, thence North 89°02' West 114.35 feet, thence North 0°58' East 79.5 feet to South line of 28th Street, thence North 89°02' West 38.00 feet, thence South 0°58' West 231.00 feet, thence South 89°02' East 152.35 feet, more or less, to the West line of Lincoln Avenue and point of beginning.

PARCEL B

01-006-00051  
0061  
Part of Lot 3, Block 6, Plat A., Ogden City Survey:

Beginning at the Northwest corner of Lot 3 and running thence South 89°02' East 66.6 feet, thence South 0°58' West 33.00 feet, thence North 89°02' West 0.6 feet, thence South 0°58' West 157.00 feet, thence North 89°02' West 0.44 feet, thence South 0°58' West 140.00 feet to the South line of Lot 3, thence North 89°02' West 63.50 feet, thence North 0°58' East 165.00 feet, thence North 89°02' West 2.06 feet, thence North 0°58' East 165.00 feet to point of beginning.

BOOK 1421 PAGE 209

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DOUG BERTS  
WEBER COUNTY RECORDER  
DEPUTY

*Sharon Magrino* 11/00

MAR 22 11 31 AM '00

FILED AT

*Weber Title*

PLATED  
ENTERED

VERIFIED  
 MICROFILMED

*[Handwritten mark]*