

87019

K-33203
HOUSING DIVISION
STATE OF OREGON

Vol. ^m 80 Page 13279

REGULATORY AGREEMENT
Multi-Unit Housing Development

THIS AGREEMENT is made and entered into this 17 day of July, 1980, by and between Robert J. Bogatay, an Oregon individual, located at P.O. Box 493 Klamath Falls, Oregon (hereinafter referred to as "Borrower"), and the Housing Division, Department of Commerce, State of Oregon, having its principal office at 102 Labor and Industries Building, Salem, Oregon 97310 (hereinafter referred to as the "Division").

RECITALS:

Borrower is a qualified housing sponsor in accordance with the provisions of the Housing Division, Department of Commerce, State of Oregon, legislation, ORS 456.550 to 456.720, as amended (hereinafter referred to as "Act"); and

Borrower, as the owner in fee simple of the property described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property"), has applied to the Division for a loan in the amount of One Million One Hundred Seven Thousand Three Hundred---(\$1,107,300.00) Dollars (hereinafter referred to as the "Loan") to aid the Borrower in the construction and financing on the Property of a housing development for persons and families of or below median income, pursuant to the provisions of the Act, identified as Development No.

OR16-H029-103 (which housing development, including the Property and all assets of whatsoever nature situate, used in or owned by the business conducted on the Property, is herein referred to as the "Development"), in accordance with the Drawings and Specifications forming a part of that certain Construction Contract and General Conditions, herein referred to as "Construction Documents" which are incorporated herein by this reference, relating to the Development; and

The Division is willing to make the Loan in accordance with that certain Trust Deed, of even date herewith, between Borrower and the Division, but only on condition that the Borrower fulfill the terms of this Agreement; and

Borrower is willing to execute and abide by this agreement as a condition of obtaining the Loan and receiving continuing benefits under the Act;

In consideration of the foregoing recitals, it is hereby agreed by and between the parties hereto and their respective permitted successors and assigns, as follows:

SECTION 1. PAYMENTS: The Borrower shall promptly make, or cause to be made, all payments due under the Trust Deed Note and Trust Deed, which evidence and secure the Loan.

SECTION 2. HOUSING ASSISTANCE PAYMENTS: In the event that the Development is to receive the benefit of Housing Assistance Payments under Section 8 of the U.S. Housing Act of 1937, 42 USC 1437 et seq., together with amendments thereto (hereinafter referred to as "Section 8") and the regulations thereunder (CFR Title 24, Chapter VIII, Part 83), together with amendments thereto (hereinafter referred to as "Regulations" of the Secretary of the United States Department of Housing and Urban Development (hereinafter referred to as "Secretary"): the Borrower, contemporaneously with the execution and delivery hereof, shall execute and deliver to the Division:

- (a) An Agreement to Enter Into Housing Assistance Payments Contract (in a form approved by the Secretary and the Division); and
- (b) An Agreement to Enter Into Pledge Agreement (in a form approved by the Secretary and the Division).

The Borrower further agrees, in the event it is to be the recipient of said Housing Assistance Payments, that upon completion of the Development, it will execute and deliver to the Division a Housing Assistance Payments Contract and Pledge Agreement in a form in compliance with the Regulations and approved by the Secretary and the Division.

SECTION 3. RENTAL RATES AND OPERATION EXPENSES:

- (a) The Borrower shall establish and maintain with respect to those units in the Development which receive the benefit of Housing Assistance Payments under a Housing Assistance Payments Contract in effect between the Borrower, the Division

ACCEPTED:

[Signature]
(OFFICIAL)

80 JUL 17 AM 11 46

and the Secretary, such rental rates as are from time to time approved by the Division and Secretary in the manner set forth in such Housing Assistance Payments Contract.

(b) The Borrower agrees to establish such rental rates for those dwelling units in the Development which are not the subject of housing assistance payments as are from time to time directed by the Division in writing or which are approved by the Division in writing upon application by the Borrower.

(c) The Borrower shall submit a proposed schedule of rental rates and a proposed operating budget for the Development to the Division at least once per year and not less than sixty (60) days prior to the beginning of each fiscal year of the Borrower. The proposed operating budget shall set forth the anticipated income of the Development and a detailed estimate of expenses in conformance with the Operating Receipts and Expense Account (as hereinafter defined), which will include separate documentation of administration expenses, operating expense, maintenance expense, utilities, hazard insurance, taxes and assessments, loan principal and interest, as well as anticipated aggregate deposits to the Residual Receipts Account and Replacement Cost Reserve Account (as hereinafter defined), and deposits to any other reserves which are required and approved by the Division, or established by the Division or by the Borrower with the approval of the Division. The proposed schedule of rental rates shall be sufficient to meet all items set forth in the proposed operating budget. Upon approval by the Division, and the Secretary, when applicable, such proposed schedule of rental rates and proposed operating budget shall be effective for the next ensuing fiscal year of Borrower. The Division approval of the proposed schedule of rental rates and operating budgets shall not be unreasonably withheld, and the Division shall review the rates and budget for approval in a timely manner.

(d) It is understood and agreed to by the Borrower that this Regulatory Agreement constitutes an assurance and undertaking by the Borrower that the Development shall be operated, and all Operating Expenses as hereinafter defined (excluding specifically Loan principal and interest) shall be paid by the Borrower during the life of this Agreement, even in the event that an Operating Expense deficit should occur; and that the Borrower shall maintain the Development, accommodations, ground and equipment appurtenant thereto in good condition. It is further mutually understood that it is the intention of the Division to approve rental increases for the purpose of providing additional income for Operating Expenses to the extent the Division, in its sole discretion, deems such rental increases to be justified because of increases in Operating Expenses beyond the control of the Borrower.

(e) Initial rental rates: unless otherwise directed or approved by the Division, the rental rates for initial occupancy of the Development shall be as provided in the Financial Analysis, as set forth in Exhibit B attached hereto and by this reference made a part hereof.

SECTION 4. ACCOUNTS AND FUNDS:

(a) Operating Receipts and Expense Account

1. The Borrower shall establish and maintain, or cause to be established or maintained, an Operating Receipts and Expense Account with a depository approved by the Division pursuant to a Management Agreement approved by the Division. All rents and other receipts of the Development shall be deposited in the name of the Borrower and the Development. The Borrower shall, upon collection of all Development receipts from whatever source derived from the operation of the Development, including all receipts of the Development from the date of the Commitment Letter to the date of this Agreement, hereinafter referred to as "Operating Receipts", forthwith deposit the same in the Operating Receipts and Expense Account. Thereafter, on a monthly basis the Borrower shall pay, or cause to be paid, in a timely manner out of Operating Receipts of the Development, in the order of priority set forth below unless otherwise directed by the Division, at its sole option, in writing:

(i) First, the fee of the Development's managing agent as set forth in the Management Agreement between the Borrower and said managing agent; then all of the real estate tax and insurance premium escrow payments required of the Borrower, which payments shall be deemed to be part of the "Operating Expenses" of the Development for the

ACCEPTED:


(INITIAL)

purpose of this Agreement; then all remittances, if any, due to the Secretary as required by the Housing Assistance Payments Contract; then all remaining "Operating Expenses" of the Development (which specifically exclude the Loan principal, interest and annual fee payments), including, but not limited to, taxes other than those for which an escrow payment is required under the Loan, maintenance, fuel, management, water and sewage, administration, electricity, legal, audit and all other current expenses approved by the Division, unless other funds for payment are set aside or deferment of payment has been approved by the Division; then all of the amortized principal, interest and annual fee payment required to be paid to the Division by the Note and Loan; then all amounts required to be deposited with the Division or its designated depository in the Replacement Cost Reserve Account, as hereafter defined; then, pursuant to the terms of Section 10 of the Agreement, the dividend payments.

(ii) In the event the Operating Receipts are inadequate, from time to time, to pay the Operating Expenses, it is understood and agreed that notwithstanding the obligation of the Borrower to pay all Operating Expenses as herein provided, the Division shall permit a disbursement from the Residual Receipts Account, as provided herein, and/or a disbursement from or exhaustion of the Contingency Escrow Reserve and Escrow Account, to pay such expenses before requiring the Borrower to pay such expenses pursuant to the provisions of this Agreement.

2. The Borrower is further required to segregate or cause to be segregated (i) all occupant security deposits, to be held in a depository account (hereinafter referred to as the "Security Deposit Account"); and (ii) an amount equal to the aggregate of all special funds required by the Borrower and/or the Division to be maintained by or with respect to the Development; and (iii) that portion of rental income, if any, which must be remitted to the Secretary in accordance with the Housing Assistance Payments Contract.


(b) Reserve Fund. The Borrower shall establish the following accounts:

1. Residual Receipts Account: This Account shall be established and maintained by the Division for the financial benefit of the Development. Residual Receipts are those sums remaining, if any, after all the required Division-approved disbursements under Section 4(a)(1) of this Agreement. These Residual Receipts shall be remitted to the Division in a timely manner, upon the request of the Division at such times as the Division shall designate to the Borrower, to be invested and reinvested by the Division for the financial benefit of the Development, and, from time to time, in the sole discretion of the Division, these funds may be utilized for the payment of the Development's Operating Expenses and such other costs and expenses as approved by the Division and, if necessary, upon delinquency of the Note, may be applied to the payment of the Loan, first to interest and then to principal. It is the intention of the Division, however, that in the event Operating Receipts are not sufficient, from time to time, to pay for Operating Expenses, this Account, if funded, shall be fully exhausted prior to disbursing from other funds as established by this Agreement and prior to requiring the Borrower to so pay the current deficit of said Operating Expenses. In the event there are no Operating Expenses deficits nor Loan delinquencies, the Division may, in its sole discretion, apply such funds, if any, upon notice to and consultation with the Borrower, for the general benefit of the Development.

2. Contingency Escrow Reserve Account: Owner agrees, at the time of Loan closing, either:

(i) To deposit with the Division or an approved depository cash in the amount of Thirty-three Thousand Two Hundred Nineteen---- (\$ 33,219.00) Dollars, constituting an amount equal to 3 % of the initial principal amount of the Loan, said funds to be held by the Division in a Contingency Escrow account as further described below. Said funds shall not be derived from the proceeds of the Trust Deed and shall be held by the Division from the time of deposit until the date which is three (3) years after the final closing of the Loan, unless sooner disbursed as herein provided.

ACCEPTED:


(INITIAL)

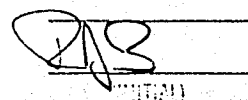
shall be invested and reinvested by the Division and the proceeds thereof added to the account; and said funds may be applied by the Division, in its sole discretion, to the payment of the current and delinquent Operating Expenses of the Development, to maintain the Replacement Cost Reserve, to pay delinquent principal and interest payments required to be paid to the Division by the Trust Deed Note and Trust Deed, or otherwise to cure any breaches of the obligations of the Borrower reflected in Agreements between the Borrower and the Division. Borrower shall have 48 hours to cure any default after written notice prior to disbursement by the Division from this fund. At the end of one (1) year following the final closing of the Loan, the Division will return to the Borrower the amount, if any, by which the then remaining balance of said account exceeds two-thirds (2/3) of the sum originally deposited. At the end of two (2) years after the final closing, the Division will return to the Borrower the amount, if any, by which the then remaining balance of said account exceeds one-third (1/3) of the amount of the original deposit. At the end of the third year after final Loan closing, the balance of said account, if any, shall be returned to the Borrower, provided, however, that no amount shall be returned at any time if, in the sole discretion of the Division, it is determined that a ready source of funds may be needed to meet any contingencies as outlined above;

or

(ii) To deliver to the Division an unconditional and irrevocable Letter of Credit, in a form, and from a financial institution, acceptable to the Division, in favor of the Division, in the amount of Thirty-three Thousand Two Hundred Nineteen---- (\$ 33,219.00) Dollars, constituting an amount equal to 3 % of the initial principal amount of the Loan. The Division may, in its sole discretion, draw against said Letter of Credit and receive funds up to the total amount thereof, as set forth above, for the purposes set forth in Paragraph 2(i) above; Borrower shall have 48 hours to cure any default after written notice prior to the Division's application for funds to the financial institution. The Letter of Credit shall be effective on the date of initial closing and shall expire three (3) years after the date of final closing of the Loan (hereinafter called the "Terminal Date"). In the event that the Borrower is unable to obtain a Letter of Credit for said period of time, the Division will consent to the delivery by Borrower of successive unconditional and irrevocable Letters of Credit, each Letter having a term of not less than one (1) year, to be in force and effect without interruption through and including the Terminal Date, each such Letter to be in a form and from a financial institution acceptable to the Division, the first Letter to be in the amount set forth above and to be delivered at the initial closing of the Trust Deed Loan, and succeeding Letters to be in the amounts provided below; and provided, further, that in the event the Borrower shall elect to so deliver successive Letters of Credit, the Borrower shall, and by this Agreement hereby does, unconditionally consent to the Division's right and privilege, in its sole option and discretion, to draw and receive funds up to the full amount of each Letter of Credit at any time during the last three (3) business days for which each said Letter of Credit is effective, unless, prior to said three (3) business day period, Borrower shall deliver to the Division a renewal of said Letter of Credit for an additional period of not less than one (1) year, or unless the Terminal Date shall occur during the effective term of the then outstanding Letter of Credit. It is the intent of this Agreement that, in the event the Borrower elects to deliver a Letter or Letters of Credit as provided in this Paragraph 2(ii), in lieu of a cash deposit, the Division shall at all times prior to the Terminal Date have on deposit an unexpired Letter of Credit, subject to the provisions for drawing thereon by the Division and renewal by Borrower as set forth above in the amounts as provided below; or that said Letters shall have been drawn by the Division, as provided herein.

The Contingency Escrow Reserve Account shall not be funded from the Operating Receipts and Expenses Account.

ACCEPTED:



Upon the date which is one (1) year after the date of Loan closing, the amount of the Borrower's Letter of Credit shall be reduced from the amount set forth above to the lesser of: (a) Two-thirds (2/3) of the amount of the original Letter of Credit, or (b) the then remaining balance of said Letter of Credit. At the end of two (2) years from the date of Loan closing, the Borrower's Letter of Credit shall be reduced to the lesser of: (a) One-third (1/3) of the amount of the original Letter of Credit, or (b) the then remaining balance of said Letter of Credit. At the end of the third year from the date of Loan closing, if the terms hereof are fulfilled by the Borrower, the Letter of Credit shall be returned to it upon expiration, provided, however, that the amount of the Borrower's Letter of Credit shall not be reduced, if at any time in the sole discretion of the Division, it is determined that a ready source of funds may be needed to meet any contingencies as outlined above. It is specifically herein agreed by the Division that in the event the Division shall draw the balance of any Letter of Credit herein required as a result of Borrower's failure to renew said Letter in accordance with the terms for renewal set forth above, the said funds shall be held by the Division in the Contingency Escrow Account as described above, said funds to be invested and reinvested by the Division for the benefit of the Account, and applied in accordance with the terms of this Agreement, and, if not disbursed, returned to the Borrower, together with accrued interest, in the annual increments and upon the Terminal Date as provided above.

3. Replacement Cost Reserve Account: This Account shall be established by the Division concurrently with the commencement of amortization of the principal amount of the Loan, by depositing to such reserve account with the Division or in a depository designated by the Division the amount of Five Hundred Twenty-eight & 33/100 (\$528.33) Dollars per month or 4.1 % of gross monthly operating receipts, unless a different date of amortization or a different amount per month to be deposited in this Account is approved or directed in writing by the Division. This Account shall include a reserve for painting and decorating, in addition to a reserve for replacement costs. This Account, whether in the form of a cash deposit or reinvestment in obligations of or fully guaranteed as to principal by the United States of America, shall at all times be under the control of the Division. Disbursements from this Account shall be for the purpose of effecting replacement of structural elements and mechanical equipment of the Development, for painting and decorating, or for any such purpose for the benefit of the Development as the Division shall, in its discretion, direct. In the event of a default in the terms of the Trust Deed, pursuant to which the Loan has been accelerated, the Division may apply or authorize the application of the balance in such Account to the amount due on the Loan as accelerated.

SECTION 5. TAXES AND INSURANCE ESCROW: Pursuant to the terms of that certain Trust Deed of even date herewith, monthly payments by the Borrower to pay for real estate taxes and insurance premiums when due as required by the Trust Deed will be collected and held by the Division or its appointed agent in a segregated escrow for the payment thereof.

SECTION 6. MANAGEMENT: The Borrower shall provide for the management of the Development in a manner satisfactory to the Division and in accordance with a Management Agreement approved by the Division or any subsequent management agreement executed by the Borrower with the Division's approval. The Borrower shall not amend, modify or terminate said Management Agreement or enter into any other management agreement without the express, written consent of the Division, which consent shall not be unreasonably withheld. Any management agreement entered into by the Borrower involving this Development shall contain a provision that it shall be subject to termination in the sole discretion of the Division, without penalty and with cause, upon written request by the Division addressed to the Borrower. Upon receipt of such request, the Borrower shall terminate the contract in the manner provided by its terms and conditions and make arrangements satisfactory to the Division for continuing management of the Development within 30 days or such extended period as the Division may in its discretion grant. Failure to so terminate the Management Agreement and make such satisfactory arrangements within the required time period shall constitute an event of default.

SECTION 7. TENANT QUALIFICATIONS: The Borrower covenants and agrees that no person or family has been approved or shall be approved by the Borrower for occupancy unless all of the following conditions shall have been met at the time of such approval:

- (a) The person or family is a low or below median income person or family as defined by the Act and the Division's Rules and Regulations promulgated pursuant thereto, or otherwise approved by the Division in accordance with the Act, and the Division's Rules and Regulations; and
- (b) Such person or family shall have executed and delivered to the Borrower, on forms prescribed by the Division and, where applicable, the Secretary, a certification of such person's or family's income; and
- (c) The Borrower shall have delivered to the Division true and correct copies of such person's or family's application for occupancy and certification of income.

SECTION 8. AFFIRMATIVE COVENANTS OF BORROWER: The Borrower covenants and agrees:

- (a) That, without discrimination as to race, color, creed, religion, national origin, sex, marital status, age or status with regard to public assistance or disability, (i) occupancy of the Development shall be open to all persons, and (ii) all contractors and subcontractors engaged in the construction of the Development shall be required by contract to provide an equal opportunity for employment to all persons;
- (b) That the Borrower shall give preference for occupancy to the elderly and those displaced by urban renewal, slum clearance and other governmental actions;
- (c) That the Borrower shall require all occupants to execute a lease in a form prescribed or approved by the Division and shall not rent any unit in the Development for a leased term of less than one year, provided that such leased terms may be renewed by the Borrower for qualified occupants;
- (d) That in selecting occupants, the Borrower shall not discriminate against any person or family by reason of the fact that there are children in the family, unless the apartment unit has been specifically approved by the Division for occupancy by elderly persons only;
- (e) That commercial facilities located in the Development, if any, will be rented at not less than the rental prescribed or approved by the Division, and all such commercial rental and lease agreements are subject to the prior approval of the Division;
- (f) That, if the Development is to receive the benefits of housing assistance payments, the Borrower shall exercise all of its rights and perform all obligations and observe all terms, provisions and covenants on its part to be performed and observed under the Agreement to Enter Into Housing Assistance Payments Contract (hereinafter referred to as "Agreement"), Agreement to Enter Into Pledge Agreement, Housing Assistance Payments Contract (hereinafter referred to as "Contract"), and Pledge Agreement referred to in Section 2 hereof, so as at all times to be and remain eligible to receive the optimum benefits under the HUD Housing Assistance Payments Program as set forth in Section 8 of the United States Housing Act of 1937, 42 USC 1437, et seq., and the regulations promulgated thereunder. It is expressly agreed that the Borrower's default under such agreements shall be a default under this Regulatory Agreement. It is further agreed that in the event of a conflict between the terms and conditions of this Regulatory agreement and the Agreement or the Contract, the terms of the Agreement or the Contract shall prevail and control;
- (g) That payment for services, supplies or materials for the Development shall not exceed the amount ordinarily paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials are furnished;
- (h) That the Borrower shall at all times maintain books, contracts, records, documents and other papers relating to the Property and the Development in reasonable condition for proper audit. The Property, the Development and all such books, contracts, records, documents and other papers shall be subject to inspection and examination at any reasonable time by the Division or its authorized agents;
- (i) That within sixty (60) days following the end of each fiscal year, the Borrower shall furnish to the Division a complete financial statement, based upon an examination of the books, records, and accounts of the Borrower, and certified by an independent certified public accountant acceptable to the Division, setting forth the financial condition of the Borrower as of the end of such fiscal year, the results of operation of the Development for such fiscal

ACCEPTED:

year, and such other financial information as the Division may reasonably request;

(j) That, at the request of the Division at any time, and from time to time, the Borrower shall furnish to the Division monthly occupancy reports and shall provide specific information relating to the income, assets, liabilities, contracts, operation and condition of the Property and the Development, of residents of the Development, and of the status of the Loan. When requested by an authorized officer of the Division at any time, the Borrower agrees to obtain and verify recertifications of income and other criteria of eligibility from residents of the Development;

(k) That the Borrower shall obtain and maintain in force insurance of such types and in such amounts as the Division may from time to time require in writing. All such policies of insurance shall be endorsed with a standard mortgagee clause with loss payable to the Division, or show the Division as named insured, as the Division may direct, and shall be issued by companies qualified to do business in the State of Oregon and acceptable to the Division, shall provide that the Division shall be given not less than thirty (30) days' advance written notice of the cancellation, expiration or termination of the policy, or any material change in the coverage afforded thereunder. The originals of such policies shall be deposited with the Division;

(l) That all rents and other receipts of the Development shall be deposited in the Operating Receipts and Expense Account and in the name of the Borrower in accordance with the terms provided herein. The person or entity receiving funds of the Development as specified in the Management Agreement shall immediately deposit such funds in such Operating Receipts and Expense Account; and failing to do so, in violation of this Regulatory Agreement, the said person or entity shall hold such funds in trust for the benefit of the Development and the Division. Such funds deposited in the Operating Receipts and Expense Account shall be withdrawn only in accordance with the provisions of this Regulatory Agreement. In accordance with the above, those rents, if any, collected by the Borrower prior to final closing of the Trust Deed shall be deposited in the Operating Receipts and Expense Account for disbursement in the manner provided herein;

(m) That the Borrower shall comply with all applicable provisions of the Act and of the Rules and Regulations promulgated pursuant thereto; and

(n) That Trust Deed Loans shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.

SECTION 9. NEGATIVE COVENANTS OF THE BORROWER: The Borrower covenants and agrees that it shall not, without the express prior written approval of the Division:

(a) Sell, lease (except as to individual units), convey or otherwise transfer or encumber any of the Development or the Property, or permit such sale, lease, conveyance or other transfer or encumbrance of the Development or the Property or any portion thereof, except as provided in the Trust Deed;

(b) Sell, assign, dispose of, or otherwise transfer or encumber any personal property of the Development, including rents, or pay out any funds except for reasonable operating expenses and necessary repairs as provided herein;

(c) Permit the sale, conveyance, assignment or other transfer of any interest of any general partner in a partnership owning the property, or a 10% interest in any class of equity security of a corporation owning the property or any right to manage or receive the rents and profits from the Property or the Development; transfers by more than one party of interest aggregating to the amounts set forth immediately above or any other similarly significant change in the ownership of interest in the Borrower or in the relative distribution thereof, shall be prohibited by this subparagraph without the express written consent of the Division;

(d) Remodel, add to, reconstruct or demolish any part of the Property or the Development;

(e) Effect changes in the rental rates for dwelling units in the Development established pursuant to the provisions of Section 3 of this Agreement;

(f) Require, as a condition of the occupancy or leasing of any unit in the Development, any consideration or deposit other than the prepayment of the month's rent plus a security deposit in an amount not in excess of one-half of

ACCEPTED:

203

one month's rent or, in the event of a unit qualifying for housing assistance payments, security deposit not in excess of one month's gross family contribution or Fifty Dollars (\$50.00), whichever is more, to guarantee the performance of the covenants of the lease. Any fund collected as security shall be kept separate and apart from all other funds, in an escrow account, the amount of which at all times shall equal or exceed the aggregate of all outstanding obligations under this account;

(g) Permit the use of the dwelling accommodations of the Development for any purpose except the use which was originally approved by the Division;

(h) Pay any compensation, including wages or salaries, or incur any obligations to any of the Borrower's officers, directors, stockholders, members, trustees, partners, beneficiaries under a trust, or any of their nominees;

(i) Enter into any contract or contracts for supervisory or managerial services;

(j) Transfer, assign or pledge any right to or interest in or title to any funds deposited by the Borrower with the Division or reserved by the Division for the Borrower;

(k) Except for natural persons, engage in any other business activity, including the operation of any other rental housing development, to incur any liability or obligation not in connection with the Development;

(l) Make any capital expenditures not approved by the Division in the annual operating budget or otherwise approved by the Division in writing.

SECTION 10. DISTRIBUTION OF INCOME AND ASSETS: The Borrower shall not nor shall those having a beneficial interest in the Borrower make, receive or retain any distribution of any assets or any income of any kind of the Development, except from the Operating Receipts and Expense Account and subject to the following conditions:

(a) All such distributions shall be made only as of or after the end of an annual fiscal period and only as permitted by the Act and the laws of the State of Oregon and the Rules and Regulations of the Division; and

(b) Prior to such distributions, the Borrower shall have obtained the written approval of the Division to such distribution; and the Division must have been in receipt of the Borrower's annual financial statement, as provided in Section 8(i) of this Agreement; and

(c) No such distribution shall be made from any funds prior to the completion of the Development, nor when there is any default under this Regulatory Agreement or under the Trust Deed Note or Trust Deed evidencing and securing the Loan, nor when there is, in the Division's sole discretion, any reasonable probability that the Operating Receipts for the next annual fiscal period will not be sufficient to pay for all of the Operating Expenses of the Development for that fiscal period; and

(d) The Borrower shall have complied with all outstanding notices of requirements for proper maintenance of the Development. Any distribution of any funds of the Development which the party receiving the funds is not allowed to retain hereunder shall be deemed to be held in trust for the benefit of the Development and/or the Division.

SECTION 11. RIGHTS AND REMEDIES: Upon violation of any provision of this Agreement by the Borrower, the Division shall give written notice thereof to the Borrower, by registered or certified mail, at the address stated in this Agreement, or such other address as, upon appropriate written notice thereof to the Division, may be subsequently designated by the Borrower as its legal business address. If such violation is not corrected to the reasonable satisfaction of the Division within thirty (30) days after the date such notice is mailed or within such additional time as the Division reasonably determines to allow the Borrower to correct the violation, the Division may, without further notice, declare a default under this Agreement, effective on the date of such declaration, and thereupon the Division may (in addition to those actions permitted under the Trust Deed in the event of a default) apply to any appropriate court, State or Federal, for specific performance of the covenants and agreement contained herein, or for an injunction against any violation of such covenants and agreements, or for the appointment of a receiver to take over and operate the Development, or for such other relief as may be appropriate and allowed.

ACCEPTED:

since the injury to the Division arising from a default under any of the terms of this Regulatory Agreement would be irreparable and the amount of damage would be difficult to ascertain. All such remedies shall be cumulative and the Division's election to pursue any one or more of the above remedies shall not be construed to preclude or to be a waiver of the Division's right to pursue any other remedy. The Division may also take possession of the Development, bring any action necessary to enforce the rights of the Borrower growing out of the operation of this Development and to collect the rents and operate the Development until such time as the Division, in its discretion, determines that the Borrower is again in a position to operate the Development in accordance with the terms of this Agreement and in compliance with the requirements of the Trust Deed Note and Trust Deed evidencing and securing the Loan. It is expressly understood and agreed that the provision for thirty (30) days' notice to the Borrower for violation of this Regulatory Agreement as contained in this Section 11 is inapplicable to the provisions for disbursement by the Division from the Funds referred to in Section 4(b) of this Agreement and that said disbursement may be made by the Division from said Funds in its discretion and without notice, save and except for any notice required with respect to the Contingency Escrow Reserve.

It is further expressly agreed that in the event the Division, during the life of this Agreement, takes possession of and/or operates this Development pursuant to the terms of this Agreement or the Trust Deed, the Division will apply the Development's Operating Receipts to the payment of Operating Expenses in the manner set forth in Section 4(a)(1) of this Agreement, to the extent that Operating Expenses will be paid by the Division from available Operating Receipts prior to the application of Operating Receipts to the payment of principal and interest, under the Trust Deed and Trust Deed Note.

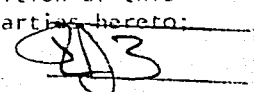
SECTION 12. LIABILITY OF THE LIMITED PARTNERSHIP BORROWER: In the event that the Borrower is a Limited Partnership, nothing contained in this Agreement shall operate to alter, amend or otherwise affect the provisions of the Trust Deed securing the Loan pursuant to which, in the event of a default in the payment of the indebtedness secured thereby, the Division's recovery for the principal and interest under the Loan will be limited to the Property and all buildings, improvements, fixtures and equipment located thereon or used or usable in connection with the operating of the Property; and neither the Borrower nor any partner thereof will have any further or additional personal liability for the principal and interest under the Loan either under the Trust Deed or under the Trust Deed Note evidencing the Loan. The Division warrants that it will not seek a deficiency judgment against the Borrower following the foreclosure and sale of the completed Development, provided, however, that the Division has acknowledged, in writing, satisfactory completion and acceptance of the Development. However, notwithstanding such provision of the Trust Deed, the Borrower understands and agrees that the Division may preserve fully its powers under the Act, to the end that the purposes of the Act shall be fulfilled; and, further, it is expressly agreed that nothing contained in such provision of the Trust Deed or any other provision of the Trust Deed shall be, or be deemed to be, a release or impairment of any obligation of the Borrower or any general partner thereof under the Act, the Partnership Agreement of the Borrower, or this Agreement, and neither the Division's exercise of its rights under or pursuant to any of the foregoing, nor the specific enforceability of any such obligation, shall be deemed to be prohibited or impaired hereby. It is further expressly agreed that nothing contained in the Trust Deed or this Agreement shall be, or be deemed to be, a release or impairment of the indebtedness secured by the Trust Deed and the lien thereof, and the Division shall not be precluded from foreclosing the Trust Deed in the event of any default thereunder. It is further expressly agreed that the Borrower and any and all general partners thereof are specifically liable and accountable to the Division for all terms, covenants and conditions set forth herein or incorporated by reference, except for that liability or reference to the principal and interest, under the Trust Deed Note and Trust Deed evidencing and securing the Loan; and further, such liability and accountability of the Borrower and general partners shall survive and continue beyond the period of final closing on the Loan and for the duration of this Agreement.

SECTION 13. MUTUAL COVENANTS AND AGREEMENTS: The parties covenant and agree with each other as follows:

(a) That in the event that any term, covenant or condition of this Agreement shall be finally determined by a court of competent jurisdiction to be invalid, those terms, covenants or conditions so determined to be invalid are hereby declared severable and shall not affect the validity of the remaining portions of this Agreement;

(b) That no waiver by either party of any term, covenant or condition of this Agreement shall be binding unless in writing and signed by both parties hereto:

ACCEPTED:



(c) That no amendment, modification, or termination of this Agreement or any provision hereof shall be effective unless in writing and signed by both parties hereto;

13288

(d) That this Agreement shall remain in effect so long as the Division is the holder of the Loan or any interest therein;

(e) That, except as otherwise provided herein, whenever any approval or notice by the Division is required under this Agreement, or whenever any action by the Division is required or permitted, the Administrator of the Division, his successor or his authorized delegate shall have the power and right to approve, give notice or act on behalf of the Division, as the case may be;

(f) That this Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns.

SECTION 14. FURTHER PROVISIONS APPLICABLE TO THE BORROWER:

(a) No amendments will be made to the Borrower's Certificate of Limited Partnership and/or Articles of Agreement of Limited Partnership or Articles of Incorporation which would affect the Division's rights under any of the terms and conditions of this Agreement, the Contract Documents or any other agreement made between the Division and the Borrower, without the Division's prior written approval;

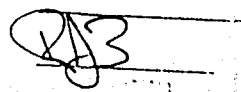
(b) In the event of retirement, death, insanity, incapacity, withdrawal, dissolution, liquidation, bankruptcy or assignment for benefit of creditors of a general partner of the Partnership, the business may be continued by the remaining general partners pursuant to a right set forth in the Certificate of Limited Partnership. In the event of dissolution of the Partnership, no title or right to possession and control of the Development, and no right to collect the rents therefrom, shall pass to any person who is not bound by the Division's Regulatory Agreement in a manner satisfactory to the Division. In addition, the former General Partners, other than the General Partner who ceased being a General Partner as a result of events contemplated by this Section 14(b), shall continue to operate the Development;

(c) No general partner will voluntarily withdraw from or be substituted by the partnership without the prior written approval of the Division. Following completion of the Development, said approval will not be unreasonably withheld if there are one or more remaining or substitute general partners who, in the Division's opinion and sole discretion, are financially and managerially capable and competent to cause the Borrower to have the capacity to effectively own and operate the Development, subject to the terms and provisions of this Agreement;

(d) If the Borrower is a corporation or if one or more of the general partners of the Borrower is a corporation incorporated for the sole or principal purpose of managing the business affairs of this Development, the Division may at any time, and from time to time, require the removal of any or all of the existing directors or officers of said corporate general partner of the Borrower and require the appointment of such person or persons as the Division in its sole discretion deems advisable as new directors or officers, in the event that the Division at any time deems itself to be insecure with respect to the Loan by reason of the violation by the Borrower of any provision of the Loan, or of any term of this Agreement or any other agreement between it and the Division, or of any provision of the Act or the Rules and Regulations promulgated pursuant thereto, or of the terms of any agreement with a third party respecting the Development. Any such directors or officers appointed at the request of the Division shall serve only until such violation is cured and until the Division has signified in writing that it has received assurances satisfactory to it against further violations of a similar nature. Any failure to remove and appoint such persons in accordance with this Section, within 10 days after receiving written notice from the Division requiring such appointment or removal, shall constitute an event of default under this Agreement by the Borrower.

SECTION 15. FURTHER PROVISIONS: In the event the Development is to receive the benefit of Housing Assistance Payments under Section 8, the Borrower further acknowledges its obligations under the Housing Assistance Payments Contract with respect to the conveyance or transfer of the Development, or of ownership interest in the Development, as contained in Section 2.13 of the Contract, to wit:

ACCEPTED:



(a) The Borrower agrees that he has not made, and will not make any sale, assignment, conveyance or transfer in any other form, of this Contract or the Development or any part thereof or any of his interest therein without the prior consent of the Division and the Secretary; provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the Development, the Division and the Secretary shall consent in writing if the terms of the financing have been approved by the Secretary.

(b) The Borrower agrees to notify the Division and the Secretary promptly in writing of any proposed action covered by Paragraph (a) of this Section. The Borrower further agrees to request the written consent of the Division and the Secretary in regard thereto.

(c) 1. A transfer by the Borrower, in whole or in part, or a transfer by a party having substantial interest in said Borrower, or transfers by more than one party of interests aggregating a substantial interest in said Borrower, or any other similarly significant change in the ownership of interests in the Borrower or in the relative distribution thereof, or with respect to the parties in control of the Borrower or the degree thereof, by any other method or means (e.g., increased capitalization, merger with another corporation or other entity, corporate or other amendments, issuance of new or additional ownership interests, or classification of ownership interests or otherwise) shall be deemed an assignment, conveyance or transfer for purposes of this Section. An assignment by the Borrower to a limited partnership, in which no limited partner has a twenty-five percent (25%) or more interest and of which the Borrower is the sole general partner, shall not be considered an assignment, conveyance or transfer.

2. The term "substantial interest" means the interest of any general partner, any limited partner having a twenty-five percent (25%) or more interest in the organization, any corporate officer or director, and any stockholder having a ten percent (10%) or more interest in the organization.

SECTION 16. NOTICES: Any and all notices by the Division to the Borrower, or by the Borrower to the Division or the Secretary shall be in writing and by registered or certified mail addressed to the respective addresses stated below:

To the Division: Housing Division/Department of Commerce/State of Oregon
102 Labor and Industries Building
Salem, Oregon 97310
Attention: Administrator

To the Borrower: Robert J. Bogatay
P.O. Box 493
Klamath Falls, Oregon 97601

To the Secretary: Area Manager, Portland Area Office
U.S. Department of Housing & Urban Development
520 S.W. 6th Avenue
Portland, Oregon 97204

SECTION 17. GOVERNING LAW: This Agreement shall be governed by the laws of the State of Oregon.

SECTION 18. MISCELLANEOUS: Whenever used, the singular number shall include the plural, and the plural the singular; and the use of any gender shall apply to all genders. All covenants and agreements of the Borrower shall be joint and several. The captions and headings of the sections of this agreement are for convenience only and are not to be used to interpret or define the provisions hereof.

SECTION 19. TIME OF ESSENCE: Time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BORROWER:

13290

Robert J. Bogatay

By

Its

By

Its

HOUSING DIVISION, DEPARTMENT OF COMMERCE
STATE OF OREGON

By

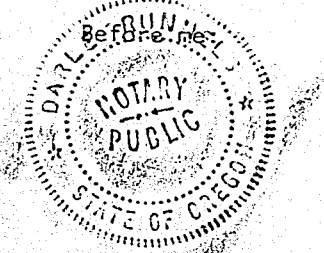
Administrator

STATE OF OREGON)

County of Namath) ss.

On this 17 day of July, 19 80, personally appeared
the above-named Robert J. Bogatay

and acknowledged the foregoing
instrument, consisting of 12 pages including this signature and acknowledgment
page, to be his voluntary act and deed.



Darle Rummels

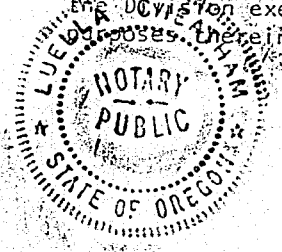
Notary Public for Oregon

My Commission expires: 9/25/81

STATE OF OREGON)

County of Marion) ss.

On this 16th day of July, 19 80, personally ap-
peared before me, a Notary Public in and for the State of Oregon, M. GREGG SMITH,
known to me to be the Administrator of the Housing Division, Department of Commerce,
State of Oregon, being the duly authorized person executing the foregoing instrument,
consisting of 12 pages including this signature and acknowledgment page, on behalf of
the Division, and upon oath did depose and say that he is the officer of the Division
as above designated, that he signed the said instrument in such capacity, and that
the Division executed the instrument freely and voluntarily and for the uses and
purposes therein mentioned.



M. Gregg Smith

Notary Public for Oregon

My Commission expires: 6-18-81

ACCEPTED:

[Signature]
(INITIAL)

13291

LAKE PARK TOWERS
Klamath Falls
OR16-H029-103

DESCRIPTION OF PROPERTY

All the following described real property situated in Klamath County, Oregon:

A portion of lots 4, 3 and 2 in Block 19 of Original Town of Klamath Falls (formerly Linkville) according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:
Beginning at the most Southerly corner of said lot 4; thence N. $39^{\circ}05'$ E. along the Southeasterly line of said lots 4 and 3 a distance of 128.6 feet; thence at right angles N. $50^{\circ}55'$ W., parallel with the Westerly line of said lot 4 a distance of 77.6 feet to a corner of the Bush Furniture building; thence N. $05^{\circ}50'$ W. along the outside face of said building a distance of 5.8 feet to a corner of said building, said corner being S. $50^{\circ}55'$ E. 30.1 feet from the Southeasterly line of the alley in said Block 19; thence N. $50^{\circ}55'$ W. along the outside face of said building a distance of 30.1 feet, more or less, to the Southeasterly line of said alley; thence S. $39^{\circ}05'$ W. along said Southeasterly line a distance of 132.9 feet to the Northeasterly line of 2nd. Street; thence S. $50^{\circ}55'$ E. along said line a distance of 122.0 feet to the point of beginning.

RECEIVED TO THE
PROFESSIONAL
LAND SURVEYOR
Sincerely yours

Wayne Rawson

OREGON
DEC. 2, 1978
WAYNE RAWSON
1532

EXHIBIT A

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Title Co.

this 17th day of July A. D. 1980 at 11:46 o'clock AM., on

duly recorded in Vol. M80, of Mortgages on Page 13279

Wm D. MILNE, County Clerk

By Bernetha H. Hetch

Fee \$45.50

ACCEPTED:

QJC

(INITIAL)

KCTC