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This instrument was prepared by:  
Mark W. Burns  
Applegate & Thorne-Thomsen, P.C.  
322 South Green Street  
Suite 412  
Chicago, Illinois 60607

When recorded, return to:  
U.S. Department of Housing  
and Urban Development  
77 W. Jackson Boulevard, 26th Floor  
Chicago, Illinois 60604

0011094487

9093/0208 11 001 Page 1 of 7

2001-11-20 16:59:04

Cook County Recorder 33.00



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## USE AGREEMENT

**OWNER:**

Beth-Anne Extended Living,  
an Illinois not-for-profit corporation

**HUD:**

United States of America acting by and through the  
Secretary of Housing and Urban Development

**PROJECT NAME:**

Beth-Anne Extended Living,  
Chicago, Illinois

**PROJECT NO.:**

071-EE149/IL06-S991-008

Box 430

Capital Advance Program  
Use Agreement

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U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner

OMB Approval No. 2502-0470 (exp. 12/31/96)

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For Section 202 of the Housing Act of 1959 or  
Section 811 of the National Affordable Housing Act

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2502-0470), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Do not send this form to the above address.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the projects meet statutory requirements, ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

This Agreement made the 1<sup>st</sup> day of November, 2001, by and between the United States of America, Secretary of Housing and Urban Development (hereinafter called "HUD") and Beth-Anne Extended Living,

An Illinois not-for-profit corporation

organized and existing under and by virtue of the laws of the State of Illinois (hereinafter called the "Owner"), provides as follows:

Whereas, the Owner and HUD have entered into a Capital Advance Agreement to assist in financing a rental housing project to house elderly persons or persons with disabilities, (hereinafter called "persons"), in accordance with Section 202 of the Housing Act of 1959 or Section 811 of the National Affordable Housing Act, and the applicable regulations;

\*S991-008

Whereas, HUD through the Capital Advance Agreement has provided funding for the Project identified as project number 071-EE149/IL06\*, financed with a Note and Mortgage (Deed of Trust), dated November 1, 2001 and covering real property as described in Exhibit "A" attached hereto, which Mortgage was recorded in the Recorder's Office of Cook County, Illinois on November, 2001, as Instrument \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_;

Whereas, The Project is subject to a Regulatory Agreement, dated November 1, 2001 and recorded on November, 2001 in the Recorder's Office of Cook County, Illinois as document number \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_;

Whereas, pursuant to section 202 of the Housing Act of 1959 (elderly projects) or section 811 of the National Affordable Housing Act (disabled projects) and the corresponding regulations, in exchange for HUD's agreement to provide capital advance financing and project rental assistance payments, the Owner has agreed to continue to operate the Project only as rental housing for very-low income elderly or disabled persons for not less than 40 years from ~~(February 1, 2043)~~ from February 1, 2003, unless otherwise approved by HUD;

Now Therefore, in consideration of the mutual promises set forth herein and of other valuable consideration, the parties hereby agree as follows:

- Definitions.** All terms used in this Agreement have the same meaning as set forth in the definitions in 24 CFR Part 889 or 890.
- Term.** This Agreement shall remain in effect for not less than 40 years from ~~(February 1, 2043)~~ from February 1, 2003, unless otherwise approved by HUD.
- Use Restriction.** The Project shall be used solely as rental housing for very-low income elderly or disabled persons.
- Transfer.** HUD has been granted and is possessed of an interest in the above described Project such that the Owner shall remain seized of the title to said property and refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said property or any part thereof without the release of said covenants by HUD. The Owner has constituted HUD as its attorney-in-fact to transfer the project to another private non-profit corporation in the event of default under the Capital Advance Agreement or the Regulatory Agreement. The Owner may transfer the Project during the term of this Agreement only with the prior written approval of HUD, and any such grantee shall assume the obligations under this Agreement as a condition of any transfer. In any event, this Agreement shall be binding upon the Owner's successors and assigns.
- Release.** The endorsement by a duly authorized officer of HUD (1) upon any conveyance or transfer made by the Owner of any real or personal property which is determined to be excess to the needs of the Project, or (2) upon any instrument of conveyance or dedication of property, or any interest therein, for use as streets, alleys, or other public rights-of-way, or for the establishment, operation and maintenance of public utilities, or (3) upon any instrument transferring or conveying an interest therein, or (4) upon any instrument of release made by the Owner of the Project shall be effective to release such property from the restrictive covenants hereby created.
- Enforcement.** In the event of a breach or threatened breach of any of the provisions of this Agreement, any eligible tenant or applicant for occupancy, or the Secretary or his or her successors or delegates, may institute proper legal action to enforce performance of such provisions, to enjoin any acts in violation of such provisions, to recover whatever damages can be proven, and/or to obtain whatever other relief may be appropriate.
- Severability.** The invalidity, in whole or in part, of any of the provisions set forth above shall not affect or invalidate any remaining provisions.

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In Witness Whereof, HUD and the Owner by its officers thereunto duly authorized has caused these presents to be signed in its name and its corporate seal to be hereunto affixed and attested this \_\_\_\_\_ day of \_\_\_\_\_ November, 2001

(Seal)

Attest:

Name of Owner: Beth-Anne Extended Living  
an Illinois not-for-profit corporation

Secretary:

By: (President)

Name: *Mary Nelson*  
Mary Nelson, President

United States of America, Secretary of Housing and Urban Development

By:

*Edward Hinsberger*

Title: Edward J. Hinsberger  
Director, Chicago Multifamily HUB

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HUD Project No. 071-EE149/IL06-S991-008  
Beth-Anne Extended Living  
Chicago, Illinois

**Exhibit A**

**LEGAL DESCRIPTION**

LOT 5 IN BETH-ANNE SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 1143 Lavergne Avenue, Chicago, Illinois

P.I.N. # 16-04-404-008, Vol. 045

chicago-#24118-v1-Legal\_Description\_for\_Beth-Anne.DOC

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STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK            )

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Before me, a Notary Public, in and for said County and State, on this day appeared Mary Nelson, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the President of Beth-Anne Extended Living, an Illinois not-for-profit corporation, and acknowledged to me that he/she executed said instrument for the purposes and consideration therein expressed, and as the act of said corporation.

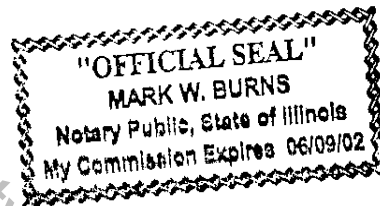
Given under my hand and seal of office, this 20<sup>th</sup> day of November, 2001.

*Mark W. Burns*

My commission expires \_\_\_\_\_

Notary Public in and for Cook County,  
Illinois

chicago-#24098-v1-Owner\_Notary.DOC



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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

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Before me, W. M. SNOW, a Notary Public, in and for said County and State, on this day appeared EDWARD HINSBERGER, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the authorized agent of the Secretary of Housing and Urban Development, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed, and as the act of said Secretary.

Given under my hand and seal of office, this 20<sup>th</sup> day of November, 2001.

My commission expires:

W. M. Snow  
Notary Public in and for Cook County,  
Illinois



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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 5 IN BETH-ANNE SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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