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This document prepared by and after recording should be returned to:

M. Susan Lopez
Assistant Corporation Counsel
City of Chicago
121 North LaSalle Street
Room 511
Chicago, Illinois 60602

DEPT-01 RECORDING

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INDEX FROM 15:00 03/27/92 17 01 00

**DECLARATION OF RESTRICTIVE COVENANTS
AND REGULATORY AGREEMENT**

BOOK # L * - 92 - 206871

COOK COUNTY RECORDER

THIS DECLARATION OF RESTRICTIVE COVENANTS AND REGULATORY AGREEMENT (including the Exhibits attached hereto), dated as of March 27, 1992 (the "Regulatory Agreement"), by and among the CITY OF CHICAGO (the "City"), an Illinois municipal corporation, through its Department of Housing ("DOH"), with offices at 318 South Michigan Avenue, Chicago, Illinois, 60604, NBD Trust Company of Illinois, not personally, but as Trustee under Trust No. 1258CH ("Trustee") and Birchwood Associates Limited Partnership, an Illinois limited partnership (the "Owner") having its offices at 225 West Washington Street, Suite 400, Chicago, Illinois 60606.

W I T N E S S E T H

WHEREAS, DOH has as its primary purpose the creation of safe, decent and affordable housing for residents of the City; and

WHEREAS, Trustee and Owner have proposed to acquire land and construct multi-family rental units in Chicago, Illinois, on the real estate legally described in Exhibit "A" attached hereto and made a part hereof (the "Project"), whereupon completion of construction, there shall be 200 multi-family residential dwelling units, wherein 40 units shall be occupied by individuals or families of lower-income (the "Qualified Tenant" or "Lower Income Tenant"); and

WHEREAS, the City has applied to the United States Department of Housing and Urban Development ("HUD") for grant assistance under the Housing Development Grant ("HDG") program to undertake activities which are consistent with the provisions of Section 17 of the United States Housing Act of 1937, as amended (the "Act") and HDG regulations at 24 CFR Part 850; and

WHEREAS, HUD, in reliance upon the representations set forth in the City's application, has, through a letter of notification, approved the award of HDG funds in the amount of \$5,760,000.00, to be expended by the City for the Projects in conformity with the

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requirements and provisions of Grant Agreement No. IL004HG702 (the "Grant Agreement"), to be entered into by the City and HUD; and

WHEREAS, the City intends to loan the HDG funds to Trustee and Owner (the "HDG Loan") to further assist in the financing of the Project; and

WHEREAS, as a specific condition precedent to Trustee and Owner receiving the HDG Loan, Trustee and Owner have agreed to execute this Regulatory Agreement with the City governing the tenant occupancy of, and use restrictions upon, the dwelling units reserved for Qualifying Tenants or Lower-Income Tenants.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth and of other valuable considerations, Trustee, Owner and the City each agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATIONS.

The following terms shall have the respective meaning assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

1.1 "Act" shall mean the United States Housing Act of 1937.

1.2 "Beneficiary" shall mean initially, and at any subsequent time of reference, the person or persons, if any, who shall succeed to the legal or beneficial ownership of all or any part of the Project.

1.3 "Certificate of Continuing Program Compliance" shall mean the certificate from the Owner in substantially the form set forth in Exhibit "B" attached hereto and made a part hereof, as the same may be amended from time to time.

1.4 "Income Computation Certificate" shall mean the certificate in substantially the form set forth in Exhibit "C" attached hereto and made a part hereof.

1.5 "Lower Income Units" shall mean the 40 units to be specified Section 1.01(e) of the Grant Agreement as reserved for Qualified Tenants or Lower Income Tenants during the Project Term.

1.6 "Qualified Tenants" and "Lower-Income Tenants" shall mean and include individuals or families with adjusted annual income, which does not exceed eighty percent (80%) of the median gross income for the area in which the Project is located, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than eighty percent (80%) of the median income for the area on the basis of its finding that such variations are necessary.

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1.7 "Trustee" shall mean initially NBD Trust Company of Illinois, not personally but as Trustee under Trust No. 1258CH.

1.8 "Owner" shall mean Birchwood Associates Limited Partnership, an Illinois limited partnership, or any successor Beneficiary.

1.9 "Person" shall mean natural persons, firms, partnerships, associations, corporations, trusts and public bodies.

1.10 "Project Term" shall mean the number of years during which the 40 units to be specified as lower income in Section 1.01(e)2 of the Grant Agreement must be occupied or available for occupancy by lower income households. The Project Term shall begin on the date on which units in the Project are available for occupancy and shall continue for a period of twenty (20) years, as shall be specified in Section 1.01(d) of the Grant Agreement, from the date on which fifty percent (50%) of the total units in the Project are occupied.

1.11 "Regulations" shall mean the regulations promulgated or proposed from time to time by HUD.

1.12 "Regulatory Agreement" or "Agreement" shall mean this Declaration of Restrictive Covenants and Regulatory Agreement.

1.13 "State" shall mean the State of Illinois.

SECTION 2. TRUSTEE AND OWNER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

Beneficiaries of Trustee and Owner hereby represent, warrant, covenant and agree as follows:

2.1 The Project shall be acquired and constructed for the purpose of providing residential rental property and Trustee and Owner shall own, manage and operate the Project as residential rental units and facilities functionally related and subordinate thereto.

2.2 The Project shall consist of residential units which are similar in quality, type of construction and amenities, together with facilities which are functionally related and subordinate to such units.

2.3 Each residential unit in the Project shall contain separate and complete facilities for living, sleeping, eating, cooking and sanitation.

2.4 None of the residential units in the Project shall at any time be used on a transient basis, and neither the Project nor any

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SECTION 3. RELIANCE.

The City, Trustee and Owner hereby recognize and agree that the representations, warranties and covenants set forth herein may be relied upon by all parties, including HUD. In performing their duties and obligations hereunder, the City and HUD may rely upon statements and certificates of Trustee, Owner and Qualified Tenants or Lower-Income Tenants, and upon audits of the books and records of Trustee and Owner pertaining to occupancy of the Project. In addition, the City and HUD may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City or HUD hereunder in good faith and in conformity with such opinion.

SECTION 4. SALE OR TRANSFER OF THE PROJECT.

Trustee and Owner hereby covenant and agree not to sell, transfer or otherwise dispose of the Project, or any portion thereof (including, without limitation, a transfer by assignment of any beneficial interest under a land trust) except as expressly permitted by the HDG Loan Agreement. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 4 shall be null, void and without effect, shall cause a reversion of title to the Trustee and Owner, and shall be ineffective to relieve the Trustee and Owner of their obligations.

SECTION 5. TERM.

5.1 This Regulatory Agreement shall become effective upon its execution and delivery. This Regulatory Agreement shall remain in full force and effect for a term equal to the Project Term, it being expressly agreed and understood that the provisions hereof are intended to survive throughout the Project Term, irrespective of any earlier retirement or expiration of the HDG Loan Agreement, the "Note" and/or the "Mortgage" (each to be defined in the HDG Loan Agreement) that may occur prior to the expiration of the Project Term.

5.2 Notwithstanding the above, the covenants and restrictions contained herein shall cease, in whole or in part, under a determination by the City that there has been a total or partial involuntary loss of the Project by the Trustee and Owner caused by fire, seizure, condemnation, foreclosure (unless otherwise required by the City or agreed to by a lender with a security position superior to the HDG security position), or change in law or action by a Federal agency after execution of the Grant Agreement which prevents the City from enforcing the HDG restrictions, provided that (1) the secured obligations to repay the HDG, as required by the Mortgage which will secure the HDG as a debt on the Project, are either satisfied or eliminated through judicial foreclosure and

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Agreement shall be deemed null and void ab initio.

SECTION 14. COUNTERPARTS.

This Regulatory Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same Regulatory Agreement.

SECTION 15. TRUSTEE EXCULPATORY CLAUSE

This Agreement is executed by NBD Trust Company of Illinois, not personally, but solely as Trustee as aforesaid. All the covenants and conditions to be performed hereunder by NBD Trust Company of Illinois are undertaken by it solely as Trustee as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against NBD Trust Company of Illinois by reason of any of the covenants, statements, representations or warranties contained in this Regulatory Agreement.

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IN WITNESS WHEREOF, the City and the Owner have executed this Regulatory Agreement by their duly authorized representatives, all as of the date first written hereinabove.

CITY OF CHICAGO, ILLINOIS, by and through
its Department of Housing

By: _____
Name: Hunt Murphy
Its: Commissioner

BIRCHWOOD ASSOCIATES LIMITED PARTNERSHIP
an Illinois limited partnership

By: THE GRAIS COMPANY
an Illinois corporation,
General Partner

Attest:

By: _____
Name: Stephen S. Heise
Its: Asst Secretary

By: _____
Name: Ronald B. Grais
Its: President

NBD TRUST COMPANY OF ILLINOIS,
not personally but solely as Trustee
under Trust No. 125PCH

By: _____
Name: Joseph F. Brennan
Its: _____

Attest:

By: _____
Name: Betty M. ...
Its: _____

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STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

On this _____ day of _____, before me, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared _____, to me personally known, who being by me duly sworn, did say that she is the Commissioner of the Department of Housing of the City of Chicago, Illinois, a political subdivision and home rule municipality of the State of Illinois, and acknowledged to me that the foregoing instrument was signed by her on behalf of said City and that she acknowledged the foregoing instrument to be the free act and deed of said City of Chicago, Illinois.

NOTARY PUBLIC

(SEAL)

COMMISSION EXPIRES:

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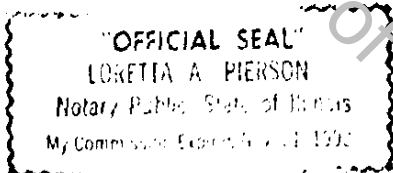
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 27th day of March, 1992, before me, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared Ronald B. Grais, to me personally known, who being by me duly sworn, did say that he is the President of The Grais Company, an Illinois corporation and a general partner of Birchwood Associates Limited Partnership, an Illinois limited partnership, and acknowledged to me that the foregoing instrument was signed by him on behalf of said corporation and that he acknowledged the foregoing instrument to be the free act and deed of said corporation and partnership.



NOTARY PUBLIC



(SEAL)

COMMISSION EXPIRES:

Nov 21, 1992

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RECORDED

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this _____ day of _____, before me, the undersigned Notary Public, duly commissioned and qualified in and for said County and State, personally came and appeared _____ to me personally known, who being by me duly sworn, did say that s/he is the _____ of NBD Trust Company of Illinois, an Illinois trust company, and acknowledged to me that the foregoing instrument was signed by her/him on behalf of said trust company and that s/he acknowledged the foregoing instrument to be the free act and deed of said trust company.

NOTARY PUBLIC

(SEAL)

COMMISSION EXPIRES:

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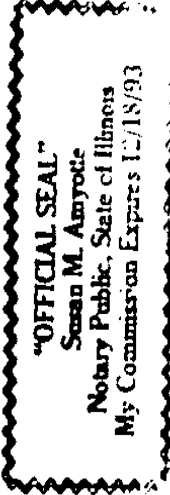
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Joseph F. Sochacki, Trust Officer of NBD Trust Company of Illinois, a Notary Public in and for said County in the State aforesaid, do hereby certify that Assistant Secretary of said Corporation, and Assistant Secretary, respectively, whose names are subscribed to the foregoing instrument as such Trust Officer and Assistant Secretary, respectively, acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said Assistant Secretary did also then and there acknowledge that he/she, as custodian of the Seal of said Corporation, did affix said Corporate Seal of said Corporation as his/her own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this 24 day of MARCH, 1992.

Susan M. Amyotte

Expires December 18, 1993



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EXHIBIT A

That part of the southeast fractional 1/4 north of the Indian Boundary Line of Section 30, Township 41 north, Range 14 east of the Third Principal Meridian, described as follows:

Commencing at a point in the center of the Indian Boundary Line Road 7 Chains north 56 degrees 30 minutes east from Milwaukee Road; thence northeast along Indian Boundary Line Road 4.33 chains; thence north 108.16 feet; thence west 232.98 feet; thence south 265.88 feet to the place of beginning (except therefrom so much as is taken or used by highways), (also known as the south 1.0 acre of Lot 9 in Ure's Subdivision of part of the southeast 1/4, north of Indian Boundary Line of Section 30, Township 41 north, Range 14, east of the Third Principal Meridian)

Also

The south 88.88 feet of that part of Lot 9 lying north of and adjoining the south 1 acre of said Lot 9, in Ure's Subdivision of part of the southeast 1/4, north of Indian Boundary Line of Section 30, Township 41 north, Range 14, east of the Third Principal Meridian, excepting therefrom the west 30.00 feet thereof, all in Cook County, Illinois.

Property Identification Nos.:

11-30-404-004
11-30-404-005

Property Address:

Parking area Southwest of the
Chicago Transit Authority's
Howard Paulina Station
Chicago, Illinois

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EXHIBIT B

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

The undersigned, being _____ of _____ Limited Partnership (the "Owner"), has read and is thoroughly familiar with the provisions of the various loan documents associated with the Owner's participation in the HUD-funded Housing Development Grant (HDG) Program of the City of Chicago, Illinois (the "City"), such documents including:

1. the Regulatory Agreement, dated as of _____ between the Owner and the City;
2. the HDG Loan Agreement, dated as of _____ between the Owner and the City; and
3. the Promissory Note, dated as of _____ executed by the Owner and representing the borrower's obligation to repay the loan made to it by the City pursuant to the HDG Loan Agreement described above.

As of the date of this certificate, the following number of completed residential units in the Project (i) are occupied by "Lower-Income Tenants" (as such term is defined in the Regulatory Agreement) or (ii) were previously occupied by Lower-Income Tenants and have been vacant for no more than 31 days, as indicated:

Occupied by Lower-Income Tenants	No. of Units: _____
Previously occupied by Lower-Income Tenants (vacated and not reoccupied except for a temporary period of no more than 31 days)	No. of Units: _____
	Total: _____

The total number of completed residential units in the Project is _____.

The total number of units occupied or previously occupied by Lower-Income Tenants as shown above is ___% of the total number of occupied units.

The undersigned hereby certifies that the Owner is not in default under any of the terms and provisions of the above documents.

9200571

By _____
Authorized Owner Representative

UNOFFICIAL COPY**EXHIBIT C****INCOME COMPUTATION AND CERTIFICATION****RE: _____ LIMITED PARTNERSHIP PROJECT, CHICAGO, ILLINOIS**
_____Name of Tenant (i.e., person
whose name appears on the lease) _____

Address of Apartment _____

Apartment Number _____

Some or all of the cost of the apartment development in which you are to lease an apartment was financed by loans made by the City of Chicago through U.S. Department of Housing and Urban Development programs. In order to qualify for these loans, there are certain requirements which must be met with respect to the apartment building and its tenants. To satisfy one of those requirements, it is necessary for you to provide the information requested in this Tenant Income Certificate at the time you sign your lease.

I, the undersigned, state that I have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit in the above apartment development for which application is made, all of whom are listed on the following page:

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c. the amount of such income which is included in item 6:
\$ _____.

(Students)

8. a. Will all of the persons listed in column 1 above be or have they been full-time students during five (5) calendar months of this calendar year at an educational institution (other than a correspondence school) with regular's facility and students?

Yes _____ No _____

b. Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____ No _____

I acknowledge that all of the above information is relevant to the status of the funds provided through the U.S. Department of Housing and Urban Development to finance construction of the apartment for which application is being made. I consent to the disclosure of such information to the City and HUD and any agent acting on their behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 19____
at Chicago, Illinois.

TENANT

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STATE OF ILLINOIS)
)
 COUNTY OF COOK) 65

On the _____ day of _____, 19____
 personally appeared before me _____, the
 signer of the above certification, who duly acknowledged to me
 that he/she executed the same.

(SEAL)

My Commission Expires:

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Residing in:

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FOR COMPLETION BY OWNER ONLY:

1. Calculation of eligible income:

a. Total amount entered for entire household in 6 above: _____

b. If the amount entered in 7.a above exceeds \$5,000, enter the greater of (i) the amount entered in 7.b less the amount entered in 7.c and (ii) 10% of the amount entered in 7.1: _____

c. **TOTAL ELIGIBLE INCOME**
(Line 1.a plus line 1.b): _____

2. The amount entered in 1.c is: (place "x" on appropriate line)

_____ Less than \$ _____ which is the maximum income at which a household of _____ persons may be determined to be a Lower-Income Tenant as that term is defined in the Declaration of Restrictive Covenants and Regulatory Agreement dated as of _____ between the City of Chicago, Illinois and _____ Limited Partnership (the "Regulatory Agreement").

_____ More than the above-mentioned amount.

3. Number of apartment unit assigned: _____

4. This apartment unit (was/was not) last occupied for a period of 31 consecutive days by a person or persons whose Adjusted Income, as certified in the above manner, was equal to or less than the amount at which a person would have qualified as a Lower-Income Tenant under the terms of the Regulatory Agreement. It had been vacant for _____ days.

5. The number of units in the Project which are presently occupied is _____

6. The number of units occupied by Lower-Income Tenants (i.e., occupants' anticipated income does not exceed \$ _____) based upon the Income Computation Certificate on file is _____. The number of units which were previously occupied by Lower-Income Tenants but have been vacated and have not been reoccupied (other than for a temporary period

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of no more than 31 days) is _____. The sum of the units described in this paragraph (d) is equal to _____% of the total number of occupied units from paragraph (c) above.

- 7. The number of units occupied by persons whose total anticipated income does not exceed \$ _____ is _____ which is equal to _____% of the total number of occupied units.

Applicant:

_____ Qualifies as a Lower-Income Tenant.

_____ Does not qualify as a Lower-Income Tenant.

OWNER

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92201571

Mail to
R. COHNIS
Suite 400
225 W. Washington
Chicago IL
60606