BK2419PG2882

201100015308
Filed for Record in
SCHUYLKILL COUNTY, PA
A MATTHEW DUDISH,RECORDER OF DEEDS
11-22-2011 At 10:21 am.
AGR 30.50
OR Bk 2419 Page 2882 - 2891

201100015308
PHFA
211 NORTH FRONT STREET
HARRISBURG PA

Prepared by & Return to:
PHFA-Legal Division
211 North Front Street
Harrisburg, PA 17101
717-780-3846

20-6-27.2

PIN / ID Number: 52-03-0100.001
20-6-27.2 (TH)

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PENNSYLVANIA HOUSING FINANCE AGENCY
PRESERVATION THROUGH SMART REHAB PROGRAM
RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT ("Agreement") is made this 19 day of October, 2011, to be effective October 24, 2011 by and between HERITAGE HILLS ASSOCIATES, a Pennsylvania limited partnership, with a principal place of business at 11 Pennsylvania Avenue, Hummels Wharf, Pennsylvania 17831 ("Owner"),

AND

PENNSYLVANIA HOUSING FINANCE AGENCY, a public corporation and government instrumentality of the Commonwealth of Pennsylvania, with principal offices at 211 North Front Street, Harrisburg, Pennsylvania 17101 (the "Agency").

WITNESSETH:

WHEREAS, the Agency is the sub-grantee of funding made available under the American Recovery and Reinvestment Act of 2009 ("ARRA") for the U.S. Department of Energy's Weatherization Assistance Program ("WAP"), in accordance with an Interagency Agreement between the Agency and the Commonwealth of Pennsylvania's Department of Community and Economic Development ("DCED"); and

WHEREAS, the Agency established its Preservation through Smart Rehab Program("PTSR Program") to provide funding to existing affordable housing developments to weatherize and make rehabilitative improvements that will generate energy savings; and

WHEREAS, Owner holds title to property located at 701 Heritage Hills, Pottsville, Schuylkill County, Pennsylvania, as more fully described in Exhibit A attached hereto and made a part hereof, known as Heritage Hills (the "Development"); and

WHEREAS, Owner has submitted an application to the Agency to fund weatherization activities for the Development under the Program and the Agency has determined the Owner is eligible to receive WAP funding; and

CERTIFICATION OF PARCEL NUMBERS ONLY

DOES NOT CERTIFY CONTENTS
OF THIS DOCUMENT

SCHUYLKILL COUNTY ASSESSMENT BUREAU

WHEREAS, Owner has agreed to comply with all requirements of ARRA, WAP, and the Program (including regulations and guidance) as may be amended from time to time (collectively, the "PTSR Requirements"); and

WHEREAS, provision of the WAP funding is contingent upon and subject to Owner executing, delivering and recording in the official land deed records of the county in which the Development is located this Agreement, which creates certain covenants running with the land for the purpose of enforcing the PTSR Requirements by regulating and restricting the use, occupancy and transfer of the Development as set forth herein; and

WHEREAS, Owner intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Development shall be and are covenants running with the Development for the term stated herein and binding upon all subsequent owners of the Development for such term.

NOW, THEREFORE, the parties hereto, intending to be legally bound, do hereby agree as follows:

A. Owner shall maintain the Development as residential rental housing for low or very low income families for a period of five (5) years from the date all work funded under the WAP program is completed and "placed in service" ("Affordability Term"), and such term may run coterminously with any existing affordability restrictions. Throughout the Affordability Term, the units must be maintained as decent, safe and sanitary housing and the units must be available to the general public as rental housing serving low and very low income households. The provision of this housing for the maximum Affordability Term is a material inducement to the Agency's provision of funding for the Development.

B. Owner shall not discriminate on the basis of race, creed, color, gender, age, handicap, marital status, national origin, status as a holder of a voucher or certificate of eligibility under Section 8 of the U.S. Housing Act of 1937, family status or religion, in the lease, sale, rental, use or occupancy of the Development or in connection with the employment or application for employment of persons for the operation and management of the Development or in connection with any improvements to be erected thereon or in connection with maintenance of the Development.

C. If Owner becomes aware of any situation, event or condition that would result in non-compliance with the PTSR Requirements, Owner shall promptly submit written notice thereof to the Agency.

D. Owner, for itself, its successors and assigns, agrees that the terms, conditions and restrictions of this Agreement shall be covenants running with the land, and that in any deed of conveyance of the Development or any part thereof, excepting those referenced in paragraph P of this Agreement, said terms, conditions and restrictions shall be incorporated by reference to this Agreement and the record hereof as fully as the same are contained herein for the Affordability Term as defined herein.

E. With the written permission of the Agency and subject to this Agreement, Owner may sell, transfer or exchange the entire Development at any time, but, unless the Affordability Term has terminated, Owner (and its successors and assigns) shall notify in writing and obtain the agreement of any buyer or successor or other person acquiring the Development or any interest therein that such acquisition is subject to the requirements of this Agreement and to the PTSR Requirements and to provide such additional guaranties as the Agency may require to secure ongoing compliance with the PTSR

Requirements. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Development or any low income portion of the Development.

F. Owner acknowledges that the primary purpose for requiring compliance with the restrictions provided in this Agreement are to assure compliance of the Development and Owner (and its successors and assigns) with PTSR Requirements, including, without limitation, the ongoing benefits of decent safe and sanitary housing for low and moderate income households for the Affordability Term. Owner in consideration for receiving PTSR funding for the Development, hereby agrees and consents that the Agency, the Commonwealth of Pennsylvania and/or the United States of America shall be entitled to enforce specific performance by Owner, its successors and assigns, of its obligations under this Agreement in any tribunal in the Commonwealth of Pennsylvania for any and all breach of the conditions and restrictions hereof or material representations made by Owner at any time, and in addition to all other remedies provided by law or in equity.

G. Owner shall submit any other reports that DCED or the Agency deem necessary and such reporting requirements will be amended as additional guidance is provided by the Agency, DCED, or DOE.

H. Owner shall provide the Agency with releases to obtain energy usage data directly from the utility company for all project-paid utilities. Similar releases shall be provided from a minimum of one-half of the residents occupying each unit type (e.g. one bedroom, two bedroom, three bedroom, etc.) for all tenant-paid utilities. Owner shall participate in any Agency data collection effort throughout the Affordability Term.

I. All records, books and accounts for the Project will be subject to examination and reproduction at reasonable hours by the Agency, DOE, DCED, L&I, or by any of their designated agents or representatives. Further, with respect to each Smart Rehab Program Agreement that utilizes ARRA funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized (1) to examine any records that pertain to and involve this transaction; and (2) to interview any officer or employee of the contractor, subcontractor or Owner regarding such transactions.

J. This Indenture shall not be amended without the written agreement of the parties hereto and the approval of the United States Department of Agriculture (USDA") Rural Development ("RD").

K. The Agency, its agents or assigns, and representatives of federal agencies shall have the right of entry and inspection of the Development and shall have access to inspection and reproduction of all records, books and accounts for the Development during regular business hours.

L. The invalidity of any clause, part or provision of this Indenture shall not affect the validity of the remaining portions thereof.

M. This Agreement and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania and, where applicable, the laws of the United States of America.

N. As the Development is RD financed, Agency covenants and agrees that all of its rights and powers under this Agreement are subordinate and subject to the rights of all prior mortgage holders, regulatory agreements and restrictive covenant agreements with prior recorded lien interests

O. In the event that during the period the RD Mortgage, RD Regulatory Agreement and/or RD Use Agreement are in effect, the Secretary of USDA acquires title to the Property by foreclosure, deed in lieu of foreclosure, or by any other means, this Agreement shall automatically terminate.

P. During the period the RD Mortgage, RD Regulatory Agreement and/or RD Use Agreement are in effect, no default under this Agreement may be declared without prior written approval of RD.

[*Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the date first written above.

WITNESS:

PENNSYLVANIA HOUSING FINANCE AGENCY

By: _____
Name: Samara Gomez
Title: Assistant Counsel

WITNESS:

HERITAGE HILLS ASSOCIATES
a Pennsylvania limited partnership

By: Cobler Realty Advisors, Inc.,
A Pennsylvania corporation, a General Partner

By: _____
Name: Michael J. Kearney
Title: Vice President

I hereby CERTIFY that this document is recorded in the office of the Recorder of Deeds in and for the County of Schuylkill and Commonwealth of Pennsylvania

A. Matthew Dudish
Recorder of Deeds

RECORDER OF DEEDS SCHUYLKILL COUNTY PENNSYLVANIA

COMMONWEALTH OF ~~PENNSYLVANIA~~ New Hampshire :
: SS
COUNTY OF Cheshire :

On this, the 24 day of October, 2011, before me, the undersigned officer, personally appeared Michael Kearney, who being sworn according to law, deposes and states that s/he is the VP of Cobler Realty Advisors, Inc., a Pennsylvania corporation, General Partner of HERITAGE HILLS ASSOCIATES, a Pennsylvania limited partnership, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he, being authorized to do so, executed the same on behalf of HERITAGE HILLS ASSOCIATES, for the purpose therein contained, and desires the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Laura E. Tobin
Notary Public

LAURA E. TOBIN, Notary Public
My Commission Expires August 19, 2014

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF DAUPHIN :

On this, the 19 day of October, 2011, before me, the undersigned officer, personally appeared Samara Gomez, Assistant Counsel, who acknowledged him/herself to be an authorized officer of PENNSYLVANIA HOUSING FINANCE AGENCY, a public corporation and government instrumentality created by the Commonwealth of Pennsylvania (35 P.S. Section 1680.101 et seq., as amended), and acknowledged that s/he as such authorized officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, and desires the same to be recorded as such.

Tracy L.M. Horetsky
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Tracy L. M. Horetsky, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires April 26, 2014
Member, Pennsylvania Association of Notaries

I hereby certify that the principal place of business and address of the within-named Agency is, and after recordation this Agreement should be returned to:

Pennsylvania Housing Finance Agency
Attention: Legal Division
211 North Front Street
Harrisburg, PA 17101

Please mail this Agreement to the above address.

By: _____
Agent for Pennsylvania Housing Finance Agency

COMMONWEALTH OF PENNSYLVANIA :
:
COUNTY OF _____ :

RECORDED on this _____ day of _____, 20___, in the Office of the Recorder of Deeds in and for said County, in Deed Book Volume _____, Page _____.

_____
Recorder of Deeds

EXHIBIT A

Legal Description

THE SURFACE OF ALL THAT PORTION OF A CERTAIN lot or parcel of ground situate in the Township of Norwegian, County of Schuylkill and State of Pennsylvania, known and numbered as Residue Parcel No. 2 on the Final Plan of Heritage Heights, as prepared by Charles H. Quandel Associates, Inc., on May 20, 1985, said survey plan being recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Map Book 12, at Page 38; ALSO BEING Lot #'s 1, 3 and 4 in the Subdivision and Land Development of Heritage Hills, as prepared by Mast Engineering Co., Inc., dated June 12, 1989, said survey plan being recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Map Book 18, at Page 58, being bounded and described as follows, to wit:

LOT #1: 20-6-27.2

BEGINNING at a point, said point being the common intersection of the southeast corner of Lot #1, the southwest corner of Lot #3, and the northern line of lands of Norwegian Woods Dev. Co., Inc. of said subdivision, and being South eighty-five degrees forty-three minutes thirty-seven seconds West, a distance of fifty-two and fifty hundredths feet (S 85° 43' 37" W, 52.50') from an iron pin found (EL. 841.60), said pin being the southeast corner of Lot #4 of the said subdivision;

THENCE along the northern line of lands of Norwegian Woods Dev. Co., Inc., South eighty-five degrees forty-three minutes thirty-seven seconds West, a distance of seven hundred eighty-seven and thirteen hundredths feet (S 85° 43' 37" W, 787.13') to an iron pin and lands of Charles R. Kerick, et ux.;

THENCE along the eastern line of lands of Charles R. Kerick, et ux., North seven degrees forty-five minutes twenty-one seconds West, a distance of one hundred ninety-five feet (N 07° 45' 21" W, 195.00') to an iron pin, said pin being the southwest corner of lands of Heritage Associates;

THENCE along the southern line of lands of Heritage Associates, the following two (2) courses and distances:

1. North eighty-two degrees fourteen minutes thirty-nine seconds East, a distance of five hundred sixteen feet (82° 14' 39" E, 516.00') to an iron pin;

2. North seven degrees forty-five minutes twenty-one seconds West, a distance of one hundred forty-seven feet (N 07° 45' 21" W, 147.00') to a point;

THENCE along the southern line of lands of Heritage Associates and Lot #2 of said subdivision, North eighty-two degrees fourteen minutes thirty-nine seconds East (N 82° 14' 39" E), passing through an iron pin on line a distance of one hundred six feet (106.00') from the last described point, the total distance of two hundred eighty-nine and thirty-three hundredths feet (289.33') to a point, said point being the southeast corner of Lot #2;

THENCE along the western line of Lot #3 South four degrees fifty-two minutes twelve seconds East, a distance of three hundred ninety and thirty-one hundredths feet (S 04° 52' 12" E, 390.31') to the point or place of BEGINNING.

CONTAINING 215,463.6413 square feet or 4.9464 acres.

LOT #3: NORWEGIAN WOODS, INC.

BEGINNING at a point on the southern right-of-way line of Township Route 53043, said point being the northeast corner of Lot #2;

THENCE along the southern right-of-way line of Township Route 53043, South seventy-six degrees one minute East, a distance of fifty-two and eighty-eight hundredths feet (S 76° 01' E, 52.88') to a point, said point being the northwest corner of Lot #4;

THENCE along the western line of Lot #4, South four degrees fifty-one minutes fifty-four seconds East, a distance of five hundred forty-three and thirty-five hundredths feet (S 04° 51' 54" E, 543.35') to a point on the northern line of lands of Norwegian Woods Dev. Co., Inc.;

THENCE along the northern line of lands of Norwegian Woods Dev. Co., Inc., South eighty-five degrees forty-three minutes thirty-seven seconds West, a distance of fifty feet (S 85° 43' 37" W, 50.00') to a point, said point being the southeast corner of Lot #1;

THENCE along the eastern line of Lot #1 and Lot #2, North four degrees fifty-two minutes twelve seconds West, a distance of five hundred fifty-nine and ninety-two hundredths feet (N 04° 52' 12" W, 559.92') to a point on the southern right-of-way line of Township Route 53043, the point or place of BEGINNING.

CONTAINING 27,594.0117 square feet or 0.6335 acre.

Lot #4: NORWEGIAN WOODS, INC.

BEGINNING at a point on the southern right-of-way line of Township Route 53043, said point being the northeast corner of Lot #3;

THENCE along the southern right-of-way line of Township Route 53043, South seventy-six degrees one minute East, a distance of one and six hundredths feet (S 76° 01' E, 1.06') to a point on the western line of lands of Paul Kostura;

THENCE along the western line of lands of Paul Kostura, South five degrees one minute twenty-three seconds East, a distance of five hundred forty-three and four hundredths feet to an iron pin on the northern line of lands of Norwegian Woods Dev. Co., Inc.;

THENCE along the northern line of lands of Norwegian Woods Dev. Co., Inc., South eighty-five degrees forty-three minutes thirty-seven seconds West, a distance of two and five tenths feet (S 85° 43' 37" W, 2.5') to a point, said point being the southeast corner of Lot #3;

THENCE along the eastern line of Lot #3, North four degrees fifty-one minutes fifty-four seconds West, a distance of five hundred forty-three and thirty-five hundredths feet (N 04° 51' 54" W, 543.35') to the point or place of BEGINNING.

CONTAINING 950.6607 square feet or 0.0218 acre.

IT BEING PART OF THE SAME PREMISES which Anna Hahn a/k/a Anne K. Hahn a/k/a Anne Marie Hahn, by her Deed dated the 30th day of January, 1987 and recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Deed Book 1387, at Page 285, granted and conveyed unto Cobler Realty Advisors, Inc., a Pennsylvania Corporation as to a 50% interest, and Yoder Builders, Inc., a Close Corporation as to a 50% interest, the within Grantors.

SUBJECT to a fifty (50') foot non-exclusive right-of-way in favor of Charles H. Quandel, Inc., or its assigns, in common with Grantors herein, their successors and assigns, extending from the southern right-of-way line of Township Route 53043 to the northern line of lands of Norwegian Woods Dev. Co., Inc., being Lot #3 above, as shown on the Subdivision and Land Development of Heritage Hills, dated June 12, 1989 and recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Map Book 18, at Page 58.

SUBJECT to a fifteen (15') foot wide non-exclusive utility easement in favor of Charles H. Quandel, Inc., or its assigns, extending from the southern right-of-way line of Township Route 53043 to the northern line of Norwegian Woods Dev. Co., Inc. west of and contiguous to Lot #3, as shown on the Subdivision and Land Development of Heritage Hills, dated June 12, 1989 and recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Map Book 18, at Page 58, and marked thereon as "15' Wide Utility Easement".

SUBJECT to a twenty-two and eleven hundredths (22.11') foot wide non-exclusive utility easement from the southern line of Heritage Associates to the northern line of Norwegian Woods Dev. Co., Inc. across Lot #1, as shown on the Subdivision and Land Development of Heritage Hills, dated June 12, 1989 and recorded in the Office of the Recorder of Deeds in and for Schuylkill County, Pennsylvania, in Map Book 18, at Page 58, and marked thereon as "Utility Easement".