Herrera’s Geary Courtyard settlement saves low-income tenants from rent hike, secures $95K

Litigation arose over disputed provision in 1988 tax exempt bond agreement that financed construction of Geary Street complex

SAN FRANCISCO (Sept. 13, 2012)—City Attorney Dennis Herrera today submitted a proposed settlement agreement in his office’s litigation against the owner and operators of Geary Courtyard Apartments that will preserve lifetime affordable rents for low-income tenants who were earlier in the year threatened with dramatic rent hikes or eviction from their homes at 639 Geary Street. The litigation arose over a disputed provision in a 1988 contract in which the City provided Geary Courtyard’s developer with the proceeds from a tax exempt bond sale on the condition that at least 20 percent of the units be continuously occupied by low-income tenants at affordable rents. Yet in defiance of contract language assuring that affordable rent protections would apply until a resident’s death or voluntary vacancy, Geary Courtyard landlords notified thirty-three low-income tenants in April of their intention to hike rents incrementally to market rates beginning July 1.

Herrera sued in San Francisco Superior Court on May 4, 2012, and in June won a preliminary injunction to block the rent hikes from taking effect. Today’s settlement agreement, which is subject to final approval by the Board of Supervisors and Mayor, additionally secures $95,000 for the City to fully recoup its attorneys’ fees and costs incurred to pursue the action.

“This agreement assures Geary Courtyard’s low-income tenants, who were faced with rent hikes they couldn’t possibly afford, that the promise of lifetime affordable rents will from now on be fully honored,” Herrera said. “No less important, it sends a powerful message that San Francisco city leaders are committed to aggressively enforcing our affordable housing protections, whether they’re negotiated by contract or covered by rent control. I’m thankful to everyone at the Mayor’s Office of Housing, under the leadership of Director Olson Lee, for their efforts in this case, and grateful, also, to Judge Harold Kahn for granting the preliminary injunction that saved Geary Courtyard’s tenants from an illegal rent hike that would almost certainly have forced many from their homes.”

The case is: City and County of San Francisco v. Geary Courtyard Associates et al., San Francisco Superior Court, Case No. CGC-12-520504, filed May 4, 2012.

# # #
SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("the Agreement") is entered into between and among the City and County of San Francisco ("the City") and Geary Courtyard Associates, ERP Operating Limited Partnership and Equity Residential (collectively, "the Equity Parties"). ERP Operating Limited Partnership is the general partner of Geary Courtyard Associates and Equity Residential is the general partner of ERP Operating Limited Partnership. Collectively, the City and the Equity Parties are "the Parties."

RECITALS

A. The City and Geary Courtyard Associates entered into a Regulatory Agreement and Declaration of Restrictive Covenants, effective August 1, 1988, as amended March 1, 1997 ("the Regulatory Agreement");

B. Among other things, the Regulatory Agreement requires that certain units at the Geary Street complex be occupied by low income tenants;

C. On or about April 2, 2012, Geary Courtyard Associates paid off all bonds and obligations referenced in the Regulatory Agreement and as a result of that payment, the Equity Parties contend that the obligation to provide low income housing terminated;

D. On April 6, 2012, Geary Courtyard Associates notified tenants that the low-income rent program had expired;

E. On or about April 24, 2012, San Francisco notified the Equity Parties that the low-income housing obligations protecting existing low-income tenants, set forth in section 5(b) of the Regulatory Agreement, survive bond payoff and termination of the other provisions of the Regulatory Agreement;

F. The Equity Parties dispute the City's interpretation of section 5(b) of the Regulatory Agreement and contend that any such requirement expired upon bond payoff.

G. On May 4, 2012, the City filed a complaint against the Equity Parties in San Francisco Superior Court entitled City and County of San Francisco v. Geary Courtyard Associates, et. al., Case No. CGC 12-520504 ("the Action"), asserting causes of action for: (1) breach of contract; (2) declaratory judgment; and (3) injunctive relief;

H. The Equity Parties answered the complaint, deny the City’s allegations, and deny any allegations of wrongdoing, fault, or liability alleged in the Action or otherwise;

I. The Parties wish to settle their differences and avoid further litigation, without concession to the merits of any claim or allegation asserted in the Action;

NOW, THEREFORE, the Parties agree to fully settle their dispute on the following terms and conditions:

AGREEMENT

1. This Agreement is subject to approval by the San Francisco Board of Supervisors and the Mayor. Subject to the foregoing, each Party represents and warrants that it has the right and authority to execute this Agreement. Upon execution of this Agreement, the parties shall submit a stipulated request to the Court to stay all court hearings and deadlines, including
without limitation, the deadlines to file and serve opposition and reply briefing to the City’s pending motion for summary adjudication.

2. Within five (5) business days after the Board of Supervisors and the Mayor have approved this Agreement, the parties will submit to the San Francisco Superior Court a Stipulated Injunction And Order For Entry Of Judgment, in the form attached as Exhibit A, hereto. This Agreement does not affect the right of any party, as recognized under applicable law, to seek a modification or termination of the permanent injunction, based on a showing of the appropriate factual or legal predicate for doing so. (See e.g., Welsch v. Goswick (1982) 130 Cal.App.4th 398, 404-405)

3. Within five (5) business days after the Court enters the Stipulated Injunction, the Equity Parties shall pay to the City the sum of $95,000.00 (ninety five thousand dollars and no cents). The payment shall be in the form of a wire transfer according to the wiring instructions attached as Exhibit B, hereto. The Equity Parties shall promptly provide to counsel for the City any receipt or confirmation of the wire transfer that the Equity Parties receive from their financial institution. The payment reflects the City’s attorney’s fees and costs incurred in prosecuting this Action and fully satisfies the City’s demand for attorneys’ fees and costs under section 20 of the Regulatory Agreement.

4. Upon entry of the Stipulated Injunction set forth in paragraph 2 above, the Equity Parties may give notice of and implement rent increases to below market rental residents at Geary Courtyard consistent with the rental rates published by the Mayor’s Office of Housing.

5. Upon entry of the Stipulated Injunction set forth in paragraph 2 above, the Equity Parties, on behalf of themselves and their present, former and future affiliates, divisions, departments, officers, directors, employees, representatives, agents, successors, assigns, and attorneys, fully release, waive, and forever discharge the City (including, without limitation, all of the City’s departments, boards, commissions, officers, commissioners, employees and attorneys) and its agents and insurers from any and all civil claims, demands, actions, suits, rights, and causes of actions and liabilities of any nature, known or unknown, suspected or unsuspected, whether legal, equitable, or statutory, including, but not limited to, civil penalties and punitive damages, costs, expenses and attorney fees, which arise out of or in any way relate to the Regulatory Agreement, based on conduct occurring at any time up to and including the date that the Equity Parties have executed this Agreement, below. Nothing stated in this paragraph shall affect or impair the rights of the Equity Parties to seek a modification or termination of the stipulated permanent injunction in accordance with paragraph 2 above, or to oppose any request by the City to do so.

6. Upon entry of the Stipulated Injunction set forth in paragraph 2 above, and receipt of the payment set forth in paragraph 3 above, the City, on behalf of itself and its present, former and future affiliates, divisions, officers, commissioners, employees, representatives, agents, successors, assigns and attorneys, fully releases, waives and forever discharges the Equity Parties and their present, former and future affiliates, divisions, officers, directors, employees, representatives agents, insurers, sureties and attorneys, from any and all civil claims, demands, actions, suits, rights, and causes of actions and liabilities of any nature, known or unknown, suspected or unsuspected, whether legal, equitable, or statutory, including, but not limited to, civil penalties and punitive damages, costs, expenses and attorney fees, which arise out of or in any way relate to the Regulatory Agreement, based on conduct occurring at any time up to and including the date that the City has executed this Agreement, below. Nothing stated in this paragraph shall affect or impair the rights of the City to seek a modification or termination of the stipulated permanent injunction in accordance with paragraph 2 above, or to oppose any request by the Equity Parties to do so.
7. Each of the Parties understands and agrees that if any facts concerning claims released in this agreement should be found hereafter to be other than or different from the facts now believed to be true, they expressly accept and assume the risk of such possible difference in facts and agree that the releases in this Agreement will remain effective; provided that, nothing stated in this paragraph shall affect or impair the rights of any Party to request modification or termination of the stipulated permanent injunction in accordance with paragraph 2 above. Therefore, and subject to the reservation stated above, with respect to the claims released in this Agreement, each of the Parties knowingly and expressly waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

8. Notwithstanding the foregoing, the Parties recognize that this Agreement does not waive or release any claims that current or former Lower Income Tenants or Very Low Income Tenants at Geary Courtyard may have against the Equity Parties, nor shall it waive or release any defense that the Equity Parties may have to any such claim.

9. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

10. The terms set forth in this Agreement constitute the final expression of the Parties' agreement and understanding. This Agreement can be amended, modified, or terminated only by a writing executed by all Parties, or by Order of the Court pursuant to paragraph 2 above. No modification or waiver of any provisions of this Agreement shall be effective unless the same shall be in writing and signed by all Parties.

11. The Parties agree that the Agreement shall be binding upon the Parties and any successors-in-interest and assigns.

12. The Parties acknowledge that they have read this Agreement, that they have been advised by the counsel of their choice, and that the determination of the terms of this Agreement has been by mutual agreement following negotiation. Each Party understands each and every term, condition, and provision of the Agreement. Accordingly, the rule of construction specified in California Civil Code section 1654 that uncertainties in a contract are to be interpreted against the party who caused the uncertainty to exist is hereby expressly waived by all parties. For purposes of this Agreement, the Parties agree that any ambiguity shall be resolved as if the Agreement and each provision had been jointly conceived and drafted.

13. This Agreement may be executed and delivered in any number of counterparts or copies by the Parties. The execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument. The Parties further agree that facsimile or photocopied signatures have the same force and effect as original signatures for all purposes.
IN WITNESS WHEREOF, each Party has caused this Agreement to be executed on the date opposite its signature block.

Dated: __________, 2012

CITY AND COUNTY OF SAN FRANCISCO

James M. Emery, Esq.
Deputy City Attorney

Dated: 9/11, 2012

GEARY COURTYARD ASSOCIATES,

by ERP Operating Limited Partnership, its general partner
by Equity Residential, its general partner
by James D. Fiffer, Senior Vice President

Dated: 9/11, 2012

ERP OPERATING LIMITED PARTNERSHIP

by Equity Residential, its general partner
by James D. Fiffer, Senior Vice President

Dated: 9/11, 2012

EQUITY RESIDENTIAL

by James D. Fiffer, Senior Vice President

Approved as to form:

Dated: 9/12, 2012

Christopher J. Healey, Esq.
Counsel for the Equity Parties

Dated: __________, 2012

James M. Emery, Esq.
Deputy City Attorney
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City Attorney  
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Attorneys for Plaintiff  
CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO,  
Plaintiff,  
vs.  
GEARY COURTYARD ASSOCIATES, a California Limited Partnership; ERP OPERATING LIMITED PARTNERSHIP, an Illinois limited partnership; and EQUITY RESIDENTIAL, a Maryland Real Estate Investment Trust, and DOES 1 through 50,  
Defendants.

Plaintiff City and County of San Francisco ("the City") and Defendants Geary Courtyard Associates, ERP Operating Limited Partnership, and Equity Residential (together, "the Equity Parties"), having executed a Settlement Agreement and Release, hereby stipulate to the following Stipulated Injunction and Order for Entry of Judgment ("Stipulated Injunction"), and the parties waive their respective rights to a noticed motion, hearing, or trial. The City and the Equity Parties are referred to collectively herein as "the Parties."

STIPULATED INJUNCTION; Case No. CGC 12-520504

Exhibit A
The Parties agree that this Stipulated Injunction and Order for Entry of Judgment shall be entered and become final for all purposes upon entry thereof, and each Party waives any right to appeal therefrom.

BACKGROUND

The City and Geary Courtyard Associates entered into a Regulatory Agreement and Declaration of Restrictive Covenants, effective August 1, 1988, as amended March 1, 1997 ("the Regulatory Agreement"). Among other things, the Regulatory Agreement requires that certain units at the Geary Street complex be occupied by low income tenants.

On or about April 2, 2012, Geary Courtyard Associates paid off all bonds and obligations referenced in the Regulatory Agreement. As a result of that payment, the Equity Parties contend that the obligation to provide low income housing terminated.

On April 6, 2012, Geary Courtyard Associates notified tenants that the low-income rent program had expired.

On April 24, 2012, the City notified the Equity Parties that the low-income housing obligations protecting existing low income tenants, set forth in paragraph 5(b) of the Regulatory Agreement, survive bond payoff and termination of the other provisions of the Regulatory Agreement.

The Equity Parties dispute the City's interpretation of section 5(b) of the Regulatory Agreement and contend that any such requirement expired upon bond payoff.

On May 4, 2012, the City filed a complaint against the Equity Parties in San Francisco Superior Court entitled City and County of San Francisco v. Geary Courtyard Associates, et. al., Case No. CGC 12-520504 ("the Action"), asserting causes of action for: (1) breach of contract; (2) declaratory judgment; and (3) injunctive relief.

The Equity Parties answered the complaint, denying the City's allegations and asserting affirmative defenses. The Equity Parties deny any allegations of wrongdoing, fault, or liability alleged in the Action or otherwise. In stipulating to the following injunction, the Equity Parties do not concede the merits of any claim or allegation asserted in the Action, but have agreed to settle their dispute merely to avoid further litigation.
Accordingly, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

**A. JURISDICTION.**

This Court has jurisdiction over the subject matter of this lawsuit as set forth in the allegations of the Complaint and over the Parties hereto. Pursuant to the Parties' request, this Court shall retain continuing jurisdiction under California Code of Civil Procedure section 664.6 to enforce the Parties' Settlement Agreement and Release, and to make further orders and directions as may be necessary or appropriate for the construction, application or carrying out of the Stipulated Injunction contained herein.

**B. INJUNCTION.**

The Equity Parties and their officers, agents, servants, employees, and attorneys, and other persons who are in active concert or participation with them, are hereby and permanently enjoined from raising rents on any Low Income Tenant or Very Low Income Tenant, as those terms are defined in the August 1, 1988 Regulatory Agreement, as amended March 1, 1997 ("the Regulatory Agreement"), who was residing at Geary Courtyard, 639 Geary Street, San Francisco, California, on April 2, 2012 (collectively, "the Geary Low Income Tenants"), subject only to the following exceptions:

1. The Equity Parties shall be entitled to charge Geary Low Income Tenants such rental rates as allowed under the Regulatory Agreement and the Rent Limits for Below Market Rental Units as published from time to time by the Mayor's Office for Housing.

2. As recognized under existing law, any Party may move the Court for an order that modifies or terminates the Stipulated Injunction, based on a showing of the appropriate factual or legal predicate for any such request. (See *e.g.*, *Welsch v. Goswick* (1982) 130 Cal.App.4th 398, 404-405)

For the twelve months beginning on the date this Stipulated Injunction is entered, the Equity Parties shall provide notice to the City's counsel of any move-out agreement reached with any Geary Low Income Tenant, together with a copy of any such agreement. The Equity Parties shall exercise best efforts to ensure that such documentation is provided not later than two business days of the execution of any such agreement.

STIPULATED INJUNCTION; Case No. CGC 12-520504

Exhibit A
C. OTHER TERMS.

Except as expressly provided in the parties' Settlement Agreement, each side shall bear their respective attorneys' fees and costs. The City shall take nothing further from the Equity Parties in connection with its Complaint, except as provided in this Stipulated Injunction and the Parties' Settlement Agreement.

Nothing stated herein shall constitute or be construed as a final adjudication on the merits of the Action.

The Court hereby orders that Judgment in this matter shall be entered in the form attached hereto as Exhibit A.

IT IS SO STIPULATED.

Dated: ____________ DENNIS J. HERRERA
City Attorney

By: __________________________
JAMES M. EMERY
Attorneys for Plaintiff City and County of San Francisco

Dated: ____________ McKENNA LONG & ALDRIDGE LLP

By: __________________________
CHRISTOPHER J. HEALEY
Attorneys for Defendants Geary Courtyard Associates, ERP Operating Limited Partnership and Equity Residential

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: ____________, 2012

Hon. Harold E. Kahn
Judge, San Francisco County Superior Court

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CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO,
Plaintiff,
vs.
GEARY COURTYARD ASSOCIATES, a
California Limited Partnership; ERP
OPERATING LIMITED PARTNERSHIP, an
Illinois limited partnership; and EQUITY
RESIDENTIAL, a Maryland Real Estate
Investment Trust, and DOES 1 through 50,
Defendants.

Plaintiff City and County of San Francisco ("the City") and Defendants Geary Courtyard
Associates, ERP Operating Limited Partnership, and Equity Residential (together, "the Equity
Parties"), have executed a Settlement Agreement and Release and a Stipulated Injunction and Order
for Entry of Judgment. The City and the Equity Parties consent to entry of this Judgment and waive
their respective rights to a noticed motion, hearing, or trial. The parties agree that this Judgment shall

JUDGMENT
Case No. CGC 12-520504
Date Action Filed: May 4, 2012
Trial Date: Not Set

Exhibit A to Exhibit A
be entered and become final for all purposes upon entry thereof, and each party waives any right to
appeal therefrom.

Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

A. The City shall take nothing further from the Equity Parties in connection with its
Complaint except as provided in the Stipulated Injunction and Order for the Entry of Judgment signed
by the Court on ______________, 2012 and as provided in the parties' Settlement Agreement and
Release.

B. This Court shall retain jurisdiction to enforce this Judgment, the Stipulated Injunction
and the parties' Settlement Agreement and Release, pursuant to California Code of Civil Procedure
section 664.6.

IT IS SO ORDERED.

Dated: ________________

hon. Harold E. Kahn
Judge, San Francisco County Superior Court
WIRING INSTRUCTIONS

Effective April 1, 2011, to have funds electronically transferred to the City and County of San Francisco's account either through the Federal Wire System or ACH, the following wiring instructions should be provided to your partnering bank:

Banking Institution: Bank of America
Address: 555 Capitol Mall, Suite 1555
Sacramento, CA 95814
Branch Locator #148

Contact & Telephone #: Claire Palma @ 1-888-841-8159 option 4, ext. 45095

FedWire Bank ABA: 026-009-593
ACH Bank ABA 121-000-358
SWIFT code: BOFAUS3N

Bank Account No. 00661-80050
For the Credit of: San Francisco City Attorney's Office, attn James M. Emery

Important Beneficiary Information: Settlement Payment; CCSF v. Geary Courtyard Associates
City Attorney File No. 121209

If you have any questions on the bank account information, feel free to contact us at 415-554-4509 or send an Email to banking.ttx@sfgov.org
INTRODUCTION

1. The City and County of San Francisco ("the City") and its citizens have a strong interest in creating and preserving affordable housing in San Francisco. In 1988, the City issued eighteen million dollars ($18,000,000) of tax exempt bonds to finance the construction of a 164-unit residential apartment project at 639 Geary Street in San Francisco. The City made the proceeds of the tax exempt bond sale available to defendant Geary Courtyard Associates ("Geary Courtyard"), the
1 developer of the project. In exchange, Geary Courtyard agreed that 20% of the rental units at 639 Geary Street would be available to low income tenants at affordable rental rates.

2. The Regulatory Agreement and Declaration of Restrictive Covenants ("Regulatory Agreement") between and among the City, Geary Courtyard, and the Bondholder specifies that low income tenants who are living at 639 Geary Street when the Regulatory Agreement expires have the right to continue to live in their apartments at affordable rental rates as long as 639 Geary Street remains their primary residence, until they: (1) die, (2) voluntarily move out of 639 Geary Street, or (3) purchase their apartments. Geary Courtyard asserts that the Regulatory Agreement expired in April 2012 and, contrary to the express terms of the Regulatory Agreement, Geary Courtyard has notified each of the 33 low income tenants currently residing at 639 Geary Street of unilateral rent increases that exceed the affordable rent levels specified in the Regulatory Agreement.

3. The proposed rent increases violate the express terms of Geary Courtyard's obligations under the Regulatory Agreement. The proposed rent increases are beyond the means of the low income tenants who currently reside in the affordable apartments at 639 Geary Street. If Geary Courtyard implements the proposed rent increases, these low income tenants risk losing their housing and will suffer irreparable harm. If Geary Courtyard implements the proposed rent increases, 33 units of scarce low income housing will permanently disappear from San Francisco. If Geary Courtyard implements the proposed rent increases, it will have gained the benefit of the municipal tax exempt bond financing without providing the low income housing that it promised in exchange.

VENUE

4. Venue is proper in San Francisco County because the Regulatory Agreement was executed in San Francisco, because 639 Geary Street – the subject of the Regulatory Agreement – is located in San Francisco, because performance of the Regulatory Agreement has been in San Francisco, and because the acts complained of occurred in San Francisco.

PARTIES

5. The City is a municipal corporation duly organized and existing under the laws of the State of California.
6. The City is informed and believes that Geary Courtyard Associates ("Geary Courtyard") is a limited partnership formed and existing under the laws of the State of California.

7. The City is informed and believes that defendant ERP Operating Limited Partnership ("ERP") is a limited partnership formed and existing under the laws of the State of Illinois. The City is further informed and believes that ERP is the general partner of Geary Courtyard, and that ERP owns and controls Geary Courtyard.

8. The City is informed and believes that defendant Equity Residential is a real estate investment trust formed and existing under the laws of the State of Maryland. The City is further informed and believes that Equity Residential is the general partner of ERP, and that Equity Residential owns and controls ERP.

9. The true names and capacities of defendants sued herein under the fictitious names Does 1 through 50, inclusive, are unknown to the City. The City will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

10. The City is informed and believes that all of the acts and omissions described in this Complaint by any defendant were duly performed by, and attributable to, all defendants, each acting as agent, employee, alter ego and/or under the direction and control of the others, and such acts and omissions were within the scope of such agency, employment, alter ego, direction, and/or control. Any reference in this complaint to any acts of defendants shall be deemed to be the acts of each defendant acting individually, jointly, or severally. At all relevant times, each defendant had knowledge of and agreed to both the objectives and the courses of action, and took the acts described in this complaint pursuant to such agreements.

BACKGROUND

11. Providing safe and decent multifamily rental housing in San Francisco to enhance the opportunity for housing for families and individuals is an important public purpose. Providing such housing to individuals with low incomes is likewise an important public purpose.

12. To achieve these important public purposes, the City has, from time to time, issued tax exempt bonds to finance the construction of multifamily rental housing within San Francisco, on the
condition that the development includes units that will be available to low income tenants at affordable rental rates.

13. In this case, to provide 33 units of housing for low income residents at 639 Geary Street in San Francisco, the City entered into the Regulatory Agreement with Geary Courtyard and the Bondholder, with an effective date of August 1, 1988. A true and correct copy of the Regulatory Agreement is attached hereto as EXHIBIT A.

14. The Regulatory Agreement provides that the City will issue eighteen million dollars ($18,000,000) of tax exempt bonds and make the proceeds of that bond sale available for the development of 164 units of rental housing at 639 Geary Street. The City provided this tax exempt financing in order to make affordable housing available in San Francisco for low income residents.

15. Section 4(a) of the Regulatory Agreement requires Geary Courtyard to reserve 33 out of the 164 units at 639 Geary Street for low income tenants at affordable rental rates. "Not less than 20 percent of the completed units in the Development shall be continuously occupied by Lower-Income Tenants at Affordable Rents and not less than one-half of those units (i.e., 10% of the total completed units) shall be reserved for occupancy by Very Low Income Tenants at Very Affordable Rents." The Regulatory Agreement defines Lower-Income Tenant and Very Low Income Tenant based on family size and household income.

16. Section 5(b) of the Regulatory Agreement requires Geary Courtyard to continue to provide this affordable housing for existing tenants, even after the Regulatory Agreement expires. "At the end of the Qualified Project Period, each tenant who at the commencement of occupancy constituted a Lower-Income Tenant or a Very Low Income Tenant shall be entitled to continue to occupy such tenant's unit, but only as such tenant's principal residence, at an Affordable Rent or a Very Affordable Rent, respectively, until the earlier of (i) the death of such tenant, (ii) the conversion of all of the units in the Project to condominium or other owner-occupied use and sale by the Developer of all units to individual purchasers or (iii) voluntary vacation of such unit by such tenant."

17. Section 15 of the Regulatory Agreement expressly recognizes that the Lower-Income Tenants and Very Low Income Tenants at 639 Geary Street are the "intended beneficiaries of [the] covenants, reservations and restrictions" set forth in the Regulatory Agreement.
18. The parties to the Regulatory Agreement have amended the Regulatory Agreement once, as of March 1, 1997. The 1997 amendment to the Regulatory Agreement, among other changes, restated the principal amount of the tax exempt bonds as seventeen million, six hundred ninety three thousand three hundred and eighty five dollars ($17,693,385). The 1997 amendment did not alter Geary Courtyard's obligations under sections 4(a) or 5(b) of the original Regulatory Agreement to provide and maintain affordable housing to low income tenants. A true and correct copy of the First Amendment to Regulatory Agreement and Declaration of Restrictive Covenants is attached hereto as EXHIBIT B.

19. Geary Courtyard asserts that it completed repayment of the tax exempt bonds in April 2012. Geary Courtyard further asserts that its recent repayment of the bonds has caused the Regulatory Agreement to expire and the Qualified Project Period to end.

20. Notwithstanding their explicit obligations under section 4(a) and section 5(b) of the Regulatory Agreement to preserve the affordable rents for existing tenants after the end of the Qualified Project Period, defendants have, on information and belief, sent each of the existing 33 Lower-Income Tenants and Very Low Income Tenants of 639 Geary Street a notice of rent increase.

21. For example, on or about April 6, 2012, one Very Low Income Tenant at 639 Geary Street received a notice letter from Equity Residential informing her of her impending rent increase. In this April 6 notice letter, Equity Residential asserts, in violation of its continuing obligations to provide affordable housing to existing tenants after the end of the Regulatory Period, that "reduced rents" are no longer available. "As you know, the rental rates associated with your apartment home have been capped at certain levels in connection with a federal tax exempt bond program that has been in place at the community. Effective this week, the tax exempt bond program has been retired at our property and as a result, reduced rents will not longer be offered on new and renewal leases." A true and correct copy of this April 6, 2012 notice letter, printed on Equity Residential letterhead, addressed to a Very Low Income Tenant at 639 Geary Street, is attached hereto as EXHIBIT C. EXHIBIT C has been redacted to remove private, personal information of this Very Low Income Tenant.

22. On or about April 16, 2012, this Very Low Income Tenant received from Equity Residential a formal offer to renew her residential lease at an increased rate that exceeds the Very
Affordable Rent that the Regulatory Agreement specifies for Very Low Income Tenants at 639 Geary Street. This Very Low Income Tenant currently pays rent of $889 per month. Equity Residential offered this Very Low Income Tenant a lease renewal at the rate of $1022 per month, effective July 1, 2012, if she agrees to sign a lease. The proposed increase from $889 per month to $1022 per month represents an immediate 15% increase. To continue on her current month-to-month status, this Very Low Income tenant would have to pay $1125 per month, which represents a 26.5% increase. Equity Residential required this Very Low Income Tenant to respond by May 7, 2012 if she wished to continue to live at 639 Geary Street at the increased rental rate. A true and correct copy of Equity Residential's April 16 lease renewal offer to this Very Low Income Tenant is attached hereto as EXHIBIT D. EXHIBIT D has been redacted to remove private, personal information of this Very Low Income Tenant.

23. On information and belief, Equity Residential has delivered substantially similar rent increase notices to each of the 33 Very Low Income and Lower Income households who currently reside at 639 Geary Street.

24. The City is informed and believes that defendants intend to bring rents for all 33 affordable units to market rate at the next annual renewal in 2013. According to Equity Residential's own website, individual units at 639 Geary Street are currently offered at market rates ranging from $1820 to $2440 per month. See http://www.equityapartments.com/california/san-francisco-bay-apartments/downtown-san-francisco/geary-courtyard-apartments.aspx. Therefore, if she manages to absorb this year's 15% rent increase, the Very Low Income Tenant who received the rent increase notices attached as EXHIBITS C and D can expect her rent to double again next year, on top of this year's 15% increase.

25. Faced with these suddenly escalating rents, most if not all of the Lower-Income Tenants and Very Low Income Tenants who now live at 639 Geary Street will be forced to move and will lose their affordable housing in San Francisco. Defendants will reap an undeserved windfall that violates the agreement they struck as a condition for receiving tax exempt financing for their project. Many of these Lower-Income Tenants and Very Low Income Tenants will not be able to find replacement housing in San Francisco, and will become homeless or will be forced to leave San Francisco.
Francisco. This dislocation causes irreparable harm to each of these 33 Lower-Income and Very Low Income households, to the neighborhood, and to the City as a whole.

26. Having learned of these proposed rent increases in violation of defendants’ obligations under the Regulatory Agreement, the City on April 24, 2012 sent a letter to defendants demanding that they rescind the rent increase notices to Lower-Income and Very Low Income residents at 639 Geary Street. A true and correct copy of the April 24, 2012 demand letter from Olson Lee, Director of the San Francisco Mayor's Office of Housing, to Denise Beihoffer, First Vice President of Equity Residential, is attached hereto as EXHIBIT E.

27. By letter dated April 26, 2012, defendants refused to rescind their notices of rent increase to the 33 Lower-Income Tenants and Very Low Income Tenants at 639 Geary Street. Defendants asserted that the Regulatory Agreement expired on April 2, 2012. Defendants further asserted: "As a result of such expiration, there is no longer an obligation on the part of the owner of the Project to continue maintaining the affordability program, and no prohibition to the owner increasing rents for the affordable units to market rates.” A true and correct copy of Ms. Beihoffer's April 26, 2012 letter to Olson Lee is attached hereto as EXHIBIT F.

FIRST CAUSE OF ACTION
Breach of Contract
(Against All Defendants)

28. The City realleges and incorporates herein by reference as though fully set forth herein paragraphs 1 through 27 of this Complaint.

29. The Regulatory Agreement, as amended, requires defendants to continue to offer affordable rents to existing qualified tenants after the Regulatory Agreement has ended, until the existing tenants have voluntarily moved, died or purchased their units.

30. The City has performed all its obligations under the Regulatory Agreement, as amended.

31. Defendants have breached the Regulatory Agreement by increasing the rent of Lower-Income Tenants and Very Low Income Tenants who reside at 639 Geary Street to rates that exceed the maximum affordable rents set forth in the Regulatory Agreement.
32. Defendants' breach has caused damages to the City and to the Lower-Income Tenants and Very Low Income Tenants at 639 Geary Street, according to proof at trial.

SECOND CAUSE OF ACTION
Declaratory Judgment
(Against All Defendants)

33. The City realleges and incorporates herein by reference as though fully set forth herein paragraphs 1 through 33 of this Complaint.

34. A controversy has arisen between the City on the one hand and defendants on the other regarding defendants' obligations under the Regulatory Agreement. Specifically, the City asserts that defendants have a continuing obligation to provide affordable rents to Lower-Income Tenants and to Very-Low Income Tenants at 639 Geary Street, even after the end of the Regulatory Period. Defendants deny this obligation.

35. The City desires a judicial declaration that defendants must continue to offer affordable rents to each Low-Income Tenant and to each Lower Income Tenant who currently lives at 639 Geary Street as his or her principal residence, until that tenant dies, voluntarily moves away from 639 Geary Street or purchases the unit.

THIRD CAUSE OF ACTION
Injunctive Relief
(Against All Defendants)

36. The City realleges and incorporates herein by reference as though fully set forth herein paragraphs 1 through 35 of this Complaint.

37. Beginning on April 6, 2012, defendants have threatened and taken concrete steps to increase the rents of Lower-Income Tenants and Very Low Income Tenants at 639 Geary Street above the level of affordable rents authorized under the Regulatory Agreement.

38. The City has requested that defendants rescind those unauthorized rent increases, and defendants have refused.

39. Defendants' wrongful conduct, unless and until enjoined and restrained by this Court, will cause immediate and irreparable injury to the City and to the Lower-Income and Very Low Income Tenants at 639 Geary Street. The individual tenants will lose their affordable housing in San
Francisco and will likely be unable to find comparable housing in San Francisco at an affordable rate. The City will forever lose 33 units of affordable housing stock that it facilitated by issuing $18,000,000 of tax exempt bonds to defendants.

40. The City and the qualified tenants at 639 Geary Street have no adequate remedy at law for the threatened harm. Loss of scarce affordable housing in San Francisco and the resulting damage to the fabric of the neighborhood cannot be compensated by an award of money damages.

**PRAYER FOR RELIEF**

Wherefore, the City prays for judgment against defendants as follows:

1. For a declaration and determination that:
   a. Defendants must continue to offer affordable housing to each of the Low-Income and Very Low Income Tenants who resided at 639 Geary Street as of April 2, 2012, for as long as each tenant continues to occupy his or her unit as a principal residence, until the earlier of (i) the death of such tenant, (ii) the conversion of all of the units in the Project to condominium or other owner-occupied use and sale by the Developer of all units to individual purchasers or (iii) voluntary vacation of such unit by such tenant.
   b. Provided, the tenant shall lose the right to remain in tenancy upon failure to pay the Affordable Rent or Very Affordable Rent, as applicable, or for failure to abide by reasonable rules and regulations applicable to all tenants.

2. For a temporary restraining order and injunction requiring defendants to rescind all outstanding rent increase notices to Lower-Income Tenants and Very Low Income Tenants at 639 Geary Street and prohibiting defendants from increasing rents to such tenants to any levels that exceed the Affordable Rents or Very Affordable Rents, respectively, established in the Regulatory Agreement.

3. For the costs of suit herein incurred, including attorney's fees pursuant to Section 20 of the Regulatory Agreement, Code of Civil Procedure section 1021.5 and any other applicable law; and
4. For such other and further relief as the court may deem proper.

Dated: May 4, 2012

DENNIS J. HERRERA
City Attorney
JAMES EMERY
EVAN GROSS
DEPUTY CITY ATTORNEYS

By: James M. Emery
Attorneys for Plaintiff
CITY AND COUNTY OF SAN FRANCISCO
REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

By and Among

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

GEARY COURTYARD ASSOCIATES,
a California Limited Partnership

and

CAPITAL REALTY INVESTORS TAX EXEMPT FUND
III LIMITED PARTNERSHIP,
a Delaware limited partnership

DATED AS OF AUGUST 1, 1988

Relating to

$18,000,000
CITY AND COUNTY OF SAN FRANCISCO
MULTIFAMILY HOUSING REVENUE BONDS, 1988 ISSUE B
(GEARY COURTYARD PROJECT)
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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Regulatory Agreement") is made and entered into as of August 1, 1988, by and among the CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, a chartered city and municipal corporation of the State of California (together with any successor to its rights, duties and obligations, the "City"), CAPITAL REALTY INVESTORS TAX EXEMPT FUND III LIMITED PARTNERSHIP, a Delaware limited partnership (the "Bondowner"), and GEARY COURTYARD ASSOCIATES, a California Limited Partnership formed under the laws of the State of California (the "Developer").

WITNESSETH:

WHEREAS, Chapter 7, Part 5 of Division 31 of the Health and Safety Code ("the "Act") and the San Francisco Administrative Code, Chapter 43, and the San Francisco Charter Section 7.310 (collectively, the "Law") authorize the City to incur indebtedness for the purpose of financing the construction or development of multifamily rental housing; and

WHEREAS, the City has heretofore declared the need to provide multifamily housing in the City to enhance the opportunity for housing for families and individuals and to issue revenue bonds to provide funds to make loans to persons, firms, corporations, partnerships or other entities for the purpose of developing such housing; and

WHEREAS, the City has approved the issuance of its revenue bonds designated "The City and County of San Francisco Multifamily Housing Revenue Bonds, 1988 Issue B (Geary Courtyard Project)" (the "Bonds"), the proceeds of which have been or will be loaned to the Developer to finance the cost of a 164-unit multifamily residential rental development (the "Development"), all for the public purpose of providing decent, safe and sanitary housing; and

WHEREAS, the Development satisfies the requirements of Section 1312(a) of the Tax Reform Act of 1986, and therefore the requirements of the Internal Revenue Code of 1954, as amended (the "Code"), will be the applicable federal tax provisions governing the use and operation of the Development and the Bonds; and

WHEREAS, the aggregate principal amount of the Bonds to be issued together with the outstanding multifamily bonds on the date of issuance of the Bonds will not exceed the maximum aggregate principal amount of Bonds that can be issued in the State in 1988 and the notice requirements set forth in California Health and Safety Code Section 52097.5 have been met; and

20850012.rg
WHEREAS, the Act, the Law, the Code and the regulations and rulings promulgated with respect thereto prescribe that the use and operation of the Development be restricted in certain respects; and, in order to ensure that the Development will be constructed, use and operated in accordance with the Act, the Law and the Code, the City, the Bondowner and the Developer have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction, equipping and operation of the Development; and

WHEREAS, the City has considered opportunities to contribute to the economic feasibility of the Development as required by the Act;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the City, the Bondowner and the Developer hereby agree as follows:

**Section 1. Definitions and Interpretations.** The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise. Terms not defined herein shall have the respective meanings ascribed to such terms in the Lender Loan Agreement (as defined herein).


"Adjusted Income" - The adjusted income of a person (together with the adjusted income of all persons, other than children under the age of 18 years, who intend to reside with such person in one residential unit) as calculated in the manner prescribed in Regulation Section 1.167(k)-3(b)(3) in effect as of the Bond Issuance Date.

"Affiliated Party" - A person related to the Developer such that (i) the relationship between such person and the Developer would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii) such person and the Developer are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50%" shall be substituted for "at least 80%" each place it appears therein).
"Affordable Rent" - With respect to Lower-Income Tenants, a monthly rent which does not exceed the contract rent calculated by the Mayor's Office of Housing of the City with respect to Low and Moderate Units which are occupied by Lower-Income Tenants, which contract rent shall be an amount equal to 30 percent of one-twelfth of the maximum adjusted annual income at which a household of appropriate size for the unit is deemed to be a "lower income" family in the City for purposes of the leased housing program established under Section 8 of the United States Housing Act of 1937, as amended, based upon the following appropriate household sizes for the following sizes of residential units in the Project:

<table>
<thead>
<tr>
<th>Residential Unit</th>
<th>No. of Persons in Family</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>1</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>3</td>
</tr>
<tr>
<td>3 Bedrooms or more</td>
<td>4</td>
</tr>
</tbody>
</table>

"Agreement" - The Loan Agreement entered into by the Developer, the City and the Bondowner pursuant to which the City will make the Loan to the Developer.

"Area" - The San Francisco Primary Metropolitan Statistical Area.

"Bond Counsel" - Arnelle & Hastie and Stradling, Yocca, Carlson & Rauth, a Professional Corporation, or any other firm of nationally recognized bond counsel experienced in the financing of facilities for nonexempt persons through the issuance of tax-exempt revenue bonds under the exemption provided under Section 103 of the 1986 Code selected by the City and approved by the Bondowner which approval shall not be unreasonably withheld.

"Bondholder", "Bondowner", "Holder" - Capital Realty Investors Tax Exempt Fund III Limited Partnership, a Delaware limited partnership, or such other owner of a Bond then outstanding under the Lender Loan Agreement and Indenture of Trust as shown on the registration books maintained by the Trustee pursuant to the Lender Loan Agreement and Indenture of Trust.

"Bond Issuance Date" - The date of the issuance of the Bonds, being August 19, 1988.

"Bonds" - The City and County of San Francisco Multifamily Housing Revenue Bonds, 1988 Issue B (Geary Courtyard Project), issued pursuant to the Lender Loan Agreement and Indenture of Trust in the aggregate original principal amount of $18,000,000.

"Certificate of Continuing Program Compliance" - The Certificate to be filed by the Developer with the City and the
Bondowner which shall be substantially in the form attached hereto as Exhibit C.

"City" - The City and County of San Francisco, California, a municipal corporation and chartered city and county duly organized and existing under the laws and the Constitution of the State of California.

"City Fee" - An amount paid by the Developer to the City at the time of issuance of the Bonds in a amount equal to $45,000, together with an annual fee equal to 1/8 of 1% of the outstanding principal amount of Bonds, commencing on the date of the Initial Advance, which the Developer shall pay or cause to be paid to the City quarterly in arrears, commencing October 1, 1988, as more fully set forth in Section 3.7(a) of the Loan Agreement.

"Code" - The Internal Revenue Code of 1954, as amended or the Internal Revenue Code of 1986, as amended, as applicable.

"Completion Certificate" - The certificate of completion required to be delivered to the City and the Bondowner by the Developer pursuant to Section 2 of this Regulatory Agreement which shall be substantially in the form attached hereto as Exhibit D.

"Costs of Issuance" - All items of expense related to the issuance of the Bond, which may include, but shall not be limited to, printing costs, costs of reproducing documents, initial Trustee expenses with respect to the Bond, the initial fee to the Trustee, the City Fee related to the issuance of the Bond, financial advisor fees, the California Debt Advisory Commission fee, legal fees and charges, costs of credit ratings, fees and charges for execution, transportation and safekeeping of the Bond, and charges and fees in connection with the foregoing.


"Developer's Tax and No Arbitrage Certificate" - The certificate of the Developer dated as of the Bond Issuance Date with respect to certain Development Costs, delivered to the City by the Developer.

"Development" - The Development Facilities and the Development Site.

"Development Completion Date" - The date of the completion of the construction and equipping of the Development, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.
"Development Costs" - All of the costs and expenses incurred, directly or indirectly, with respect to land acquisition, construction, and equipping of the Development, including, without limitation, bond selection fee and the servicing fee, both payable to the Servicer, land acquisition costs, construction costs, financing fees, interest on the Loan and Working Capital Loan during the construction period, costs of issuance, architectural and engineering fees, permit and City fees, taxes and insurance during the construction period, payment and performance bonds, legal fees, title and recording, and marketing expenses necessary to make the Development operational; provided however, that nothing in this definition shall be construed to permit or require the expenditure of Bond proceeds (or the investment earnings thereon) for the payment of such costs if such payment would not be authorized by the Act or the Law or would cause the interest on the bonds to be subject to federal income taxation.

"Development Facilities" - The buildings, structures and other improvements to be constructed on the Development Site, and all fixtures and other property owned, leased or licensed by the Developer and located on, or used in connection with, such buildings, structures and other improvements.

"Development Site" - The parcel or parcels of real property described in Exhibit A, and all rights and appurtenances thereunto appertaining.

"Income Computation and Certification" - The income certification form to be completed by all Lower-Income Tenants, including Very Low Income Tenants, which shall be substantially in the form attached hereto as Exhibit B.


"Lender Loan Agreement and Indenture of Trust" or "Lender Loan Agreement" - The Lender Loan Agreement and Indenture of Trust entered into by and among the City, the Bondowner, and the Trustee, as Trustee, pursuant to which the Bonds will be issued.

"Loan" - The mortgage loan made by the City to the Developer pursuant to the Agreement to provide financing for the Development.

"Low and Moderate Units" - The dwelling units in the Development designated for occupancy by Lower-Income Tenants and Very Low Income Tenants pursuant to Section 4(a) of this Regulatory Agreement.

"Lower-Income Tenant" - A person whose Adjusted Income, which when combined with the Adjusted Income of all other persons (other than children under the age of 18 years) residing in the same unit, does not exceed the maximum adjusted annual income at
which a household of four is deemed to be a "lower income" family in the City for purposes of the leased housing program established under Section 8 of the United States Housing Act of 1937, as amended, adjusted downward for family size as follows:
Number of Occupants

<table>
<thead>
<tr>
<th>Occupants</th>
<th>Maximum Adjusted Income (expressed as a percentage of 80% of Median Income for the Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>not more than 90%</td>
</tr>
<tr>
<td>2</td>
<td>not more than 80%</td>
</tr>
<tr>
<td>1</td>
<td>not more than 70%</td>
</tr>
</tbody>
</table>

In no event will the occupants of a unit be considered to be Lower Income Tenants if all of such occupants are students (as defined in Section 151(e)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code.

"Median Income for the Area" - The median income for the Area as most recently determined by the Secretary of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, or if programs under Section 8 are terminated, median income for the Area determined under the method used by the Secretary prior to such termination.

"Mortgage" - The Construction and Permanent Deed of Trust with Assignment of Rents and Fixture Filing, dated as of even date herewith from the Developer to the trustee named therein for the benefit of the Trustee and the Bondowner, securing the Loan and encumbering the Project, the terms of which Mortgage are incorporated herein by reference.

"Net Proceeds" - The aggregate face amount of the Bonds plus accrued interest and premium, if any.

"Note" - The promissory note from the Developer to the City evidencing the payment obligations of the Developer under the Agreement, and any and all amendments and supplements thereto.

"Qualified Development Costs" - The Development Costs (other than Costs of Issuance) incurred after April 18, 1984, which are chargeable to a capital account with respect to the Development for federal income tax and financial purposes, or would be so chargeable either with a proper election by the Developer or but for the proper election by the Developer to deduct those amounts; provided, however, that only that portion of the interest costs accrued during construction of the Development shall constitute a Qualified Development Cost as bears the same ratio to all such interest as the Qualified Development Costs bear to all Development Costs, and, provided further, that interest accruing on the Note after the Development Completion Date shall not be a Qualified Development Cost; and provided still further that if any portion of the Development is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Development Costs" shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Development (or any portion thereof), (b) any reasonable fees for supervisory
services actually rendered by the Affiliated Party which are
directly attributable to the work performed on the Development,
and shall not include, for example, intercompany profits
resulting from members of an affiliated group (within the meaning
of Section 1504 of the Code) participating in the construction of
the Development or payments received by such Affiliated Party due
to early completion of the Development (or any portion thereof).

"Qualified Project Period" - The period beginning on
the later of (i) the first day on which at least 10 percent of
the dwelling units in the Development are first occupied or (ii)
the Bond Issuance Date and ending on the later of (a) the date
which is 10 years after the first day on which at least 50
percent of the dwelling units in the Development are first
occupied, or (b) the date which is a qualified number of days
after the date on which any of the dwelling units in the
Development is first occupied, or (c) the date on which any
assistance provided with respect to the Development under Section
8 of the United States Housing Act of 1937 terminates. For
purposes of clause (b), the term "qualified number of days"
means, with respect to the Bonds, 50 percent of the sum of (x)
the number of days comprising the term of the Bonds with the
longest maturity plus (y) the number of days comprising the term
of the longest maturity of any refunding obligation.

"Regulations" - The Income Tax Regulations from time to
time promulgated or proposed by the Department of the Treasury
pursuant to the Code.

"Regulatory Agreement" - This Regulatory Agreement and
Declaration of Restrictive Covenants.

"Servicer" - CRICO Mortgage Company, Inc., a Delaware
Corporation.

"Very Affordable Rent" - With respect to Very Low
Income Tenants, a monthly rent which does not exceed one-twelfth
of the amount obtained by multiplying 30% times 50% of the Median
Income for the Area, as adjusted by household size, based upon
the following appropriate household sizes for the following sizes
of residential units in the Project:

<table>
<thead>
<tr>
<th>Residential Unit Size by Bedroom</th>
<th>No. of Persons in Family</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>1</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>3</td>
</tr>
<tr>
<td>3 Bedrooms or more</td>
<td>4</td>
</tr>
</tbody>
</table>

"Very Low Income Tenant" - A person whose Adjusted Income,
which when combined with the Adjusted Income of all other persons
(other than children under the age of 18 years) residing in the
same unit, does not exceed 50 percent of the Median Income for
the Area determined in accordance with Section 52097.5 of the Act, adjusted downward for family size as follows:

<table>
<thead>
<tr>
<th>Number of Occupants</th>
<th>Maximum Adjusted Income (expressed as a percentage of 50% of Median Income for the Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>not more than 90%</td>
</tr>
<tr>
<td>2</td>
<td>not more than 80%</td>
</tr>
<tr>
<td>1</td>
<td>not more than 70%</td>
</tr>
</tbody>
</table>

In no event will the occupants of a unit be considered to be Very Low Income Tenants if all of such occupants are students (as defined in Section 151(e)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include the other genders when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Construction, Equipping and Completion of the Development. The Developer hereby represents as of the date hereof, and, covenants and agrees as follows:

(a) The Developer has incurred a substantial binding obligation to commence the construction of the Development, pursuant to which the Developer is obligated to expend at least the lesser of (i) 2-1/2 percent of the principal amount of the Loan or (ii) $100,000.

(b) The Developer’s reasonable expectations respecting the total Development Costs and use of Bond proceeds are accurately set forth in the Developer’s Tax and No Arbitrage Certificate which has been delivered to the City and the Bondowner.
(c) The Developer has commenced the construction and equipping of the Development, or will commence the same within 30 days after the date hereof, and will proceed with due diligence to complete the same.

(d) The Developer reasonably expects to complete the construction and equipping of the Development and to expend the full amount of the proceeds of the Loan for Development Costs prior to September 1, 1990.

(e) The statements made in the various certificates delivered by the Developer to the City and/or the Bondowner are true and correct as of the Bond Issuance Date.

(f) On the Development Completion Date, the Developer will submit to the City and the Bondowner a Completion Certificate, in form and substance acceptable to each of them, containing the following: (i) the statement of the Developer and its architect or engineer that the Development was substantially completed and ready and available for occupancy as of a specified date; (ii) the Developer’s statement, confirmed by the Servicer, of the aggregate amount disbursed on the Loan to the Developer prior to and upon the Development Completion Date; (iii) the Developer’s certification that all of the amounts disbursed on the Loan have been applied to pay or reimburse the Developer for the payment of Development Costs and that none of the amounts disbursed on the Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Development Costs; (iv) the Developer’s certification that at least 95 percent of the Net Proceeds have been applied to pay or reimburse the Developer for the payment of Qualified Development Costs; (v) the Developer’s certification that less than 25 percent of the Net Proceeds was used to pay, or to reimburse the Developer, for the cost of acquiring land, or any interest therein and (vi) the Developer’s certificate that less than 2% of the face amount of the Bonds was applied to pay Costs of Issuance.

(g) The Developer (and any person related to it within the meaning of Section 103(b)(6)(C) of the Code) will not purchase and hold any Bonds pursuant to any arrangement, formal or informal, and will not take or omit to take, as is applicable, any other action if such action or omission would in any way cause the proceeds from the sale of the Bonds to be applied in a manner contrary to the requirements of the Lender Loan Agreement and Indenture of Trust or this Regulatory Agreement.

Section 3. Residential Rental Property. The Developer hereby acknowledges and agrees that the Development is to be owned, managed and operated as a project for "residential rental property" (within the meaning of Section 103(B)(4)(A) of the Code) for a term equal to the longer of (i) the term of the Bonds and of any refunding obligations or (ii) the Qualified Project Period determined with respect to the Development. To that end, the Developer hereby represents, covenants, warrants and agrees as follows:
(a) The Development will be constructed for the purpose of providing a residential rental project (within the meaning of the Code), and the Developer shall own, manage and operate the Development as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, each consisting of more than one dwelling unit, together with any functionally related and subordinate facilities, and no other facilities, in accordance with Section 103(b)(4)(A) of the Code and Section 1.103-8(b) of the Regulations, and the Act, and in accordance with such requirements as may be imposed thereby on the Development from time to time.

(b) All of the dwelling units in the Development will be similarly constructed units, and each dwelling unit in the Development will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and food preparation facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Development will at any time be utilized on a transient basis, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Development will at any time be owned or used as a condominium or by a cooperative housing corporation, and the Developer shall not take any steps in connection with a conversion to such ownership or uses, other than obtaining or recording a condominium plan and final map or the Development, and processing a final subdivision public report with the California Department of Real Estate, except with the prior written approving opinion of Bond Counsel that the interest on the Bonds will not become taxable thereby.

(e) All of the dwelling units in the Development will be available for rental on a continuous basis to members of the general public during the longer of the Qualified Project Period or the period that any Bonds remain outstanding; and the Developer will not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be leased or rented to Lower-Income Tenants or to be available for occupancy by Very Low Income Tenants as set forth in Section 4 hereof.

(f) The Development Site consists of a parcel or parcels that are contiguous except that there may be the interposition of a road, street, stream or other water way, and all of the Development Facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Development.
(g) No building in the Development which contains five or fewer dwelling units may be occupied by the Developer or any Affiliated Party, including a resident manager or maintenance personnel.

(h) Within thirty (30) days after the date on which 10 percent of the dwelling units in the Development are first occupied, the Developer shall prepare and mail to the City and the Bondowner, return receipt requested, a certificate identifying such date. The Developer may record a copy of said certificate in the Office of the Recorder of the City.

(i) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Bond Issuance Date which prevents the City from enforcing the requirements of the Regulations, or condemnation or similar event, the Developer covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Note or apply any proceeds received as a result of any of the preceding events to reconstruct the Development to meet the requirements of Section 103(b)(4)(A) of the Code and the Regulations.

Section 4. Lower-Income Tenants. Pursuant to the requirements of Section 103(b)(4)(A) of the Code, the Act and the Law, the Developer hereby represents, warrants and covenants that until the later of (i) the expiration of the Qualified Project Period or (ii) the date on which all Bonds have been retired and paid for:

(a) Not less than 20 percent of the completed units in the Development shall be continuously occupied by Lower-Income Tenants at Affordable Rents and not less than one-half of those units (i.e., 10% of the total completed units) shall be reserved for occupancy by Very Low Income Tenants at Very Affordable Rents. For purposes of satisfying the foregoing occupancy requirements, a unit occupied by a person or family who at the commencement of occupancy qualified as a Lower-Income Tenant or a Very Low Income Tenant shall be treated as occupied by a Lower-Income Tenant or a Very Low Income Tenant, respectively, even though such person or family subsequently ceases to be a Lower Income Tenant or a Very Low Income Tenant, as the case may be. Moreover, a unit occupied by a Lower-Income Tenant shall be deemed, upon termination of such Tenant's occupancy, to be continuously occupied by a Lower-Income Tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed 31 days. The Low and Moderate Units will be intermingled with all other dwelling units in the Development and will be of a quality, and offer a range of sizes and number of bedrooms, comparable to the other units in the Development. Tenants in the Low and Moderate Units will have
equal access to and enjoyment of all common facilities of the Development.

(b) The Developer will obtain and maintain on file income certifications from each Lower-Income Tenant and Very Low Income Tenant, in a form substantially similar to that attached as Exhibit B hereto, dated immediately prior to the initial occupancy of such Lower-Income Tenant in the Development, and containing such information as may be required by the State of California, the City and by Section 103(b)(4)(A) of the Code and the Regulations, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations exempt from federal income taxation under Section 103(b)(4)(A) of the Code, and a copy of each such certificate will be filed with the City. The Developer agrees to advise the City and the Bondowner by delivery of a Certificate of Continuing Program Compliance of the status of the occupancy of the Development on a quarterly basis for the term of this Regulatory Agreement. The Developer shall verify that the income provided by an applicant in an income certification is accurate by taking one or more of the following steps as a part of the verification process in the following order of priority: (1) obtain an employment verification form from applicant’s current employer, (2) obtain pay stubs for the most recent pay period, (3) obtain a federal income tax return for the most recent tax year, or (4) obtain other independent written evidence of annual income acceptable to the City, including statements of social security payments or other forms of governmental assistance.

(c) The Developer will maintain a list of persons who have notified the Developer of their desire to rent a unit in the Development and who have Adjusted Incomes which would qualify them as Lower-Income Tenants and as Very Low Income Tenants.

(d) The Developer will maintain complete and accurate records pertaining to the Low and Moderate Units, and will permit any duly authorized representative of the City or the Bondowner to inspect the books and records of the Developer pertaining to the incomes of Lower-Income Tenants or Very Low Income Tenants residing in the Development.

(e) The form of lease to be utilized by the Developer in renting any units in the Development to any person who is intended to qualify as a Lower-Income Tenant or a Very Low Income Tenant shall provide for immediate termination of the lease for failure of such person to qualify as a Lower-Income Tenant or a Very Low Income Tenant as a result of any material misrepresentation made by such person with respect to the Income Computation and Certification.

(f) The Developer will accept as tenants, on the same basis as all other prospective tenants, lower-income persons who
are holders of certificates for federal housing assistance payments for existing housing pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program; and, in connection therewith, the Developer will not apply tenant selection criteria to such Section 8 certificate holders which are more burdensome than the criteria applied to any other prospective tenants.

(g) The Developer shall accept as tenants on the same basis as all other prospective tenants persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor, or who are recipients of other income subsidies. The Developer shall not collect any additional fees or payments from a Lower Income Tenant or Very Low Income Tenant except security deposits or other deposits required of all tenants. The Developer shall not collect security deposits from Section 8 Certificate holders in excess of that allowed under the Section 8 Program. The Developer shall not discriminate against Lower Income Tenant or Very Low Income Tenant applicants on the basis of source of income (i.e., AFDC or SSI), and the Developer shall consider a prospective tenant’s previous rent history of at least one year as evidence of the ability to pay the applicable rent (ability to pay shall be demonstrated if Lower Income Tenants or Very Low Income Tenants can show that they have paid the same percentage or more of their income for rent as they would be required to pay for the rent applicable to the Low and Moderate Unit to be occupied).

Section 5. Additional Requirements of the Law and the City. In addition to the requirements set forth in Section 2 and 3, the Developer hereby agrees to comply with each of the requirements of the Law and the City set forth in this Section, as follows:

(a) As required by Section 43.12 of the San Francisco Administrative Code, the Developer shall require all contractors and subcontractors engaged in the construction of the Project to provide equal opportunity for employment, without discrimination as to race, marital status, sex, color, religion, national origin or ancestry. Additionally, the Developer shall not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, marital status, age, disability or the receipt of public or housing assistance.

(b) At the end of the Qualified Project Period, each tenant who at the commencement of occupancy constituted a Lower-Income Tenant or a Very Low Income Tenant shall be entitled to continue to occupy such tenant’s unit, but only as such tenant’s principal residence, at an Affordable Rent or a Very Affordable Rent, respectively, until the earlier of (i) the death of such tenant, (ii) the conversion of all of the units in the Project to condominium or other owner-occupied use and sale by the Developer of all units to individual purchasers or (iii) voluntary vacation of such unit by such tenant. Nothing in this Section 4(b) shall
afford any tenant the right to remain in tenancy upon failure to pay the Affordable Rent or Very Affordable Rent, as applicable, or for failure to abide by reasonable rules and regulations applicable to all tenants.

(c) If after the Qualified Project Period the Project is converted to condominium or other owner-occupied use, each tenant who, at the commencement of occupancy constituted a Lower-Income Tenant or Very Low Income Tenant shall be given the right to purchase such tenant's unit, (provided that such unit is the tenant’s principal residence), at a price determined by the Developer as set forth below for each unit, at any time for a period of ninety (90) days following such conversion, before such unit is offered to any other potential buyer. Any sale of a Low and Moderate Unit upon conversion of the Project to condominium or other owner-occupied use, other than to the tenant who occupied such unit at the time of such conversion, shall be to a person or family whose Adjusted Income does not exceed the Sale Income Ceiling and shall be at a price not less than the Sale Price Floor, all as determined in accordance with the following procedure, subject to review and consent by the City:

(i) The Developer shall determine the Sale Price Floor, which shall be equal to the original cost of the unit at the time of completion of construction (including the allocable portion of land cost) times an inflation factor based on the nationwide Consumer Price Index as published by the Department of Labor or any succeeding comparable index. The original cost of the unit shall be calculated by subtracting the cost of the commercial space located in the Development (approx. 1922 sq. ft.), from the Development Costs, and multiplying the remainder by the percentage of the square footage of the subject unit to the total square footage of all units. The construction cost of the commercial space shall include a pro-rata portion of all costs used in calculating the Development Costs. The Developer shall not be required to sell any Low and Moderate Unit at a price below the Sale Price Floor.

(ii) The Developer shall determine the Sale Income Ceiling (expressed as annual income), which shall be initially 80% of Median Income for the Area not adjusted for family size. The Developer may not sell any Low and Moderate Unit to a person or family whose Adjusted Income exceeds the Sale Income Ceiling.
(iii) If the Sale Income Ceiling is less than an amount equal to 4.5 times the annual debt service on a 30 year fixed-rate level payment residential first mortgage loan with an original principal amount equal to 95% of the Sale Price Floor and bearing interest at the market rate for such a loan at the time of sale of the unit then the Sale Income Ceiling shall be redetermined and shall be a higher amount equal to 4.5 times the annual debt service on a 30 year fixed-rate level payment residential first mortgage loan with an original principal amount equal to 95% of the Sale Price Floor and bearing interest at the market rate for such a loan at the time of sale of the unit. In such event, the Developer shall not sell the unit at a price in excess of the Sale Price Floor.

The Low and Moderate Units sold pursuant to this subsection (c), shall be substantially evenly dispersed throughout the Development.

At the time of the first sale of any Low and Moderate Unit, the Developer shall cause the buyer of the unit to deliver to the City a deferred interest 30 year fixed-rate balloon note, secured by a deed of trust subordinate to any financing for the purchase of the unit, with a principal amount equal to the difference between the fair market value of the unit at the time of the first sale (presumptively, the sale price of comparable units within the Project) less the price paid at the time of the first sale of such unit, and bearing interest (compounded monthly) at a rate equal to 1.2 times the then current market rate for conventional 30 year fixed-rate level payment residential first mortgage loans or such lesser rate as may be specified by the City, provided, however, that in no event shall the amount payable on such note at the time such note is due and payable exceed the difference between (a) the fair market value of the unit at the time the note is due and payable and (b) the sum of (i) the cash amount paid by the mortgagor to the Developer for the unit, (ii) a return on the mortgagor’s down payment equal to 10% per annum compounded annually, (iii) the value of capital improvements, if any, made by the mortgagor, and (iv) a return on the value of capital improvements equal to 10% per annum compounded annually. Such note and deed of trust shall be in the form provided by the City. Such forms may provide that the debt evidenced thereby may be declared due and payable on any sale, transfer or rental of the unit and shall provide that such debt may be prepaid at any time or such difference (referred to in the second preceding sentence) may be paid at closing by any party.

(d) The Developer hereby covenants and agrees with the City that it will notify, in writing, each Lower-Income Tenant and Very Low Income Tenant of such tenant’s right to purchase such tenant’s unit pursuant to subsection (d) above. Such notice shall
also include the proposed sales price of such tenant’s unit and will be sent by first-class mail, postage prepaid, at least 120 days prior to the conversion of the Development to condominium or other owner-occupied use.

(e) The Developer hereby agrees to pay to the City the City Fee for the longer of the period the Bonds remain outstanding or the Qualified Project Period. If the Bonds are retired prior to the end of the Qualified Project Period, the Developer shall pay to the City, at the time the Bonds are so retired, an amount equal to the present value of the remainder of the City Fee, utilizing a discount rate of 8%.

Section 6. Tax Exempt Status of the Bonds. The Developer, Bondowner and the City each hereby represents, warrants and agrees that:

(a) It will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the exemption from federal or California personal income taxation of the interest on the Bonds and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof;

(b) It will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the City, the Bondowner and the Developer, to comply fully with all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service pertaining to obligations issued under Section 103(b)(4)(A) of the Code and to comply with the Act; and

(c) It will file and/or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the City, the Bondowner and the Developer, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Development and their successors in interest, including, but not limited to, the execution and recordation in the real property records of the City of this Regulatory Agreement.

The Developer hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Development to another person to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to so abide; otherwise, any such transfer of the Development shall be null and void.

Section 7. Modification of Special Tax Covenants. The Developer, the Bondowner and the City hereby agree as follows:
(a) If any amendments to the Act, the Law, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the City, the Bondowner and the Developer, impose requirements upon the ownership or operation of the Development more restrictive than those imposed by this Regulatory Agreement, then, to the extent necessary to avoid the Development being used or operated in a manner which would form the basis for a Determination of Taxability (as defined in the Lender Loan Agreement and Indenture of Trust), this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) The Developer, the City and, if applicable, the Bondowner shall execute, deliver and, if applicable, file or record any and all documents and instruments, necessary to effectuate the intent of this Section 7, and the Developer hereby appoints the Bondowner as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file or record on behalf of the Developer any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the Developer defaults in the performance of its obligations under this subsection (c); provided, however, that the Bondowner shall take no action under this subsection (b) without first notifying the Developer, and without first providing the Developer an opportunity to comply with the requirements of this Section 7.

Section 8. Indemnification. The Developer shall indemnify, hold harmless and defend the Trustee the City and the Bondowner and the respective officers, members, board members, directors, officials, employee and agents and each of them against all loss, costs, damages, expenses, suits, judgments, actions and liabilities of whatever nature (including, without limitation, reasonable attorneys' fees of counsel selected by the indemnified party, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from or arising out of or related to (a) the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Development (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto); (b) the provision of tax-exempt financing for the Development; or (c) any written statements or representations with respect to the Developer, the Development or the Bonds made or given to the City or the Bondowner, or any underwriters or purchasers of any of the Bonds, by the Developer, or any of its agents or employees, including, but not limited to, statements or representations of facts, or financial information; provided, however, that the Developer shall not be obligated to indemnify the Bondowner or any of its officers, directors, officials or employees for any costs or claim resulting from the negligence of such parties. If any proceeding shall be brought or threatened against a party entitled to indemnity hereunder by reason of or in connection with the events described in this Section, the indemnified party shall promptly notify the Developer in writing and the Developer shall assume the investigation and defense thereof, including the employment of counsel selected by the
indemnified party and the payment of all reasonable costs and expenses related thereto; provided that the City shall have the right to reasonably review and approve or disapprove any compromise or settlement in connection with any such action brought against it or proceeding to which it is a party, and that the Developer shall not settle any claim affecting the interest of the City without the prior approval of the City. The Developer shall not be liable for any settlement of any such action without its consent, which consent shall not be unreasonably withheld nor delayed.

The Developer also shall pay and discharge and shall indemnify and hold harmless the City, the Trustee and the Bondowner from (i) any lien or charge upon payments by the Developer to the City and the Bondowner hereunder and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Development. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the City or the Bondowner shall give prompt notice to the Developer and the Developer shall have the sole right and duty to assume, and will assume, the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion.

In addition thereto, the Developer will pay upon demand all of the reasonable and necessary fees and expenses paid or incurred by the Bondowner and/or the City and the Trustee in enforcing the provisions hereof.

This Section 8 is a separate agreement, shall survive any foreclosure action, attempted transfer or the like and action may be brought thereon independently of any other remedy provided for herein.

Section 9. Consideration. The City has issued the Bonds to provide funds to provide financing for the Development, all for the purpose, among others, of inducing the Developer to construct, equip and operate the Development. The Bondowner has entered into the Lender Loan Agreement and Indenture of Trust and assumed duties and obligations thereunder which facilitate the issuance of the Bonds. In consideration of the issuance of the Bonds by the City and the execution of the Lender Loan Agreement and Indenture of Trust by the Bondowner, the Developer has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Development can be put for the term hereof.

Section 10. Reliance. The City, the Bondowner and the Developer hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds, and in the exclusion from income taxation of the interest on the Bonds. In performing their duties and obligations hereunder, the City and the Bondowner may rely upon statements and certificates of the Developer, Lower-Income Tenants and Very Low Income Tenants, and upon audits of the books and records of the Developer pertaining
to occupancy of the Development. In addition, the City and the Bondowner 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 the Bondowner hereunder in good faith and in conformity with such opinion; provided, however, that if there are conflicting opinions among the counsel selected by the parties thereto, the opinion of Bond Counsel shall govern the interpretation and enforcement of this Regulatory Agreement. In determining whether any default or lack of compliance by the Developer exists under this Regulatory Agreement, neither the City nor the Bondowner shall be required to conduct any investigation into or review of the operations or records of the Developer and may rely solely on any notice or certificate delivered to them by the Developer.
Section 11. Development Location. The Developer hereby represents and warrants that the Development will be located entirely within the incorporated area of the City.

Section 12. Sale or Transfer of the Development. The Developer hereby covenants and agrees not to sell, transfer or otherwise dispose of the Development, or any portion thereof (other than for individual tenant use as contemplated hereunder), without obtaining the prior written consent of the City, which consent shall be conditioned solely upon receipt by the City of (i) written notice at least 60 days in advance of the consummation of the proposed sale or transfer explaining the nature of the proposed transfer, (ii) reasonable evidence satisfactory to counsel to the City that the Developer's purchaser or transferee has assumed in writing the Developer's duties and obligations under this Regulatory Agreement and the Project Loan Documents (as defined in the Lender Loan Agreement and Indenture of Trust), (iii) reasonable evidence satisfactory to the City that the transferee is capable financially of operating the Development and otherwise of completing the Development if the Development is not yet completed, (iv) an opinion of counsel to the transferee that the transferee has duly assumed the obligations of the Developer under the Regulatory Agreement and the Project Loan Documents and that such obligations and this Regulatory Agreement and the Project Loan Documents are binding on the transferee, and (v) an opinion of Bond Counsel to the effect that such transfer will not cause interest on the Bonds to be not excludible from gross income for federal income tax purposes under Section 103 of the Code or subject to State personal income taxation. Any consent of the City may be relied upon if given by the Executive Director of the Mayor's Office of Housing, or any successor entity. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Development in violation of this Section 11 shall be null, void and without effect, shall cause a reversion of title to the Developer, and shall be ineffective to relieve the Developer of its obligations under this Regulatory Agreement. Nothing contained in this Section 12 shall affect any provisions in the Mortgage which gives the Bondowner the right to accelerate the maturity of the Loan, or to take some other similar action with respect to the Loan, upon the sale, transfer or other disposition of the Development, as long as a result of such action is that the Bondowner shall obtain title to the Development.

Section 13. Term. This Regulatory Agreement and all of the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect for as long as any Bonds or any refunding obligations are outstanding under the Lender Loan Agreement and Indenture of Trust or otherwise but in any case at least for the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds and expiration of the Lender Loan Agreement and Indenture of Trust, the Agreement, the Loan and the Note, and that the requirements of Sections 5(c) and 5(d) shall remain in full force and effect until May 1, 2038.
The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement, and all and several of the terms hereof other than the indemnification provisions set forth in Section 8, shall terminate and be of no further force and effect in the event of (i) involuntary non-compliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, foreclosure by the City of the lien of the Deed of Trust or delivery of a deed in lieu of foreclosure whereby a third party shall take possession of the Development, change in a federal law or an action of a federal agency after the date hereof which prevents the City and the Bondowner from enforcing the provisions hereof or condemnation or a similar event, together with (ii) the payment in full and retirement of the Bonds within a reasonable period thereafter; provided, however, that the delivery of a deed in lieu of foreclosure shall terminate this Regulatory Agreement and all and several of the terms hereof only if (i) the City is notified in writing of such delivery of a deed in lieu of foreclosure at least 30 days prior to its occurrence, (ii) the City also receives, in writing, an explanation of the reason why a delivery of a deed in lieu of foreclosure is to occur at least 30 days prior to the anticipated delivery of a deed in lieu of foreclosure, (iii) the Developer shall receive no consideration in connection with the delivery of the deed in lieu of foreclosure other than the termination of its obligations under the Loan and the Mortgage, and (iv) the City receive a copy of any agreement relating to the delivery of the deed in lieu of foreclosure and provided, further, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure of the lien of the Deed of Trust, or the delivery of a deed in lieu of foreclosure or a similar event, the Developer or any related person to it (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Development for Federal income tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. The Developer hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City, the Bondowner and the Developer hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Developer's successors in title to the Development; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any
portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The City, the Bondowner and the Developer hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Developer's legal interest in the Development is rendered less valuable thereby. The City, the Bondowner and the Developer hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Lower-Income Tenants and Very Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Development in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 17. Enforcement. If the Developer defaults in the performance or observance of any covenant, agreement or obligation of the Developer set forth in this Regulatory Agreement, and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the City or the Bondowner to the Developer, then the Bondowner, acting on its own behalf, or the City shall declare an "Event of Default" to have occurred hereunder, and, at its option, may take any one or more of the following steps (whether or not the Loan or any of the Bonds remain outstanding):

(i) by mandamus or other suit, action or proceeding at law or in equity, require the Developer to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City or the Bondowner hereunder;

(ii) have access to and inspect, examine and make copies of all of the books and records of the Developer pertaining to the Developer;

(iii) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Developer hereunder; or

(iv) if the City or the Bondowner receive the written opinion of Bond Counsel that continued noncompliance (identified in such opinion) with this
Regulatory Agreement will materially increase the risk that interest on the Bonds will lose its exclusion from gross income for federal income tax purposes, the City and the Bondowner, or the Trustee at the request of the Bondowner, will promptly (i) arrange a workout with the Developer requiring the developer to cure such noncompliance within sixty (60) days or such longer period as shall be agreed to by the Bondowner and approved by Bond Counsel, or (ii) take such other action or exercise such remedies as the City and the Bondowner may determine would serve to protect the tax-exempt nature of interest on the Bonds; provided, however, that if none of the actions or steps described in (i) or (ii) above are adequate to preserve the tax-exempt nature of interest on the Bonds, then, upon receipt by the Bondowner, the City and the Trustee of (A) an opinion of Bond Counsel to that effect, and (B) written notice from the City to accelerate the Loan, the Trustee and the Bondowner agree to accelerate the Loan, the Developer shall be obligated to prepay the outstanding principal balance of and all accrued and unpaid interest on the Loan by such date as designated by the City in its notice to accelerate the Loan, and the Trustee and the Bondowner agree to promptly pursue remedies permitted under the Loan Agreement and the Mortgage to effect such prepayment of the Loan, if necessary, including foreclosure of the Mortgage.

The rights of the City and the Bondowner under this Section are in addition to all rights conferred upon the City and the Bondowner under the Loan Agreement and the Lender Loan Agreement and Indenture of Trust and in no way limit those rights.

Section 18. Further Enforcement; City's Option to Lease. To cause the Development to meet the requirements of section 3, 4, and 5 hereof, if and to the extent necessary, in the opinion of Bond Counsel, to preserve the exemption from federal income taxes of interest on the Bonds or to comply with the requirements of the Act or the Law or, in the opinion of the City, to carry out the policies of the City, the Developer hereby grants to the City the option, for the Qualified Project Period, to lease from time to time as many of the units in the Project as are not in compliance with the requirements of said Sections, for a rental of $1.00 per unit per year, for the purpose of subleasing such units in accordance with the requirements of said Sections. After the City has been reimbursed for any expenses incurred in connection with such sublease, any net rental paid under any such sublease shall be paid to the Developer; provided, that if the Developer is in default in its payment obligations to the Bondowner, pursuant to notice given to the City by the Bondowner or the Trustee, such net rental shall be used to make payments due to the Trustee for the account of the Bondowner.
Section 19. Recording and Filing. The Developer shall cause this Regulatory agreement and the Mortgage, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the City and in such other places as the City or the Bondowner may reasonably request, provided that this Regulatory Agreement shall be recorded prior to the Mortgage. The Developer shall pay all fees and charges incurred in connection with any such recording.

Section 20. Attorneys’ Fees and Trustee’s Fees. In the event that a party to this Regulatory Agreement brings an action against any other party to this Regulatory Agreement by reason of the breach of any condition or covenant, representation or warranty in this Regulatory Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable attorney’s fees to be fixed by the court which shall render judgment, as well as the costs of suit.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California. The Bondowner’s rights, duties and obligations hereunder are governed in their entirety by the terms and provisions of the Lender Loan Agreement and Indenture of Trust.

Section 22. Amendments. This Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto, or their successors in title, and duly recorded in the real property records of the City.

Section 23. Notice. All notices, demands, requests and other communications required under the Loan Documents shall be in writing and shall be deemed to have been properly given if sent to the addresses listed below:

To the City:  
City and County of San Francisco  
Mayor’s Office of Housing  
100 Larkin Street  
San Francisco, California 94102  
Attention: Elise Rosson

To the Developer:  
Geary Courtyard Associates, A California Limited Partnership  
c/o AF Evans Company, Inc.  
3236 Stone Valley Road, Suite 210  
Alamo, California 94507  
Attention: Arthur F. Evans

With a copy to:  
Knox & Cincotta  
944 Market Street, Suite 800  
San Francisco, California 94102  
Attention: David Cincotta
To the Bondowner: CRITEF III Associates Limited

Partnership

Managing General Partner of Capital
Realty Investors Tax Exempt Fund
III Limited Partnership
11200 Rockville Pike
Rockville, Maryland 20852
Attention:
Yvonne S. Distenfeld, Esq.
General Counsel

With copies to:

Mr. Richard L. Kadish
Ms. Lori S. Larson

And with a copy to:

Lane and Edson, P.C.
2300 M Street, N.W.
Washington, D.C. 20037
Attention:
Kenneth G. Hance, Jr., Esq.

To the Servicer: CRICO Mortgage Company, Inc.

11200 Rockville Pike
Rockville, Maryland 20852
Attention: Richard L. Kadish

To the Trustee: Bankers Trust Company of California

50 Fremont Street, 10th Floor
San Francisco, California 94105
Attention: Corporate Trust Department

Section 24. Compliance by Developer. The Bondowner shall not be responsible for maintaining or verifying compliance by the Developer with its obligations under this Regulatory Agreement. The City shall assume such responsibilities hereunder.

Section 25. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 26. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.
Section 27. Limitation on Certain Relationships with Capital Realty Investors Tax Exempt Fund III Limited Partnership. The Developer hereby warrants, covenants and agrees that the Developer will not at any time:

(a) acquire any beneficial assignee certificate ("BAC") representing an assignment of limited partnership interest in Capital Realty Investors Tax Exempt Fund III Limited Partnership, a Delaware limited partnership (the "Fund”),

(b) permit any person who is

(1) the holder of a BAC;

(2) a general or limited partner of the Fund, or;

(3) any person who is a spouse, child or parent of such holder or partner

to use the Development in any manner whatsoever, or

(c) permit any person who is a spouse, child or parent of the Developer to acquire any BACs

unless, in the opinion of Bond Counsel, such circumstances will not adversely affect the exemption from federal income taxation of interest on the Bonds.
IN WITNESS WHEREOF, the City, the Bondowner and the Developer have executed this Regulatory Agreement by duly authorized representatives, all on the date first written hereinabove.

(SEAL)

CITY AND COUNTY OF SAN FRANCISCO

By

Mayor

ATTEST:

(ACTING)

Clerk of the Board of Supervisors

CAPITAL REALTY INVESTORS TAX EXEMPT FUND III LIMITED PARTNERSHIP

By CRITF III Associates Limited Partnership, its General Partner

By C.R.I., Inc., as Managing General Partner

By

Richard L. Kadish
Executive Vice President

GEARY COURTYARD ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP

ATTEST:

By: A.F. EVANS COMPANY, INC.
General Partner

By:

President
On this 18th day of August, 1988, personally appeared 

Ant Agnos, the Mayor of the City and County of San Francisco, a chartered city and municipal corporation of the State of California, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said public body.

WITNESS my hand and official seal,

FRANK C. KUDELKA

My Commission Expires:

November 4, 1988
IN WITNESS WHEREOF, the City, the Bondowner and the Developer have executed this Regulatory Agreement by duly authorized representatives, all on the date first written hereinabove.

(SEAL)

CITY AND COUNTY OF SAN FRANCISCO

By __________________________ ___
Mayor

ATTEST:

Clerk of the Board of Supervisors

CAPITAL REALTY INVESTORS TAX EXEMPT FUND III LIMITED PARTNERSHIP

By CRITEF III Associates Limited Partnership, its General Partner
By C.R.I., Inc., as Managing General Partner

By: __________________________ ___
Richard L. Kadish
Executive Vice President

GEARY COURTYARD ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP

ATTEST:

By: __________________________ ___
A.F. EVANS COMPANY, INC.
General Partner

By: __________________________ ___
President
STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

On this 18th day of August, 1988, personally appeared Richard L. Kadish, personally known to me (or proved on the basis of satisfactory evidence) to be the person who executed the within instrument as Executive Vice President of C. R. I., Inc., the managing general partner of Capital Realty Investors Tax Exempt Fund III Limited Partnership, a Delaware limited partnership, the partnership that executed the within instrument and acknowledged to me that the partnership executed it.

WITNESS my hand and official seal.

My Commission Expires: April 23, 1989

OFFICIAL SEAL
KATHY JULIA LOGINOFF
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
My comm. expires APR 23, 1989
STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

On this 18th day of August, 1988, before me, the undersigned, a Notary Public in and for the City and County and the State, personally appeared Arthur F. Evans, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument as the President of A. F. Evans Company, Inc., the general partner of Geary Courtyard Associates, a California Limited Partnership, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.

(SEAL)

Notary Public in and for said City and County and State
EXHIBIT A

Legal Description

The land described in the referenced instrument is located in the City and County of San Francisco, California, and is described as follows:

PARCEL I:

COMMENCING at a point on the southerly line of Geary Street, distant thereon 60 feet westerly from the westerly line of Jones Street; running thence westerly and along said line of Geary Street 102 feet, 6 inches; thence at a right angle southerly 137 feet, 6 inches; thence at a right angle easterly 102 feet, 6 inches; thence at a right angle northerly 137 feet, 6 inches to the point of commencement.

BEING part of 50 Vara Block No. 253.

PARCEL II:

COMMENCING at a point on the southerly line of Geary Street, distant thereon 162 feet, 6 inches westerly from the westerly line of Jones Street; running thence westerly along said line of Geary Street 25 feet; thence at a right angle southerly 137 feet, 6 inches; thence at a right angle easterly 25 feet; thence at a right angle northerly 137 feet, 6 inches to the point of commencement.

BEING part of 50 Vara Block No. 253.
EXHIBIT A

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BEING part of 50 Vara Block No. 253.

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BEING part of 50 Vara Block No. 253.
NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development ("HUD") Regulations (24 CFR 813). You should make certain that this form is at all times up to date with the HUD Regulations.

RE: Address of Apartment Building

I/We, the undersigned state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit being applied for in the above apartment project. Listed below are the names of all persons who intend to reside in the unit:

<table>
<thead>
<tr>
<th>Name of Members of Household</th>
<th>Relationship to Head of Household</th>
<th>Age</th>
<th>Social Security Number</th>
<th>Place of Employment</th>
</tr>
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<tbody>
<tr>
<td>HEAD</td>
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</tbody>
</table>

Income Computation

6. The total anticipated income, calculated in accordance with the provisions of this paragraph 6, of all persons (except children under the age of 18 years) listed above for the 12-month period beginning the date that I/we plan to move into a unit is $__________.

Included in the total anticipated income listed above are:

(a) all wages and salaries, overtime pay, commissions, fees,
tips and bonuses and other compensation for personal services, before payroll deductions;

(b) the net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness);

(c) interest and dividends;

(d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;

(e) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;

(f) the maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;

(g) periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling;

(h) all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse (or other persons whose dependents are residing in the unit); and

(i) any earned income credit to the extent that it exceeds income tax liability.

Excluded from such anticipated income are:

(a) casual, sporadic or irregular gifts;

(b) amounts which are specifically for or in reimbursement of medical expenses;

(c) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses;

(d) amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the
costs of tuition, fees, books and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;

(e) special pay to a family member in the Armed Forces who is away from home and exposed to hostile fire;

(f) relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(g) foster child care payments;

(h) the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;

(i) payments to volunteers under the Domestic Volunteer Service Act of 1973;

(j) payments received under the Alaska Native Claims Settlement Act;

(k) income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;

(l) payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;

(m) payments received from the Job Training Partnership Act;

(n) income derived from the disposition of funds of the Grand River Bank of Ottawa Indians; and

(o) the first $2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

7. Do the persons whose income or contributions are included in the item 6 above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land) _____ Yes _____ No; or

(b) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? _____ Yes _____ No.
(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than $5,000?  
___ Yes  ___ No

8. (a) Are all of the individuals who propose to reside in the unit full-time students? Yes ___  No ___

*A full-time student is an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional on farm training under the supervision of an accredited agent of such an educational organization or of a state of political subdivision thereof.

(b) If the answer to 8(a) is yes, is at least 1 of the proposed occupants of the unit a husband or wife entitled to file a joint federal income tax return? Yes _____  No _____

9. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Owner"), has any family relationship to the Owner; or owns directly or indirectly any interest in the Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trustee held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit; and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. I/we will assist the Owner in obtaining any information or documents required to verify the statements made herein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

12. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with
the Owner to lease the unit and will entitle the Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

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

Executed this ___ day of __________________ in the City of __________________, California.

______________________________
Applicant

______________________________
Applicant

All persons listed in number 2 above (except children under the age of 18 years) must sign this form.
FOR COMPLETION BY APARTMENT OWNER ONLY:

1. Calculation of eligible income:
   a. Enter amount entered for entire household in 6 above:

   b. (1) If the amount entered in 7(d)(1) above is greater than $5,000, enter the total amount entered in 7(d)(2), subtract in 7(d)(3) and enter the remaining balance ($____);

   (2) Multiply the amount entered in 7(d)(1) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(d)(1) would be if invested in passbook savings ($____), subtract from that figure the amount entered in 7(d)(3) and enter the remaining balance ($____);

   (3) Enter at right the greater of the amount calculated under (1) or (2) above:

   c. TOTAL ELIGIBLE INCOME (Line 1.a plus line 1.b(3)):

2. The amount entered in 1.c:
   ___ Qualifies the applicant(s) as a Lower-Income Tenant(s).
   ___ Does not qualify the applicant(s) as a Lower-Income Tenant(s).
   ___ Qualifies the applicant(s) as Very Low Income Tenant(s).

3. Number of apartment unit assigned _____
   Bedroom Size: _____ Rent: $____

4. This apartment unit was/was not last occupied for a period of more than 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as Lower-Income Tenants.
5. Method used to verify applicant(s) income:
   ___ Employer income verification.
   ___ Copies of tax returns.
   ___ Other (______________________)

______________________________
Manager
INCOME VERIFICATION
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed under the City of San Francisco Multifamily Housing Program for persons of low and moderate income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee’s current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages

Overtime

Commissions

Total current income

I hereby certify that the statement above are true and complete to the best of my knowledge.

Signature__Date__Title__

Firm Name__Address__Telephone Number__

I hereby grant you permission to disclose my income to ___ in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed under the City and County of San Francisco Multifamily Housing Program.

Signature__Date__

Please send to:

__________________________

__________________________

__________________________
INCOME VERIFICATION
(for self-employed persons)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

_________________________  ________________________
Signature                  Date
CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

The undersigned, being _______ of ________, (the "Developer") has read and is thoroughly familiar with the provisions of the various Loan Documents associated with the Developer's participation in the City and County of San Francisco (the "City") Multifamily Housing Revenue Bonds, 1988 Issue B (Geary Courtyard Project) such documents including:

1. The Regulatory Agreement dated as of August 1, 1988 among the Developer, the City and Capital Realty Investors Tax Exempt Fund III Limited Partnership (the "Bondowner").

2. The Mortgage dated as of August 1, 1988 between the Developer and the trustee named therein.

3. The Note dated August __, 1988 between the Developer and the City and representing the Developer's obligation to repay its Loan.

4. During the preceding month, the following number of applications were received from Lower-Income Tenants:

   a) Total number of applicants who qualify as Lower-Income Tenants

   b) Total number of applicants who qualify as Very Low Income Tenants

5. As of the date of this certificate, the following percentages of completed residential units in the Development (i) are occupied by Very Low Income Tenants or by other Lower-Income Tenants (as such terms are defined in the Regulatory Agreement) or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Lower-Income Tenant vacated such unit; as indicated:

<table>
<thead>
<tr>
<th>Studio</th>
<th>1 Bdrm.</th>
<th>2 Bdrm.</th>
<th>Total Rent</th>
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<tbody>
<tr>
<td>1</td>
<td>2</td>
<td></td>
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</tr>
</tbody>
</table>

Occupied by Very Low Income Tenants: ___ % Unit Nos.: ________ ________ ________ ________
Occupied by Lower-Income Tenants: __% Unit Nos.: _____

Held vacant for occupancy continuously since last occupied by Lower-Income Tenant __% Unit Nos.: _____

Total Number of Completed Units: __% Unit Nos.: _____

Please describe what action, if any, Developer or property manager has taken to attract and rent to low and moderate income tenants (e.g., advertising, contacted Section 8 office, provided waiver of security deposits, $___ rent subsidy)

The undersigned hereby certifies that the Developer is not in default under any of the terms and provisions of the above documents, and no event has occurred which, with the passage of time, would constitute a default thereunder, with the exception of the following:

(DEVELOPER)

Name of Development ____________________________

Address ____________________________

Contact Person: ____________________________

Name, Title (___) Telephone ____________________________
EXHIBIT D

COMPLETION CERTIFICATE

The undersigned hereby certify that all portions of the Development were substantially completed and available either for occupancy or use by tenants in the Development as of ________.

[Signature]
California Limited Partnership

By ______________________

The undersigned hereby certifies that:

(1) the aggregate amount disbursed on the Loan to date is $____________;

(2) all amounts disbursed on the Loan have been applied to pay or reimburse the undersigned for the payment of Development costs and none of the amounts disbursed on the Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Development Costs; and

(3) at least 95 percent of the Net Proceeds have been applied to pay or reimburse the Developer for the payment of Qualified Development Costs (as that term is used in the Regulatory Agreement), less than 25 percent of the Net Proceeds have been applied to pay or reimburse the Developer for the cost of acquiring land and less than 2% of the face amount of the Bonds was applied to pay Costs of Issuance, (as that term is used in the Regulatory Agreement).

[Signature]
California Limited Partnership

By: A.F. Evans Co., Inc.

By: ______________________
Its ______________________

The undersigned hereby certifies that to date $___________ has been disbursed on the Loan.

[Signature]
CRISCO Mortgage Company, Inc.
Partnership, a Delaware Corporation Servicer

By ______________________
FIRST AMENDMENT TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS
by and between
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA,
GEARY COURTYARD ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP,
and
UNITED STATES TRUST COMPANY OF NEW YORK,
as trustee of Capital Realty Investors Tax Exempt Fund Limited Partnership Trust,
Series 1996-4
DATED AS OF MARCH 1, 1997
Relating to
$17,693,385
CITY AND COUNTY OF SAN FRANCISCO
MULTIFAMILY HOUSING REVENUE BONDS, 1988 ISSUE B
(GEARY COURTYARD PROJECT)
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<td>(n) Section 13. Term</td>
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FIRST AMENDMENT TO
REGULATORY AGREEMENT AND DECLARATION
OF RESTRICTIVE COVENANTS

This FIRST AMENDMENT TO REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Amendment") is made and entered into as of March 1, 1997, by and between the CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, a chartered city and municipal corporation of the State of California (together with any successor to its rights, duties, and obligations, the "City"); UNITED STATES TRUST COMPANY OF NEW YORK, a New York corporation, as trustee of Capital Realty Investors Tax Exempt Fund Limited Partnership Trust, Series 1996-4 (the "Bondowner"); and GEARY COURTYARD ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP (the "Developer").

WITNESSETH:

WHEREAS, the City; the Developer; and Capital Realty Investors Tax Exempt Fund III Limited Partnership, a Delaware limited partnership (the "Prior Bondowner"), entered into that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of August 1, 1988 (the "Regulatory Agreement"), relating to the Development (the Development and all other capitalized terms used but not defined in this Amendment have the meanings given such terms in the Regulatory Agreement); and

WHEREAS, the Development includes that certain real property described on Exhibit A attached hereto; and

WHEREAS, the Bondowner has acquired the Bonds from the successor by merger to the Prior Bondowner; and

WHEREAS, the Bondowner and the Developer desire to restructure (the "Restructuring") the Bonds pursuant to an Amended and Restated Lender Loan Agreement and Indenture of Trust of even date herewith, among the City; First Trust of California, National Association (the "Bond Trustee"); and the Bondowner (the "Restated Lender Loan Agreement"), among other things, to reduce to the principal amount thereof to $17,693,385; and

WHEREAS, pursuant to the Restated Lender Loan Agreement, among other things, (i) a new bond (the "Bond"), in such reduced principal amount, will be reissued by the City, and (ii) the Bond Trustee will act as Trustee for the Bond and succeed to all of the rights of the Prior Bond Trustee with respect thereto; and

WHEREAS, in conjunction with the Restructuring the City, the Bondowner, and the Developer desire to amend the Regulatory Agreement;
NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, the Bondowner, and the Developer hereby agree as follows.

Section 1. Amendments. The Regulatory Agreement is amended as follows:

(a) Definition of "Agreement". In the paragraph which defines "Agreement", which paragraph appears in Section 1 of the Regulatory Agreement, on page 3 thereof, the following language is added immediately preceding the period at the end of such paragraph:

, as the same may from time to time be amended in accordance with the terms thereof

(b) Definition of "Applicable Fee Rate" (New). In Section 1 of the Regulatory Agreement, immediately following the paragraph which defines "Agreement", on page 3 thereof, the following new paragraph is inserted:

"Applicable Fee Rate" - Through March 31, 1997, such rate shall be 1/8 of 1%. Commencing April 1, 1997, such rate shall be 1/4 of 1%, provided, however, that if the City shall receive a Payment Notice with respect to the prior month on or before the tenth (10th) day of each month in each quarter for which the City Fee is assessed then such rate for such quarter shall be 1/8 of 1%; and provided further, for any month in which payments by the Developer with respect to the Loan are made directly to the Trustee, such rate shall be 1/8 of 1%.

(c) Definition of "Bond Counsel". In the paragraph which defines "Bond Counsel", which paragraph appears in Section 1 of the Regulatory Agreement, on page 3 thereof, the language "Amelle & Hastie and Stradling, Yocca, Carlson & Rauth, a Professional Corporation" is deleted, and the language "Lofton, De Lancie & Nelson and Nossaman, Guthner, Knox & Elliott" is substituted therefor.

(d) Definition of "City Fee". The paragraph which defines "City Fee", which paragraph appears in Section 1 of the Regulatory Agreement, on page 4 thereof, is deleted in its entirety, and the following paragraph is substituted therefor:

"City Fee" - An amount paid by the Developer to the City at the time of original issuance of the Bonds in the amount of $45,000, and an amount paid by the Developer to the City at the time of the delivery of that certain First Amendment to Regulatory Agreement and Declaration of Restrictive Covenants dated as of March 1, 1997, by and between the City, the Developer, and the Bondowner (as defined in such amendment), by the parties thereto in the amount of $22,118, together with an annual fee equal to the Applicable Fee Rate of the outstanding principal amount of Bonds, commencing on the date of the Initial Advance, which the Developer shall pay or cause to be paid to the City quarterly
in arrears, commencing October 1, 1988, as more fully set forth in Section 3.1 of the Agreement.

(e) Definition of "Law". In the paragraph which defines "Law", which paragraph appears in Section 1 of the Regulatory Agreement, on page 5 thereof, the following language is added immediately preceding the period at the end of such paragraph:

, through July 1, 1996, and the San Francisco Charter Section 9.107, collectively. after such date

(f) Definition of "Lender Loan Agreement and Indenture of Trust". In the paragraph which defines "Lender Loan Agreement and Indenture of Trust", which paragraph appears in Section 1 of the Regulatory Agreement, on page 5 thereof, the following language is added immediately preceding the period at the end of such paragraph:

, as the same may from time to time be amended in accordance with the terms thereof

(g) Definition of "Mortgage". In the paragraph which defines "Mortgage", which paragraph appears in Section 1 of the Regulatory Agreement, on page 7 thereof, the word "Project" is deleted, and the language "Development, as the same may from time to time be amended in accordance with the terms thereof" is substituted therefor.

(h) Definition of "Note". In the paragraph which defines "Note", which paragraph appears in Section 1 of the Regulatory Agreement, on page 7 thereof, the following language is added immediately preceding the period at the end of such paragraph:

, as the same may from time to time be amended in accordance with the terms thereof

(i) Definition of "Payment Notice" (New). In Section 1 of the Regulatory Agreement, immediately following the paragraph which defines "Note", on page 7 thereof, the following new paragraph is inserted:

"Payment Notice" - During any period in which payments to the Bondowner with respect to the Bonds are being made on behalf of, rather than by, the Trustee, a statement from or on behalf of the Bondowner setting out for a calendar month (i) the outstanding principal amount of the Bonds at the beginning of the first day of such month, (ii) the amount of payments received by the Bondowner on account of the Bonds during such month, (iii) the allocation of such payments to principal, interest, and other amounts, if any, due the Bondowner in respect of the Bonds, (iv) the outstanding principal amount of the Bonds at the end of the last day of such month, and (v) the source of such payments (e.g., the Credit Enhancer (as defined in the Lender Loan Agreement and Indenture of Trust)).
(j) **Definition of "Qualified Project Period"**. The paragraph which defines "Qualified Project Period", which paragraph appears in Section 1 of the Regulatory Agreement, on page 8 thereof, is deleted in its entirety, and the following paragraph is substituted therefor:

"Qualified Project Period" - The period beginning on the later of (i) the first day on which at least 10 percent of the dwelling units in the Development are first occupied and (ii) August 19, 1988, and ending on the later of (a) the date which is 10 years after the first day on which at least 50 percent of the dwelling units in the Development are first occupied, (b) the date which is a qualified number of days after the date on which any of the dwelling units in the Development is first occupied, (c) the date on which any assistance provided with respect to the Development under Section 8 of the United States Housing Act of 1937 terminates, (d) November 1, 2011, and (e) the date no Bonds are outstanding. For purposes of clause (b) in the preceding sentence, the term "qualified number of days" means, with respect to the Bonds, 50 percent of the sum of (x) the number of days comprising the term of the Bonds with the longest maturity plus (y) the number of days comprising the term of the longest maturity of any refunding obligations.

(k) **Definition of "Trustee" (New)**. In Section 1 of the Regulatory Agreement, immediately following the paragraph which defines "Servicer", on page 8 thereof, the following new paragraph is inserted:

"Trustee" - The person defined as the "Trustee" in the Lender Loan Agreement and Indenture of Trust, in such capacity.

(l) **Section 5. Additional Requirements of the Law and the City**. In Section 5 of the Regulatory Agreement, which section commences on page 14 thereof, a new subparagraph (f) is inserted at the end thereof, immediately following subparagraph (e) thereof, which subparagraph (e) appears on page 17 thereof, as follows:

(f) The Developer hereby agrees (i) to keep the Development, including, without limitation, the residential units therein, the grounds and all facilities and equipment appurtenant thereto, in good repair, order, and condition and on a timely basis to make all necessary or appropriate repairs, replacements, and renewals thereof, and additions, betterments, and improvements thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen; (ii) to use its best efforts to prevent any act or thing which might impair the value or usefulness of the Development or any part thereof; and (iii) to keep and maintain sufficient reserves to enable it to satisfy its obligations under clauses (i) and (ii) foregoing.

(m) **Section 6. Tax Exempt Status of the Bonds**. In Section 6 of the Regulatory Agreement, which section commences on page 17 thereof, a new paragraph is inserted at the end thereof, immediately following the paragraph which commences with the language "The Developer hereby covenants", as follows:
The Bondowner hereby covenants that, so long as any amounts are due in respect of the Bonds at the beginning of the first day of a calendar month and the payment of such amounts is made on behalf of, rather than by, the Trustee, the Bondowner will give or cause to be given a Payment Notice to the Trustee with respect to such month on or before the tenth (10th) day of the following month.

(n) **Section 13. Term.** The second paragraph of Section 13 of the Regulatory Agreement, which paragraph begins with the language "The terms of this Regulatory Agreement" and appears on page 22 thereof, is deleted, and the following paragraph is substituted therefor:

The terms of this Regulatory Agreement to the contrary notwithstanding, the terms of this Regulatory Agreement other than those set forth in Section 8 hereof, shall terminate and be of no further force and effect in the event of (i) involuntary non-compliance with the provisions of this Regulatory Agreement caused by fire, governmental seizure, requisition, or condemnation of the Development (not including foreclosure of the Mortgage, whether by judicial or non-judicial means), or change in a federal law or an action of a federal agency after the date hereof which prevents the City and the Bondowner from enforcing the provisions hereof, or similar event, together with (ii) payment in full and retirement of the Bonds within a reasonable period thereafter. Upon such termination, the parties hereto shall execute, deliver, and record appropriate instruments of release and discharge of the terminated terms hereof; provided, however, that the execution, delivery, and recording of such instruments shall not be a prerequisite to the termination of such terms in accordance herewith.

(o) **Section 23. Notice.** The following addresses for notice are substituted for the addresses of the parties set forth in Section 23 of the Regulatory Agreement:

For the City: City and County of San Francisco
Mayor's Office of Housing
25 Van Ness Avenue
San Francisco, California 94102
Attention: Director

For the Developer: Geary Courtyard Associates,
A California Limited Partnership
c/o CAPREIT of Geary Courtyard, Inc.
11200 Rockville Pike
Rockville, Maryland 20852
Attention: Richard L. Kadish
For the Bondowner: United States Trust Company of New York, as trustee of Capital Realty Investors Tax Exempt Fund Limited Partnership Trust, Series 1996-4 114 West 47th Street, 15th Floor New York, New York 10036 Attention: Corporate Trust Department

For the Trustee: First Trust of California, National Association One California Street, Suite 400 San Francisco, California 94111 Attention: Corporate Trust Department

Section 2. No Other Amendments. Except as they are expressly modified by Section 1 above, all the terms, covenants, conditions, and provisions of the Regulatory Agreement are and shall remain unchanged and in full force and effect.

Section 3. Merger and Integration. This Amendment integrates all the terms and conditions mentioned herein or incidental hereto, constitutes the entire agreement between the parties with respect to amendment of the Regulatory Agreement, and supersedes all prior oral negotiations and prior writings, agreements, and understandings (other than the Regulatory Agreement) between them with respect to amendment of the Regulatory Agreement.

SHORT PAGE
[continued on following page]
Section 4. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same amendment.

IN WITNESS WHEREOF, the City, the Bondowner, and the Developer have executed this Amendment by their duly authorized representatives, all as of the date first written above, to be effective October 1, 1997.

(SIGNATURE)

CITY AND COUNTY OF SAN FRANCISCO,
a chartered city and municipal corporation of the State of California

By: _____________________________
    Mayor

ATTEST:

______________________________
Clerk of the Board of Supervisors

UNITED STATES TRUST COMPANY OF NEW YORK, a New York Corporation, as trustee of Capital Realty Investors Tax Exempt Fund Limited Partnership Trust, Series 1996-4

By: ______________________________
    Authorized Officer

GEARY COURTYARD ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP

By: CAPREIT OF GEARY COURTYARD, INC., a Maryland corporation, its general partner

By: ______________________________
    Richard L. Kadish
    President
Section 4. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same amendment.

IN WITNESS WHEREOF, the City, the Bondowner, and the Developer have executed this Amendment by their duly authorized representatives, all as of the date first written above, to be effective ______________, 1997.

(SEAL)

CITY AND COUNTY OF SAN FRANCISCO,
a chartered city and municipal corporation of the
State of California

By: ______________________________________

Mayor

ATTEST:

_____________________________
Clerk of the Board of Supervisors

_____________________________
UNITED STATES TRUST COMPANY OF
NEW YORK, a New York Corporation, as trustee of
Capital Realty Investors Tax Exempt Fund Limited
Partnership Trust, Series 1996-4

By: ______________________________________

Authorized Officer

GEARY COURTYARD ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP

By: CAPREIT OF GEARY COURTYARD, INC., a
Maryland corporation, its general partner

By: ______________________________________

Richard L. Kadish
President
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IN WITNESS WHEREOF, the City, the Bondowner, and the Developer have executed this Amendment by their duly authorized representatives, all as of the date first written above, to be effective __________________, 1997.

(SEAL)
CITY AND COUNTY OF SAN FRANCISCO,
a chartered city and municipal corporation of the State of California

By: ______________________________________
Mayor

ATTEST:

Clerk of the Board of Supervisors

UNited STATES TRUST COMPANY OF NEW YORK, a New York Corporation, as trustee of Capital Realty Investors Tax Exempt Fund Limited Partnership Trust, Series 1996-4

By: ______________________________________
Authorized Officer

GEARY COURTYARD ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP

By: CAPREIT OF GEARY COURTYARD, INC., a Maryland corporation, its general partner

By: ______________________________________
Richard L. Kadish
President
EXHIBIT A

PROPERTY DESCRIPTION

The land described in the referenced instrument is located in the City and County of San Francisco, California, and is described as follows:

PARCEL I:

COMMENCING at a point on the southerly line of Geary Street, distant thereon 60 feet westerly from the westerly line of Jones Street; running thence westerly and along said line of Geary Street 102 feet, 6 inches; thence at a right angle southerly 137 feet, 6 inches; thence at a right angle easterly 102 feet, 6 inches; thence at a right angle northerly 137 feet, 6 inches to the point of commencement.

BEING part of 50 Vara Block No. 253.

PARCEL II:

COMMENCING at a point on the southerly line of Geary Street, distant thereon 162 feet, 6 inches westerly from the westerly line of Jones Street; running thence westerly along said line of Geary Street 25 feet; thence at a right angle southerly 137 feet, 6 inches; thence at a right angle easterly 25 feet; thence at a right angle northerly 137 feet, 6 inches to the point of commencement.

BEING part of 50 Vara Block No. 253.
Notarial Acknowledgement

State of New York
County of New York

On September 26, 1997, before me, Christopher Grell, notary public, personally appeared Andres Serrano.

[ ] personally known to me
[ ] proved to me on the basis of satisfactory evidence

that he was the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity on behalf of which the person acted executed the instrument.

Witness my hand and official seal.

[Signature of Notary]

Commission expires: 6/15/99

CHRISTOPHER GRELL
Notary Public, State of New York
No. 01GR5012468
Qualified in New York County
Commission Expires June 15, 1999

Geary Courtyard
First Amendment to Regulatory Agreement
Notarial Acknowledgement
EXHIBIT A

PROPERTY DESCRIPTION

The land described in the referenced instrument is located in the City and County of San Francisco, California, and is described as follows:

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BEING part of 50 Vara Block No. 253.

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BEING part of 50 Vara Block No. 253.
April 6, 2012

639 Geary St.
San Francisco, CA 94102

Re: Tax Exempt Bonds

Dear Louise:

Thank you for choosing Geary Courtyard as your home. As you know, the rental rates associated with your apartment home have been capped at certain levels in connection with a federal tax exempt bond program that has been in place at the community. Effective this week, the tax exempt bond program has been retired at our property and as a result, reduced rents will no longer be offered on new and renewal leases.

We would love to have you remain as part of the Geary Courtyard family once your lease term ends and we are writing to you now so that you can begin to investigate your options as your lease expiration date approaches. Because we understand the sensitivity involved in each individual's personal financial choices, we have made the decision not to immediately increase your rent to current market rate but rather, adjust it incrementally upon renewal. Please refer to your upcoming renewal offer letter for specifics.

If you have any questions about the contents of this letter, please stop by the leasing office or give us a call at (415) 749-0101.

We know you have many options for apartment living and we consider it the highest compliment that you have chosen Geary Courtyard. We look forward to the opportunity to continue serving you.

Sincerely,

[Signature]

Property Manager
4/16/2012

Dear [Name],

We wanted to send this brief letter explaining your upcoming options with regard to lease renewal.

The attached letter has a 12 month lease renewal rate listed, however, this rate will be offered for any lease term from 2 to 12 months to allow you maximum flexibility in moving forward with a decision. Furthermore, the "month-to-month" lease rate is listed in the body of the letter and will also be available as an option at a premium to the 2-12 month price.

Whichever option you choose, the new rate will not go into effect until July 1st, 2012. Your current lease rate will be valid until that time. If you decide not to renew your lease, we would kindly request a 30 day advance notice in writing.

We very much appreciate the opportunity to provide you with a home here at Geary Courtyard and sincerely hope that you will choose to continue to stay with us. Please contact us in the leasing office should you have any questions or concerns that we can address.

Warm regards,

Joshua Dion
Property Manager
jdion@eqr.com
415-749-0101
April 19, 2012 7:36PM

Geary Courtyard
639 Geary Street
San Francisco, CA 94102

(415) 749-0101
(415) 749-0817
GearyCourtyard@eqr.com

Equity Residential
how home should feel

April 16, 2012

639 Geary Street
San Francisco, CA 94102

Dear [Name],

Thank you for choosing Geary Courtyard as your home. We are committed to providing you with an experience that is very satisfying and hope you enjoy living here. Your previous lease expired on 12/7/2011, and we’d like to present the following for your consideration:

Monthly Apartment Rent:

[ ] 12 month lease $1,022.00

To renew, please return this letter to us by 5/7/2012. And, of course, we are available to discuss your renewal plans in person.

If you are planning to move out at the end of your current month-to-month term, please let us know, in writing, at least 30 days before your anticipated move-out date. As noted in your lease, if you haven’t notified us within this timeframe you will be charged for the insufficient notice (subject to adjustment if a new resident moves in).

If you choose to stay with us on a month-to-month basis, effective 7/8/2012, you will be charged a month-to-month rate of $1,125.00, in addition to any other monthly recurring charges.

We hope you will continue living here, and we look forward to providing you with a comfortable and very satisfying living experience. Please call or visit us to discuss your renewal plans. Thank you!

Sincerely,

Leasing Associate
(415) 749-0101
April 24, 2012

Denise Beihoffer
First Vice President - Legal
Equity Residential
Two North Riverside Plaza, Suite 400
Chicago, IL, 60606
Also Sent by email to: dbeihoffer@eqrworfd.com

RE: Demand to Rescind Notices of Rent Increases for Lower Income and Very Low Income Tenants at 639 Geary Street

Dear Ms. Beihoffer,

It has come to the City's attention that tenants at 639 Geary Street, aka Geary Courtyard, who currently have below market rate leases pursuant to the Geary Courtyard Regulatory Agreement, have received Notices of Rent Increase. Section 5(b) of the Regulatory Agreement requires that tenants who qualified as Lower Income or Very Low Income Tenants upon initial occupancy during the Qualified Project Period shall continue to receive the benefits of their below market rate leases for their lifetimes, or until they voluntarily vacate their units or the project units are converted to ownership units. Accordingly, the City requires the following:

1. By Monday April 30, 2012, you must formally rescind any and all Rent Increase Notices given to tenants that meet the criteria under section 5(b) of the Regulatory Agreement, for any proposed Rent Increase that would result in a rent higher than what is allowed under the terms of the Regulatory Agreement.

2. By Monday, May 7, 2012, you must affirm in writing that you will continue to serve the tenants that meet the criteria under section 5(b) of the Regulatory Agreement by using the same processes that had been followed until recently, including quarterly reporting to the City.

If you fail to meet the requirements above in full by the dates noted, the City intends to vigorously enforce section 5(b) of the Regulatory Agreement for the remainder of the time periods provided therein.

Please contact Mike McLoone of this office at 415-701-5534 with any questions or comments.

Sincerely,

Olson Lee

CC (by email only): Evan Gross, Ken Roux, Jim Emery, Teresa Yanga, Mike McLoone, Andy Schmutz, Joshua Dion, Shanna Leal
April 26, 2012

VIA FACSIMILE AND EMAIL

Mr. Olson Lee, Director
Mayor’s Office of Housing
City and County of San Francisco
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Facsimile: 415-701-5501

Re: Demand to Rescind Notices of Rent Increases for Lower Income and Very Low Income Tenants at 639 Geary Street (“Geary Courtyard”)

Dear Mr. Lee:

I am writing in response to your letter dated April 24, 2012 asking the owner of Geary Courtyard to rescind notices of rent increases issued to certain residents at the property. As you know, 33 of the apartment units at Geary Courtyard have been historically receiving the benefit of below market rents as a result of the provisions of that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of August 1, 1988 and recorded in the Office of the County Clerk of San Francisco County, California as Document No. E225222, Reel E662, Image 1538 (the “Original Agreement”), as amended by that certain First Amendment to Regulatory Agreement and Declaration of Restrictive Covenants dated as of March 1, 1997 and recorded in the Official Records as Series No. G237389 (the “First Amendment” and together with the Original Agreement, the “Regulatory Agreement”).

Since early March, our outside bond counsel, Andy Schmutz, has been corresponding and speaking with Joan McNamara and subsequently Mike McLoone, explaining our position that the Regulatory Agreement expired by its own terms on April 2, 2012. As a result of such expiration, there is no longer an obligation on the part of the owner of the Project to continue maintaining the affordability program, and no prohibition to the owner increasing rents for the affordable units to market rates.

We are extremely sensitive to the impact the expiration of the Regulatory Agreement has on the residents who live in the affordable units today and,
notwithstanding our ability to increase rents for the affordable apartments to market rates, we have elected to ease the transition for the existing low income residents by limiting the rent increases to 15%. Please note that, after implementing these increases, most of these residents will still be paying rents that are more than 45% below the market. Additionally, rather than implement the renewal increases with the statutory notice required for existing month-to-month tenants (as we could do under their leases), we offered renewal leases that would not take effect until July 1, 2012. In fact, it was on April 3, 2012, nearly three months prior to any increase taking effect, that we communicated to all affected tenants that the affordability covenant had expired and that rental increases were coming.

To re-confirm our position, Section 13 of Regulatory Agreement (under the heading “Term”) provides that the Regulatory Agreement:

"...shall remain in full force and effect for as long as any Bonds or any refunding obligations are outstanding under the Lender Loan Agreement and Indenture of Trust or otherwise but in any case at least for the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds and expiration of the Lender Loan Agreement and Indenture of Trust, the Agreement, the Loan and the Note, and that the requirements of Section 5(c) and 5(d) shall remain in full force and effect until May 1, 2038." (emphasis added)

The Bonds were redeemed in whole on April 2, 2012, and the Qualified Project Period expired upon redemption of the Bonds, as all of the other dates encompassed in the definition of Qualified Project Period, which was modified in 1997 by the First Amendment, have all passed. It is important to note that, at the time the Regulatory Agreement was entered into in 1988, the parties expressly provided for only two sections, Section 5(c) and 5(d), to survive such termination. The parties did not provide for Section 5(b) to survive such termination. Keep in mind that this particular Regulatory Agreement was entered into under the tax-exempt bond provisions contained in the 1986 Federal Tax Code and, at the time of the execution of the Regulatory Agreement in 1988, the minimum Qualified Project Period was only about ten years, much shorter than the 30 year maturity of the bonds. The language you quote from Section 5(b) was intended to cover that period of time between the expiration of the Qualified Project Period and the expiration of the bonds, which would have been a much later date.

The expiration of the Qualified Project Period and the potential termination date of the affordability restrictions were evident in the City’s negotiations of the First Amendment in 1997 wherein, as a pre-requisite to its consent of a refinancing of the Bonds, the City required that the Original Regulatory Agreement be amended to “extend its term.” The City’s acknowledgment with respect to the termination of the affordability requirements is further evidenced by its refusal to consent to a refinancing request made by the owner in 2008 because the owner would not agree to further extend the time for the affordability restrictions to run.
We respectfully request that the City acknowledge the termination of the Regulatory Agreement, work with us to implement these rental increases over time, and execute a recordable release and discharge of the Regulatory Agreement in the form previously provided to the City. Thank you.

Very truly yours,

GEARY COURTYARD ASSOCIATES, a California limited partnership

By: ERP Operating Limited Partnership, an Illinois limited partnership, its general partner

By: Equity Residential, a Maryland real estate investment trust, its general partner

By: [Signature]
Name: Denise Boklach Belhoffer
Title: First Vice President - Legal

Cc: Mike McLoone
    Joan McNamara
    Teresa Yanga
    Andy Schmutz
    Shanna Leal
    Joshua Dion