



200209270196
Skagit County Auditor

9/27/2002 Page 1 of 9 4:28PM

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Foster Pepper & Shefelman PLLC
1111 Third Avenue, #3400
Seattle, WA 98101
Attention: Deborah S. Winter

ISLAND TITLE CO. MEMORANDUM OF LEASE
A21194 (BAYVIEW APARTMENTS PROJECT)

Grantor: Housing Authority of the City of Anacortes
Additional names on pg. N/A

Grantee: AHA-Bayview Apartments Limited Partnership, a
Washington Limited Partnership
Additional names on pg. N/A

Legal Description: ~~Pin NE SE 24-35-1~~ PTN BLOCK 6, GRIFFINS 1ST ADD
AND PTN BLOCK 5 WHITES 1ST ADD
Official legal description on Exhibit A

Assessor's Tax Parcel ID#: P57254 / P60597

Reference # (If applicable): N/A
Additional number on pg. N/A

MEMORANDUM OF LEASE

HOUSING AUTHORITY OF THE CITY OF ANACORTES
AHA-BAYVIEW APARTMENTS LIMITED PARTNERSHIP

This Memorandum of Lease is made as of September 15, 2002, by and between the Housing Authority of the City of Anacortes, a public body corporate and politic of the State of Washington ("Grantor"), and AHA-Bayview Apartments Limited Partnership, a Washington limited partnership ("Grantee").

1. Lease Agreement. Pursuant to a Lease Agreement dated as of September 15, 2002 (the "Agreement"), Grantor has leased to Grantee and Grantee has leased from Grantor the real property located in Skagit County, Washington, and described on Exhibit A hereto (hereinafter referred to as the "Property.")
2. Term. The term of the Agreement commenced as of September 15, 2002, and ends on December 31, 2101.
3. Extension of Term. The Grantee has the right to extend the term of the Agreement upon the terms and conditions contained in the Agreement, for a term equivalent to the useful life of the capital improvements on the Property at the time of expiration of the initial term.
4. Definitions. The following terms shall have the meanings indicated. All other capitalized terms used and not defined herein have the meanings set forth in the Agreement:

"Act" means chapter 35.82 of the Revised Code of Washington, as amended.

"Bonds" means the Housing Authority of the City of Anacortes Housing Revenue Bonds, 2002 (Bayview Apartments Project), in the amount of \$1,450,000.

"Code" means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable provisions of the Internal Revenue Code of 1954, as amended, as such statutes apply to the Bonds, and together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States. All references herein to sections, paragraphs or other subdivisions of the Code or the regulations promulgated thereunder shall be deemed to be references to correlative provisions of any successor code or regulations promulgated thereunder.



“Dwelling Units” means the residential living units within the Property.

“Functionally Related and Subordinate” means and includes facilities for use by residents; for example, laundry facilities, parking areas, hallways and recreational facilities, provided that the same are of a character and size commensurate with the character and size of the Property.

“Occupancy Date” means the later of the Date of Issue of the Bonds or the first date on which at least 10% of the Dwelling Units in the Property are occupied.

“Qualified Tenants” means and includes individuals and families of low or moderate income determined in a manner consistent with determinations of lower-income families under Section 8 of the United States Housing Act of 1937, as amended, except that the percentage of area median gross income which qualifies as low or moderate income shall not exceed 60% and such calculation shall be adjusted for family size. Occupants of a unit are considered individuals or families of low or moderate income only if their adjusted income (computed in the manner prescribed by the Treasury Regulations) does not exceed 60% of the median gross income for the area. However, occupants of a unit shall not be considered Qualified Tenants if all the occupants are students (as defined in Section 151(c)(4) of the Code), none of whom is entitled to file a joint income tax return. The method of determining low or moderate income in effect on the Date of Issue will be determinative, even if such method is subsequently changed.

“Treasury Regulations” means the regulations of the Department of the Treasury under the Code.

5. Covenants. The Agreement contains the following representations, covenants and agreements of Grantee regarding the use of the Property:

(a) that the Property was acquired and/or is being constructed or rehabilitated for the purpose of providing low-income housing under the Act and as “qualified residential rental property” as that term is used in Section 142(d) of the Code, and Grantee shall operate the Property as a housing project containing Dwelling Units and facilities Functionally Related and Subordinate to such Dwelling Units in compliance with the provisions of the Act, Section 142(d) of the Code and related Treasury Regulations.

(b) that Dwelling Units, together with facilities Functionally Related and Subordinate to those Dwelling Units, used exclusively by Qualified Tenants shall occupy at least 50% of the interior space in the Property or shall



constitute at least 50% of the Dwelling Units in the Property, whichever produces the larger number of Dwelling Units used by Qualified Tenants;

(c) that each Dwelling Unit in the Property shall contain complete and separate facilities for living, sleeping, eating, cooking and sanitation for a single person or family;

(d) that not more than 20% of the interior space in any building constituting part of the Property that exceeds four stories in height shall be commercial space;

(e) that none of the Dwelling Units in the Property shall at any time be used on a transient basis; that none of the Dwelling Units in the Property shall be leased or rented for a period of less than six months; and that neither the Property nor any portion thereof shall be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home or trailer park or court, or by a cooperative housing corporation (as defined in Section 216(b)(1) of the Code);

(f) that once available for occupancy, each Dwelling Unit in the Property shall be occupied by or available for residency on a continuous basis to qualified members of the general public in compliance with applicable Treasury Regulations, the laws of the State and the Agreement;

(g) that substantially all (i.e., not less than 95%) of the Project constituting the Property shall consist of proximate buildings or structures located on a single "tract" of land which have similarly constructed Dwelling Units financed pursuant to a "common plan" together with Functionally Related and Subordinate facilities which shall be owned by the same "person" (as such terms are used in the Treasury Regulations) for federal tax purposes;

(h) that, if at any time during the Regulatory Period Grantee is unable to rent or lease the Dwelling Units designated in accordance with paragraphs (b) and (m) for use by Qualified Tenants to such tenants, it will hold the unrented Dwelling Units so designated vacant until Qualified Tenants are found to occupy those Dwelling Units, and that it will offer the unrented Dwelling Units so designated for occupancy by Qualified Tenants;

(i) that it will use its best efforts in good faith to maintain the highest percentage of Dwelling Units in the Property for occupancy by Qualified Tenants, at rents that are affordable by Qualified Tenants. For purposes of this paragraph, "rents" shall refer to that portion of the charges to residents relating to their occupancy of a Dwelling Unit exclusive of charges for meals and other



supportive services, if any. The provisions of this paragraph are in addition to, and not in substitution for, the provisions of paragraph (b);

(j) that it will obtain at the time each Dwelling Unit is rented to a Qualified Tenant and annually thereafter and maintain on file certifications or verifications of income. Such certifications and verifications of income shall be in the form and manner required by Treasury Regulations or in such other form and manner as may be required by applicable rules, regulations or policies now or hereafter promulgated by the Department of the Treasury or the Internal Revenue Service. Copies of such documentation shall be submitted to Grantor upon request or as often as necessary to comply with the requirements of the Code. An annual rent roll and financial statement for the Property, together with copies of such documentation, shall be submitted to Grantor upon request;

(k) that it will obtain and maintain on file, with respect to each Qualified Tenant residing in the Property, the original documentation required in paragraph (j) above;

(l) that it will permit any duly authorized representative of Grantor to inspect, during regular business hours and upon reasonable notice, the books and records of Grantee pertaining to the incomes of the Qualified Tenants who are residing or have resided in the Property; and

(m) that it will, at all times during the period beginning on the Occupancy Date and ending on the latest of (1) the date that is 15 years after the date on or after the Date of Issue of the Bonds on which 50% of the Dwelling Units in the Property are occupied, (2) the first day on which no tax-exempt private activity bond (including the Bonds) issued with respect to the Property is outstanding, or (3) the date on which any assistance provided with respect to the Property under Section 8 of the United States Housing Act of 1937 terminates,

(i) maintain at least 40% of the Dwelling Units (rounded up to the next unit) for occupancy by Qualified Tenants, and advise Grantor in writing as to which units are to be so maintained and if any revision thereof;

(ii) reserve Dwelling Units for Qualified Tenants that have substantially the same equipment and amenities (not including luxury amenities such as fireplaces) as the other Dwelling Units in the Property; and



(iii) reserve Dwelling Units for Qualified Tenants that are not geographically segregated and that are of substantially the same size as other units in the Property, unless otherwise required to comply with a local housing assistance program.

For the purposes of the Agreement, a Dwelling Unit occupied by an individual or family who at the commencement of that occupancy is a Qualified Tenant shall be treated as occupied by a Qualified Tenant during such individual's or family's tenancy in such unit regardless of the future income levels of such individual or family; moreover, a unit shall be treated as occupied by a Qualified Tenant until occupied by another occupant, at which time the character of the unit shall be redetermined. Notwithstanding the foregoing, if during the period described in paragraph (m) a Qualified Tenant's income increases to an amount equal to or greater than 140% of the then current income limit for Qualified Tenants and such tenant is required to be a Qualified Tenant for the requirements of paragraph (m) above to be met, the next available Dwelling Unit shall be rented to a Qualified Tenant.

6. Purchase Option. The Agreement grants to Grantee an option to purchase the Property.



7. Purpose of Memorandum. This memorandum is prepared for the purpose of recordation to give notice of the Agreement. This memorandum shall not constitute an amendment or modification of the Agreement, and in the event of any conflict between the terms of this memorandum and the Agreement, the terms of the Agreement shall control.

HOUSING AUTHORITY OF THE CITY OF ANACORTES, GRANTOR:

By: *Theresa McCallan*
Its: Executive Director

AHA-BAYVIEW APARTMENTS LIMITED PARTNERSHIP, GRANTEE:

By: HOUSING AUTHORITY OF THE CITY OF ANACORTES, its general partner

By: *Theresa McCallan*
Its: Executive Director

Memorandum of Lease
SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

SEP 27 2002

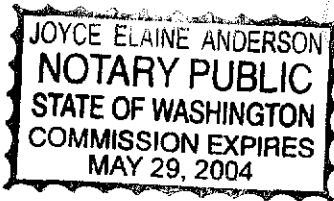
Amount Paid \$0
Skagit County Treasurer
By: *MEM* Deputy



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Theresa McCallum is the person who appeared before me and acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Executive Director of the Housing Authority of the City of Anacortes to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal this 25th day of September, 2002.

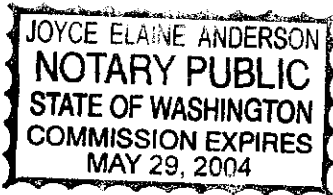


Joyce Elaine Anderson
Joyce Elaine Anderson (Print Name)
Notary Public in and for the state of Washington,
residing at Anacortes
My appointment expires 5-29-2004

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Theresa McCallum is the person who appeared before me and acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Executive Director of the Housing Authority of the City of Anacortes, the general partner of AHA-Bayview Apartments Limited Partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal this 25th day of September, 2002.



Joyce Elaine Anderson
Joyce Elaine Anderson (Print Name)
Notary Public in and for the state of Washington,
residing at Anacortes
My appointment expires 5-29-2004



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

A parcel of land located in the City of Anacortes, County of Skagit, State of Washington, more particularly described as follows:

Beginning at the intersection of the North line of 30th Street and the West line of "R" Avenue as platted in Whites First Addition to the City of Anacortes;
thence Northerly along the West line of "R" Avenue 512 feet to the point of intersection with the South line of 28th Street;
thence West along said South line of 28th Street, a distance of 230 feet;
thence South and parallel with the West line of R Avenue, a distance of 396 feet to the point of intersection with the North line of the alley in Block 5, Whites First Addition to the City of Anacortes;
thence East 130 feet along the North line of the alley in said Block 5 to the point of intersection with the West line, produced North, of Lot 21, Block 5, Whites First Addition to the City of Anacortes;
thence South 116 feet along the West line of said Lot 21 to the point of intersection with the North line of 30th Street;
thence East 100 feet along said North line of 30th Street to the point of beginning; and situate in the Southwest Quarter of Section 19, Township 35 North, Range 2 East of the Willamette Meridian and the Northwest Quarter of Section 30, Township 35 North, Range 2 East of the Willamette Meridian;

Situated in Skagit County, Washington.

- END OF EXHIBIT "A" -



200209270196
Skagit County Auditor