

Please return to:  
Preston Gates & Ellis LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104-1158  
Attn: Denise L. Stiffarm



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Skagit County Auditor

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FIRST AMERICAN TITLE CO.

ACCOMMODATION RECORDING ONLY

Name of Document: RESTRICTIVE COVENANT

M8159

Grantor: J.J. APARTMENTS

Grantee: MOUNT VERNON SCHOOL DISTRICT NO. 320

**Legal Description:**

Abbreviated form: Tract 2 of Short Plat No. MV-3-92

Situated in Skagit County, Washington

Additional legal description on Exhibit A of Restrictive Covenant.

**Assessor's Property Tax Parcel Account Number(s):**

340416-0-002-0100

**Reference number(s) of related/assigned/released/document(s):**

Reference(s) to document(s) appears on page(s) \_\_\_\_\_ of document

## RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant ("Covenant") is dated as of AUGUST 15, 2003, by J.J. Apartments through Pasquale J. Senatore Jr., the legal owner (the "Developer").

### **1. Definitions**

1.1 Elderly Person. The term "Elderly Person" shall mean a person who is 55 years of age or older, residing in a Unit.

1.2 Owner. The term "Owner" shall mean J.J. Apartments through Pasquale J. Senatore Jr., or its heirs, legal representatives, successors and permitted assigns.

1.3 Project. The term "Project" shall mean the residential development consisting of seventy-six (76) senior apartment units commonly know as the "J.J. Apartments" located on the Property and within the City of Mount Vernon.

1.4 Property. The term "Property" shall mean the real property legally described on Exhibit A.

1.5 Unit. The term "Unit" shall mean a residential unit to be occupied by an Elderly Person living in the Project.

### **2. Restrictive Covenants**

2.1 Use of Project. The Project is intended to be and shall be operated as senior housing apartments consistent with the school impact fee ordinance exemptions currently set forth in Section 3.36.050(A)(1) of the City of Mount Vernon Municipal Code.

2.2 Residents of Project. No person may be a resident of the Project, except as expressly authorized by this Article 2.

2.2.1 Residents. Except as expressly authorized in Section 2.2.2 below, the residents of the Project will be restricted solely to Elderly Persons. Except for temporary guests as defined in section person is deemed to be a resident of the Project if that person remains overnight or sleeps in a Unit.

2.2.2 Temporary Guests. Visits by nonresidents shall not exceed thirty (30) nights in any six (6) month period.

2.3 Conveyances of a Possessory Interest. Unless a school impact fee has been paid in accordance with Article 3 hereof, any sale of, such lease of, grant of a life estate in, other conveyance of any possessory interest in, or offer to make conveyance of, an interest



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in any Unit or in all or part of the Project will only be made to a person or persons who will comply with the restrictions set forth in this Article 2.

2.4 Occupancy Agreements. Any occupancy agreement for a Unit will only be entered into with a person or persons who meet the criteria set forth in this Article 2.

### 3. **School Impact Fee**

3.1 School Impact Fee. A school impact fee shall be paid in the manner and the amount specified by the City of Mount Vernon school impact fee ordinance in effect at the time the interest in any Unit or in all or part of the Project is conveyed to any person not complying with the restrictions set forth in Article 2 above or any Unit or all or part of the Project is occupied by any person not meeting the criteria set forth in Article 2 above.

3.2 Timing of Payment of Impact Fee. Such school impact fee shall be paid to the Mount Vernon School District within thirty (30) days of receipt of the notice that a unit in the Project does not comply with the certification described in Section 4 below. In the event that such school impact fee is not paid within the time specified in this Section 3.2, interest shall accrue on the amount of such school impact fee at a rate of nine percent (9%) per annum.

### 4. **Reporting Requirements**

Upon sale of the Project or any unit therein, or upon any request of the Mount Vernon School District, the Owner shall certify to the Mount Vernon School District that the residents of the Project meet the criteria set forth in Article 2 above substantially in the form attached as Exhibit B. The Certificate shall set forth the total number of residents, the number of residents who meet the criteria set forth in Article 2, and the total of any impact fee due.

### 5. **Miscellaneous.**

5.1 Covenant Running With the Land. This Covenant shall be deemed to be a covenant running with the land.

5.2 Binding Effect. This Covenant shall apply to, inure to the benefit of, and be binding upon, the Owner and its heirs, legal representatives, successors and permitted assigns, except as otherwise expressly provided in this Covenant. The District agrees to execute a Release and Discharge of Lien on Real Property at such time as the full school impact fee required for all of the Project is paid.



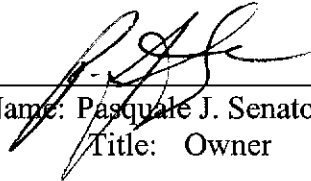
5.3 Captions. The captions inserted in this Covenant are for convenience only, they in no way define, limit or otherwise describe the scope or intent of this Covenant, and shall not be used to interpret or construe this Covenant.

5.4 Governing Law. This Covenant shall be governed by the laws of the State of Washington.

5.5 Venue. If an action must be brought to enforce the terms of this Covenant, such action shall be brought in Superior Court in Skagit County, Washington.

IN WITNESS WHEREOF, the Owner has caused this Restrictive Covenant to be signed by its duly authorized representative, as of the day and year first written above.

J.J. APARTMENTS

  
Name: Pasquale J. Senatore Jr.  
Title: Owner



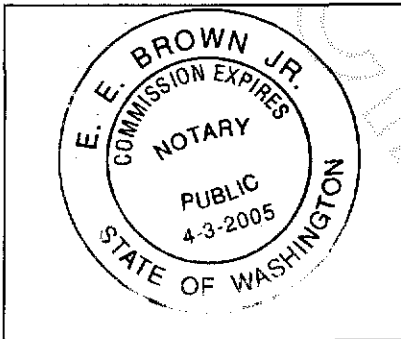
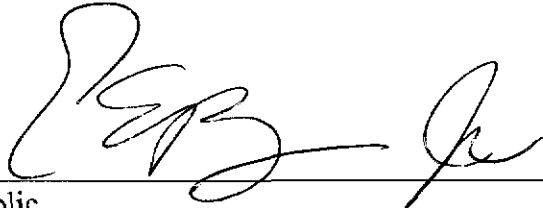
STATE OF WASHINGTON

) ss.

COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that PASQUALE J. SENATORE JR. is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the OWNER of J.J. APARTMENTS to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 8/15, 2003.



Notary Public

Print Name

EE BROWN JR.

My commission expires

4-3-2005

(Use this space for notarial stamp/seal)

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EXHIBIT A

LEGAL DESCRIPTION

TRACT 2 OF SHORT PLAT NO. MV-3-92, APPROVED FEBRUARY 27, 1992 AND RECORDED FEBRUARY 28, 1992 UNDER AUDITOR'S FILE NO. 92022800046 IN VOLUME 10 OF SHORT PLATS, PAGES 64 & 65, RECORDS OF SKAGIT COUNTY, WASHINGTON AND BEING A PORTION OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 16, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.

END

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EXHIBIT B

FORM OF CERTIFICATE OF COMPLIANCE

TO: Mount Vernon School District #320  
FROM: J.J. Apartments  
RE: Certificate of Compliance – Elderly Housing  
DATE:

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of J.J. Apartments DO HEREBY CERTIFY THAT all the residents of the Project are in compliance with criteria set forth in Article 2 of the Restrictive Covenant which states:

2.1 Use of Project. The Project is intended to be and shall be operated as senior housing apartments consistent with the school impact fee ordinance exemptions currently set forth in Section 3.36.050(A)(1) of the City of Mount Vernon Municipal Code.

2.2 Residents of Project. No person may be a resident of the Project, except as expressly authorized by this Article 2.

2.2.1 Residents. Except as expressly authorized in Section 2.2.2 below, the residents of the Project will be restricted solely to Elderly Persons. Except for temporary guests as defined in section person is deemed to be a resident of the Project if that person remains overnight or sleeps in a Unit.

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2.3 Conveyances of a Possessory Interest. Unless a school impact fee has been paid in accordance with Article 3 hereof, any sale of, such lease of, grant of a life estate in, other conveyance of any possessory interest in, or offer to make conveyance of, an interest in any Unit or in all or part of the Project will only be made to a person or persons who will comply with the restrictions set forth in this Article 2.

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2.4 Occupancy Agreements. Any occupancy agreement for a Unit will only be entered into with a person or persons who meet the criteria set forth in this Article 2.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

J.J. APARTMENTS

By:  
Its:



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