

Piscataway 1985

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CONCEPTUAL PLAN FOR DEVELOPMENT
OF AFFORDABLE CONDOMINIUM HOMES
IN THE PROPOSED SOCIETY HILL AT PISCATAWAY
TOWNSHIP OF PISCATAWAY, NEW JERSEY

PREPARED BY:

Donald R. Daines
Attorney at Law of New Jersey
K. Hovnanian at Piscataway, Inc.
in consultation with the Township of Piscataway and the National Committee
Against Discrimination in Housing

CONCEPTUAL PLAN FOR DEVELOPMENT
OF AFFORDABLE CONDOMINIUMS
IN THE PROPOSED SOCIETY HILL AT PISCATAWAY,
TOWNSHIP OF PISCATAWAY, NEW JERSEY

INTRODUCTION:

Attached is a proposed plan which attempts to balance the needs and interests of the Township of Piscataway, K. Hovnanian at Piscataway, Inc., purchasers of these moderately priced dwelling units and the financial market which will be issuing mortgages on these units. It is best to examine the specific needs of each of these entities with regard to the plan.

Township of Piscataway

The Township desires to create a realistic opportunity for families of low/moderate income to obtain quality, affordable housing within the township. The Supreme Court of New Jersey, in So. Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (Jan. 20, 1983), otherwise known as Mt. Laurel II, provided guidelines and criteria by which the Township of Piscataway could determine whether they are providing a "realistic" opportunity for families of low/moderate income to obtain housing in East Brunswick.

In an effort to fulfill this constitutional obligation, the Township of Piscataway has adopted a provision in its zoning ordinance, Section 21-1011 which provides for an additional two units per acre provided that the developer erects these two units as low and moderate units, one Low Income Unit and one Moderate Income Unit, within the development. The developer may thus increase the density by 2 units per acre.

K. Hovnanian at Piscataway, Inc.

The developer is interested in taking advantage of the zoning provision and is proposing to include within the development a total of ~~110~~¹⁰⁹ Affordable Condominiums consisting of 55 Moderate Income Condominiums and ~~55~~⁵⁴ Low Income Condominiums.

The attached proposed plan sets forth the mechanism for providing these ~~110~~¹⁰⁹ Affordable Condominiums. The details of the plan will be presented later herein. The developer believes that this plan enables it to sell these ~~110~~¹⁰⁹ units, thereby, providing quality, affordable housing to lower income families. Footnote 8 of Mt. Laurel II describes the concept of "affordability" in terms of the maximum percentage of a families gross aggregate income which can be spent for the total housing costs. The definition of "affordable", therefore, fluctuates in relation to the interest rate charged for the money borrowed by the purchaser in order to purchase the home. The purchase price, consequently, needs to adjust itself in order to reflect changes in mortgage interest rates so that these ~~110~~¹⁰⁹ units will be affordable to lower income families. The developer's financial exposure for these ~~110~~¹⁰⁹ units should not be unlimited, however, for that creates the opportunity for completely eliminating the rationale underlying the incentive zoning provisions. It is also contrary to the principles set forth in Mt. Laurel II. If the developer's exposure to losses on the moderately priced units were unlimited, there simply would be no incentive to build these units because these losses could potentially more than offset any additional profit earned by virtue of the bonus units.

"Sole reliance on "incentive" techniques (or, indeed, reliance exclusively on any one affirmative device) may prove in a particular case to be insufficient to achieve compliance with the constitutional mandate." Mt. Laurel II, p. 446.

If the potential loss is greater than the potential profit resulting from these moderately priced units, then there

...is absolutely no reason why he [the developer] should take advantage of this opportunity if, as seems apparent his present housing plans will result in a higher profit. There is simply no inducement, no reason, nothing affirmative, that makes this opportunity "realistic". For an opportunity to be "realistic" it must be one that is at least sensible for someone to use. ibid, p.443.

The plan must be workable and sensible from the aspect of the developer, but must also be workable and sensible from the aspect of the purchasers of the units, the financial institutions extending mortgages on these units and the Township of ~~East Brunswick~~ ^{Piscataway}.

Lower Income Purchasers

This is really the most important person in this entire scheme because it is for him that this plan is being proposed. The ultimate objective of any affordable housing plan is to enable persons who have in the past been "locked out" of enjoying the benefits, pleasures, pride and personal satisfaction associated with home ownership to be able to purchase one of these Affordable Condominiums. It is absolutely essential that we do not overlook the realities of the world and unduly restrict not only the initial purchaser's ability to acquire one of these units, but also the ability of every owner to operate and eventually sell his unit to a new owner. It would be inequitable to enable an individual to purchase one of these units and then make it virtually impossible for him to sell it at a later date. The affordable housing plan must, therefore, be flexible enough to have the ability to adapt and respond to changes in the mortgage finance market so that future purchasers will be able to avail themselves of whatever mortgage financing is available at the time they are seeking to purchase one of these units. This is absolutely critical for the plan to work because the owners of these affordable condominiums would be unable to resell these homes if prospective purchasers could not obtain the mortgage financing necessary to complete the purchase.

Financial Institutions

Mortgage lenders require the ability to sell its mortgages in the secondary mortgage market. In order to be able to do this, the mortgage must have Federal National Mortgage Association (FNMA) approval. FNMA, from a purely economic perspective, has propounded specific criteria applicable to "restricted" property such as the ~~110~~¹⁰⁹ units proposed to be moderately priced units. These are set forth in FNMA Announcement No. 83-01. In order for future purchasers to be able to obtain the mortgage financing needed,

it is a prerequisite that the mortgages extended on these units be marketable in the secondary mortgage market. It is, therefore, necessary that the restrictions on these units comply with the criteria set forth in FNMA Announcement No. 83-01. There are, periodically, government sponsored mortgage programs, such as those offered through the New Jersey Mortgage Finance Agency, which might eliminate the need to sell these mortgages in the secondary mortgage market. These programs, however, are not predictable and should not be relied upon as the exclusive means of financing available to initial owners and subsequent purchasers of these units. These programs may always be utilized when available, however, this Plan should not restrict potential purchasers of these units to these programs.

BRIEF OVERVIEW OF PLAN

These ~~110~~¹⁰⁹ units would be restricted to ownership and occupancy by lower income families. Both the initial purchase price and resale prices would be restricted so as to be affordable by lower income families. The Affordable Housing Agency which will be created by the Township of Piscataway will be responsible for enforcing the plan and monitoring resales of these units to ensure that they remain affordable to lower income families.

The deed to each of these ~~110~~¹⁰⁹ units would contain a clause referring to this plan which is a restrictive covenant running with the land. In addition, the Master Deed for the condominium will contain a provision specifically applicable to these units. There are numerous benefits to having these units part of a condominium association.

1. These units will enjoy the same rights, privileges, duties and obligations, however, these units will be subject to reduced condominium assessments.
2. Physically these units will be constructed to the same design criteria and quality as any other condominium home and will blend in with the other homes in the development.
3. Maintenance and upkeep is taken care of by the association including a reserve for capital improvements, therefore, there is

significantly less risk of deterioration when compared with single family detached residences. This not only ensures long-term, quality housing for the owner of one of these units, but also protects the tax base of the Township by maintaining these units as good ratables.

4. The association is not being given any obligation to enforce the provisions of the plan.

Very simply, that is the plan being proposed. In order to achieve a workable plan which accomplishes the ultimate objective of all participants, the following provisions were included:

- A. All of the criteria set forth in the FNMA Announcement No. 83-01;
- B. The Affordable Housing Agency is vested with certain rights in order to have an opportunity to "save" a unit from foreclosure and retain it as an Affordable Condominium;
- C. The restrictions of this plan automatically expire with respect to an Affordable Condominium the earlier of (1) 30 years from the date of this plan; (2) upon foreclosure of the unit's first mortgage lien by the first mortgagee; and (3) the date upon which the Condominium Association ceases to exist for any reason.
- D. The developer shall not be required to lower the initial purchase price below that **which would be required** ^{at} **to reflect a 14% or higher mortgage interest rate; and**
- E. The Agency has the option to advance sums necessary to prevent a default of a mortgage or similar problem which jeopardizes the retention of a unit as an Affordable Condominium, any sums so advanced becoming a lien upon the unit.

CONCLUSION

It is the desire of both K. Hovnanian at Piscataway, Inc. and the Township of Piscataway to have quality housing constructed within Piscataway which is affordable to lower income families. The attached plan addresses all the issues and problems inherent in implementing this objective and attempts to balance the particular needs of the respective participants.

Respectfully submitted,

K. HOVNANIAN AT PISCATAWAY, INC.

DATE: Sept. 13, 1984
~~REVISED: Sept. 17, 1984~~
~~REVISED: Feb. 19, 1985~~

AFFORDABLE HOUSING PLAN
FOR
SOCIETY HILL AT PISCATAWAY

A PLANNED UNIT RESIDENTIAL DEVELOPMENT OF
K. HOVNANIAN AT PISCATAWAY, INC.

PREPARED BY:

Donald R. Daines
Attorney at Law of New Jersey
K. Hovnanian at Piscataway, Inc.
in consultation with the Township of Piscataway and the National Committee
Against Discrimination in Housing

AFFORDABLE HOUSING PLAN
FOR
SOCIETY HILL AT PISCATAWAY

K. Hovnanian at Piscataway, Inc. will construct 55 moderate income condominiums and ~~55~~⁵⁴ low income condominiums within the proposed development as described in Exhibit "A" attached hereto. These units will be distributed throughout the development approximately as described further in this plan.

1. Definitions. For purposes of this Affordable Housing Plan, the following terms shall be defined as follows:

1.01 AFFORDABLE: The Lower Income Purchaser shall not be required to spend more than 28% of its Gross Aggregate Family Income at time of purchase of an Affordable Condominium for the Total Monthly Housing Costs as same are determined under any type of mortgage, including but not limited to fixed rate, adjustable rate, graduated payment adjustable rate, growing equity, etc. including any mortgage under mortgage programs being offered under FNMA, VA, FHA, FMAC, NJMFA, etc. Affordable shall further be defined to reflect the requirement that K. Hovnanian at Piscataway, Inc. shall limit the purchase prices of the 55 Moderate Income Condominiums so that the Total Monthly Housing Cost of the Moderate Income Condominium is Affordable to a Moderate Income Family. Affordable shall be further defined to reflect the requirement that K. Hovnanian at Piscataway, Inc., shall limit the purchase prices of the ~~55~~⁵⁴ Low Income Condominiums so that the Total Monthly Housing Cost of the Low Income Condominium is Affordable to a Low Income Family. The following procedure shall apply to the determination of Affordable sales prices not only with respect to sales by K. Hovnanian at Piscataway, Inc. but with respect to all future sales of these Affordable Condominiums:

1.01 (A) With respect to determining Affordable sales prices of the 55 Moderate Income Condominiums:

(1) A preliminary sales price shall be calculated for the moderate income categories so that the sum of the monthly principal, (assuming a 10% downpayment) interest, (utilizing the ~~applicable~~^{assumed or appropriate} interest rate ~~for the mortgage being used by the prospective purchaser of the Moderate Income Condominium~~, private mortgage insurance, applicable home owners association dues property taxes and fire, theft and liability insurance does not exceed 28% of the moderate income ceiling which is 80% of the median income for the Moderate Income Family for the region. For

purposes of calculating the maximum affordable sales prices, the interest rate to be used for calculating the sales prices regardless of the specific mortgage rate of any individual purchaser shall be assumed to be the greater of (1) the current index of one year United States Treasury Bills plus two percentage points or (2) two percentage points less than the best available fixed payment rate mortgage. The sales prices shall be recalculated and adjusted quarterly to reflect changes in the one year Treasury Bill index and/or changes in available fixed rate mortgages. In the event that the seller obtains for the purchaser a commitment for a thirty year fixed payment rate mortgage, or in the case of the developer, the developer obtains prior to offering an Affordable Condominium in Society Hill at Piscataway for sale a commitment for 30 year fixed payment rate mortgages in sufficient quantity to provide mortgage financing for all the Affordable Condominiums to be included within Society Hill at Piscataway remaining to be sold, the payment rate of the 30 year fixed payment rate mortgage shall be used for purposes of calculating the maximum sales price even if such rate is lower than either the current index of one year U.S. Treasury Bills plus two percentage points or two percentage points less than the best available 30 year fixed payment rate mortgage program. For initial sales the rate of the best available 30 year fixed rate mortgage shall be established by reference to r.e. Scott mortgage company, Inc. and shall be established by a certification from the developer. In the event that the developer or another entity shall provide other than 30 year fixed payment rate mortgage financing for the Affordable Condominiums in Society Hill at Piscataway, the payment rate during the first year of the mortgage shall be used for purposes of calculating the Affordable Sales Prices so long as the payment rate does not increase by more than 7 1/2% each year during each of the first five years of the mortgage. If, however, the payment rate increases by more than 7 1/2% in any of the first five years of the mortgage, then for purposes of calculating the Affordable Sales prices, the average payment rate during the first five years of the mortgage shall be used. ~~If the developer or another entity shall buy down the interest rates for a minimum of three years, and the increase in interest rates is no more than 1.0% each year, during the period of the buy down the interest rate for the first year of the buy down period shall be utilized in the calculation described above. If, however, the increase in interest rates is more than 1.0% each year, during the period of the buy down the average interest rate for the period of the buy down shall be utilized.~~

(2) The final sales prices of the Moderate Income Condominium shall be calculated so that the sales prices shall be set at 90% of the preliminary sales prices calculated pursuant to subsection (a) above.

(3) For the purposes of determining sales prices of the 55 Moderate Income Condominiums being constructed in Society Hill at Piscataway, a Family size of ~~3~~ 3 persons shall be used for the 2 bedroom Moderate Income Condominiums and a Family size of 5 persons shall be used for the 3 bedroom Moderate Income Condominiums in conjunction with the following table containing the maximum preliminary sales prices and actual final sales prices based upon Family Income limits of ~~\$27,000~~ \$22,842 for a family of ~~3~~ 3 and ~~\$20,780~~ \$26,978 for a family of 5 for the P.M.S.A. for Piscataway as of May 11, 1984. Both of these Income Limits are 94% of the actual respective Income Limits. (This table shall be updated annually on July 31st to reflect changes in the median income and such updates shall be used by both K. Hovnanian at Piscataway, Inc. and the Agency as a guide for determining affordable sales prices of the 55 Moderate Income Condominiums in Society Hill at Piscataway):

Interest Rate	Two Bedroom Moderate Income		Three Bedroom Moderate Income	
	Maximum (Preliminary)	Actual (Final)	Maximum (Preliminary)	Actual (Final)
	Selling Price	Selling Price	Selling Price	Selling Price
14%	50,750 40,620	45,670 36,560	53,940 47,970	48,550 43,170
13%	53,770 42,940	48,400 38,650	57,160 50,710	51,440 45,640
12%	57,120 45,490	51,410 40,950	60,720 53,730	54,650 48,340

11%	60,830	48,330	54,750	43,500	64,660	57,080	58,190	51,370
10%	63,480	51,460	57,130	46,320	67,470	60,780	60,730	54,700

All numbers rounded to nearest \$10.00

1.01 (B) With respect to determining Affordable rental charges of the 55 Moderate Income Condominiums:

If the applicable interest rate increases beyond 14%, K. Hovnanian at Piscataway, Inc. shall have the option of either reducing the actual selling price so as to comply with the affordability standards set forth in this plan or to rent any unsold Moderate Income Condominiums to Moderate Income Families at Affordable rental charges. The following procedure shall apply to the determination of Affordable rental charges:

(1) A preliminary rental charge shall be calculated for Moderate Income Families so that the monthly rental, including utilities, does not exceed 30% of the moderate income ceiling.

(2) The final rental charges shall be calculated so that the rental charges of the any unsold Moderate Income Condominiums are 90% of the preliminary rental charges calculated pursuant to subsection (a) above.

(3) For the purposes of determining the rental charges of any unsold Moderate Income Condominiums, a family of ~~4~~ 3 persons shall be used for the 2 bedroom Moderate Income Condominiums and a Family size of 5 persons shall be used for the 3 bedroom Moderate Income Condominiums in conjunction with the following table containing the maximum (preliminary) rental charges and the actual (final) rental charges based on Family Income limits of ~~\$27,000~~ \$22,842 for a family of 3 and ~~\$20,700~~ \$26,978 for a Family of 5 for the P.M.S.A. of Piscataway as of May 11, 1984. Both of these Income Limits are 94% of the actual respective Income Limits. (This table shall be updated annually on July 31st to reflect changes in the median income and such updates shall be used by both K. Hovnanian at Piscataway, Inc. and the Agency as a guide for determining affordable rental charges for any unsold Moderate Income Condominiums in Society Hill at Piscataway):

	<u>Two Bedroom Moderate Income</u>	<u>Three Bedroom Moderate Income</u>
Gross Rental Charge	480.00	567.00
Utility Allowance	(\$670.00)	(\$718.00)
Actual Rental Charge	\$605.00 410.00	\$620.00 477.00

(4) If the developer elects to rent any unsold Moderate Income Condominiums as permitted under this subsection, the Agency shall have the right to verify that the actual rental charge for such unit does not exceed the parameters set forth in subsection (3) above. The developer may rent such units until the later of the following events: (1) the time at which the developer is able to sell such Moderate Income Condominiums in compliance with the provisions of this plan utilizing an interest rate equal to or less than 14% and (2) the expiration date of any lease of a Moderate Income Condominiums. **The maximum lease term shall be limited to twelve (12) months, and no lease shall be renewable or renewed if the applicable interest rate drops below 14% so as to permit the developer to sell such Unit to a Qualified Purchaser.**

1.01 (C) With respect to determining Affordable sales prices of the ~~55~~ 54 Low Income Condominiums:

(1) A preliminary sales price shall be calculated for the low income categories so that the sum of the monthly principal (assuming a 10% downpayment) interest (utilizing the ~~applicable~~ **assumed** interest rate ~~for the mortgage being used by the prospective purchaser of the Low Income Condominium and private mortgage insurance, applicable homeowners Association dues, property taxes and fire, theft and liability insurance does not exceed 28% of the low income ceiling which is 50% of the Median Income for the Low Income Family for the region.~~ For purposes of calculating the maximum affordable sales prices, the interest rate to be used for calculating the sales prices regardless of the specific mortgage rate of any individual purchaser shall be assumed to be the greater of (1) the current index of one year United States Treasury Bills plus two percentage points or (2) two percentage points less than the best available fixed payment rate mortgage. The sales prices shall be recalculated and adjusted quarterly to reflect changes in the one year Treasury Bill index and/or changes in available fixed rate mortgages. In the event that the seller obtains for the purchaser a commitment for a thirty year fixed payment rate mortgage, or in the case of the developer, the developer obtains prior to offering an Affordable Condominium in Society Hill at Piscataway for sale a commitment for 30 year fixed payment rate mortgages in sufficient quantity to provide mortgage financing for all the Affordable Condominiums to be included within Society Hill at Piscataway remaining to be sold, the payment rate of the 30 year fixed payment rate mortgage shall be used for purposes of calculating the maximum sales price even if such rate is lower than either the current index of one year U.S. Treasury Bills plus two percentage points or two percentage points less than the best available 30 year fixed payment rate mortgage program. For initial sales, the rate of the best available 30 year fixed rate mortgage shall be established by reference to r.e. Scott mortgage company, Inc. and shall be established by a certification from the developer. In the event that the developer or another entity shall provide other 30 year fixed payment rate mortgage financing for the Affordable Condominiums in Society Hill at Piscataway, the payment rate during the first year of the mortgage shall be used for purposes of calculating the Affordable Sales Prices so long as the payment rate does not increase by more than 7 1/2% each year during each of the first five years of the mortgage. If, however, the payment rate increases by more than 7 1/2% in any of the first five years of the mortgage, then for purposes of calculating the Affordable Sales prices, the average payment rate during the first five years of the mortgage shall be used. ~~If~~

~~the developer or another entity shall buy down the interest rates for a minimum of three years, and the increase in interest rates is no more than 1.0% each year, the interest rate for the first year of the buy down period shall be utilized in the calculation described above. If, however, the increase in interest rates is more than 1.0% each year, the average interest rate for the period of the buy down shall be utilized.~~

(2) The final sales prices of the Low Income Condominium shall be calculated so that the sales prices shall be set at 90% of the preliminary sales prices calculated pursuant to subsection (a) above.

(3) For the purposes of determining sales prices of the ~~54~~ Low Income Condominiums being constructed in Society Hill at Piscataway, a Family size of ~~3~~ ⁴ persons shall be used for the 2 bedroom Low Income Condominiums and a Family size of 5 persons shall be used for the 3 bedroom Low Income Condominiums in conjunction with the following table containing the maximum preliminary sales prices and actual final sales prices based on Family Income limits of ~~327,000~~ \$15,886 for a Family of ~~3~~ ⁴ and ~~420,700~~ \$17,108 for a Family of ~~5~~ ⁴ for the P.M.S.A. of Piscataway as of May 11, 1984. Both of these Income Limits are 94% of the actual respective Income Limits. (This table shall be updated annually on July 31st to reflect changes in the Median Income and such updates shall be used by both K. Hovnanian at Piscataway, Inc. and the Agency as a guide for determining affordable sales prices of the ~~55~~ Low Income Condominiums in Society Hill at Piscataway):

Interest Rate	Two Bedroom Low Income		Three Bedroom Low Income	
	Maximum (Preliminary) Selling Price	Actual (Final) Selling Price	Maximum (Preliminary) Selling Price	Actual (Final) Selling Price
14%	31,770 28,250	28,590 25,430	34,210 30,420	30,790 27,380
13%	33,660 29,860	30,290 26,870	36,250 32,150	32,620 28,940
12%	35,750 31,640	32,180 28,480	38,500 30,070	34,650 30,660
11%	38,080 33,610	34,270 30,250	41,000 36,190	36,900 32,570
10%	39,730 35,790	35,760 32,210	42,790 38,540	38,510 34,690

All numbers rounded to nearest \$10.00

1.01 (D) With respect to determining Affordable rental charges for the ~~55~~⁵⁴ Low Income Condominiums:

If the applicable interest rate increases beyond 14%, K. Hovnanian at Piscataway, Inc. shall have the option of either reducing the actual selling price so as to comply with the affordability standards set forth in this plan or to rent any unsold Low Income Condominiums to Low Income Families at Affordable rental charges. The following procedure shall apply to the determination of Affordable rental charges:

(1) A preliminary rental charge shall be calculated for Low Income Families so that the monthly rental, including utilities, does not exceed 30% of the low income ceiling.

(2) The final rental charges shall be calculated so that the rental charges of the any unsold Low Income Condominiums are 90% of the preliminary rental charges calculated pursuant to subsection (a) above.

(3) For the purposes of determining the rental charges of any unsold Low Income Condominiums, a family of ~~3~~³ persons shall be used for the 2 bedroom Low Income Condominiums and a Family size of 5 persons shall be used for the 3 bedroom Low Income Condominiums in conjunction with the following table containing the maximum (preliminary) rental charges and the actual (final) rental charges based on Family Income limits of ~~\$27,000~~^{\$15,886} for a Family of ~~3~~³ and ~~\$28,700~~^{\$17,108} for a family of 5 for the P.M.S.A. of Piscataway as of May 11, 1984. Both of these Income Limits are 94% of the actual respective Income Limits. (This table shall be updated annually on July 31st to reflect changes in the median income and such updates shall be used by both K. Hovnanian at Piscataway, Inc. and the Agency as a guide for determining affordable rental charges for any unsold Low Income Condominiums in Society Hill at Piscataway):

	Two Bedroom Low Income	Three Bedroom Low Income
Gross Rental Charge	334.00	359.00
Utility Allowance	(\$381.00) (70.00)	(\$410.00) (90.00)
Actual Rental Charge	\$311.00 264.00	\$329.00 269.00

(4) If the developer elects to rent any unsold Low Income Condominiums as permitted under this subsection, the Agency shall have the right to verify that the actual rental charge for such unit does not exceed the parameters set forth in subsection (3) above. The developer may rent such units until the later of the following events: (1) the time at which the

developer is able to sell such Low Income Condominiums in compliance with the provisions of this plan utilizing an interest rate equal to or less than 14% and (2) the expiration date of any lease of a Low Income Condominiums. The maximum lease term shall be limited to twelve (12) months, and no lease shall be renewable or renewed if the applicable interest rate drops below 14% so as to permit the developer to sell such Unit to a Qualified Purchaser.

1.02 AFFORDABLE CONDOMINIUM: A condominium at Society Hill at Piscataway which has been designated as either a Low Income Condominium or a Moderate Income Condominium, as the applicable case may be, pursuant to this Affordable Housing Plan.

1.03 AGENCY: The Affordable Housing Agency of the Township of Piscataway or similar entity to be created by the Township of Piscataway, or any successor duly authorized to carry out the powers and responsibilities of the Agency. If no specific Agency is formed or if no specific successor is duly established, the Agency for the purpose of implementing this plan shall be the Planning Board of the Township of Piscataway or its designee.

1.04 ASSESSMENTS: Shall mean and refer to levies, charges or assessments both public and private, including those imposed by the Association, as the applicable case may be, upon the condominium units which are part of the Association.

1.05 ASSOCIATION: Society Hill at Piscataway Condominium Association, Inc., its successors and assigns as same is defined in the Master Deed and Declaration.

1.06 FAMILY: Shall mean all persons living as a single non-profit housekeeping unit whether or not same are related by blood, marriage or otherwise. "Family" shall further be defined in accordance with Chapter 21, Section 3 (b) (29) of the Zoning Ordinance of the Township of Piscataway. Family shall also be synonymous with "Household".

1.07 FIRST PURCHASE MONEY MORTGAGE: Shall mean and refer to the most senior mortgage ~~holder who has loaned funds~~ lien to secure repayment of funds for the purchase of an Affordable Condominium or ~~on~~ the holder and assigns of such most senior mortgage holder. Such mortgagee must be an institutional lender or investor, licensed or regulated by a State or Federal government or an agency thereof.

1.08 FORECLOSURE: Shall mean and refer to a termination of all rights of the mortgagor or the mortgagor's assigns or grantees in an Affordable Condominium covered by a recorded mortgage through legal processes, or through a Deed in Lieu of Foreclosure which has been ~~issued~~ **executed and delivered** prior to a judicially-regulated sale. Foreclosure shall not take place before the exhaustion of remedies as set forth in this Declaration.

1.09 GROSS AGGREGATE FAMILY INCOME; Gross Aggregate Family Income means the total annual Income from all sources of all members of the Household or Family, as determined and adjusted in accordance with the rules and regulations promulgated by the Agency.

1.10 IMPROVEMENT: Shall mean and refer to additions within an Affordable Condominium, including materials, supplies, appliances or fixtures which become a permanent part of, or affixed to, an Affordable Condominium.

1.11 INCOME: Shall mean and refer to all income, from all sources, such as compensation for services, interest, rents, dividend and gains from the sale of property, pension benefits and government benefits.

1.12 LOW INCOME CONDOMINIUM: A condominium unit which is Affordable to a Low Income Family.

1.13 LOW INCOME FAMILY: A Family whose Gross Aggregate Family Income does not exceed the income limits established by the Code of the Township of Piscataway and the Agency. A Family whose Gross Aggregate Family Income is not greater than 50% of the Median Income of the area or Region with adjustments for smaller and larger Families. The Agency shall, from time to time, determine the Median Income standards to be applied to any specific Family seeking to purchase a Low Income Condominium. ~~V. Howmanian~~

~~at Piscataway, Inc.~~ The Affordable Housing Agency shall qualify prospective purchasers of the Low Income Condominiums as Low Income Families prior to selling a Low Income Condominium to the prospective purchaser.

1.14 LOW INCOME PURCHASER: A Low Income Family purchasing either a Low Income Condominium or a Moderate Income Condominium as the case may be.

1.15 LOWER INCOME CONDOMINIUM: Same as an Affordable Condominium.

1.16 LOWER INCOME FAMILY: A Family which is either a Low Income Family or a Moderate Income Family, as the case may be.

1.17 LOWER INCOME PURCHASER: A purchaser of an Affordable Condominium which is either a Low Income Purchaser or a Moderate Income Purchaser as the case may be.

1.18 MARKET CONDOMINIUM: Any condominium in Society Hill at Piscataway which is not designated an Affordable Condominium.

1.19 MASTER DEED: The Master Deed and Declaration of Restrictive and Protective Covenants, including By-Laws, and Rules and Regulations for Society Hill at Piscataway, to be recorded in the Office of the Clerk of Middlesex County, and any proper amendments thereto.

1.20 MEDIAN INCOME: Shall mean and refer to the annual median family income figure for the P.M.S.A. of Middlesex County, New Jersey as computed, published and adjusted for household size by the United States Department of Housing and Urban Development or such successor figure as shall be prepared and so adjusted by an entity or entities of the Federal government, or such area or such figure that may be accepted pursuant to order by a court of competent jurisdiction for the purpose of establishing Median Family Income to determine housing price levels.

1.21 MODERATE INCOME CONDOMINIUM: A Unit which is Affordable to a Moderate Income Family and which is approved or constructed pursuant to the Township Ordinances to provide housing for Families of Low or Moderate Income. Nothing in this Affordable Housing Plan shall prohibit K. Hovnanian at Piscataway, Inc. or subsequent owners of a Moderate Income Condominium from selling a Moderate Income Condominium to a Low Income Family, however, the sales price of the Moderate Income Condominium need remain Affordable only to Moderate Income Families.

1.22 MODERATE INCOME FAMILY: A Family whose Gross Aggregate Family Income does not exceed the Income limits established by the Code of the Township of Piscataway and the Agency. A Family whose Gross Aggregate Income is no greater than 80% and no less than 50% of the Median Income of the area or Region, with adjustments for smaller and larger Families. The Agency shall, from time to time, determine the Median Income standards to be applied to any specific Family seeking to purchase a Moderate Income Condominium. ~~K. Hovnanian at Piscataway, Inc.~~ **The Affordable Housing Agency** shall qualify prospective purchasers of a Moderate Income Condominium as

Moderate Income Families prior to selling a Moderate Income Condominium to the prospective purchaser.

1.23 MODERATE INCOME PURCHASER: A Moderate Income Family purchasing a Moderate Income Condominium.

1.24 OWNER: The then current title holder of record of an Affordable Condominium. Owner shall refer to and mean the title holder of record as same is reflected in the most recently dated and recorded deed for a particular Affordable Condominium. For purposes of the initial sales of the Affordable Condominiums, Owner shall include K. Hovnanian at Piscataway, Inc. Ownership of a Condominium Unit shall be deemed to be acceptance and ratification of this Affordable Housing Plan and all its provisions. Where appropriate, the term Owner shall also mean and refer to a person who occupies a Unit as a tenant.

1.25 QUALIFIED PURCHASER: Shall mean and refer to a person who, pursuant to this Plan, (1) submits an Application for Certification as a Qualified Purchaser to the Agency; (2) whose Gross Aggregate Family Income at the time of proposed purchase of an Affordable Condominium is within Low or Moderate Income Levels, as these Income Levels are defined herein; and (3) who obtains Certification as a Qualified Purchaser of an Affordable Condominium from the Agency pursuant to the rules and regulations of the Agency. Once a Qualified Purchaser becomes an Owner of an Affordable Condominium in accordance with the provisions of this Plan, any increase or decrease in the Gross Aggregate Family Income of such Owner shall not affect ownership rights, privileges or obligations of such Owner. The term "Qualified Purchaser" shall also include a person or family who occupies the Unit on a rental basis, subject to the qualifications and conditions stated above and elsewhere herein. Any person who submits false information in support of an application for certification and who subsequently receives such certification and either title to a Unit as Owner or possession of a Unit as tenant shall be deemed to have violated the provisions of this Plan and any interest in such unit shall be subject to forfeiture pursuant to the provisions of Paragraph 10 of this Plan.

1.26 REGION: Through July 31, 1990, "Area" or "Region" for purposes of determining Median Income shall be the eleven (11) county region consisting

of Bergen, Passaic, Sussex, Morris, Essex, Hudson, Warren, Hunterdon, Somerset, Union and Middlesex counties of the State of New Jersey. Subsequent to July 31, 1990, the "Area" or "Region" for purposes of determining Median Income shall be the Piscataway commutershed region consisting of Middlesex, Somerset, Mercer and Monmouth counties of the State of New Jersey. The Median Income of the eleven county region is defined as the Median Income of the PMSA in which Middlesex County is located. The Median Income of the commutershed region is defined as the Median Income of the PMSA in which Middlesex County is located. The Median Income of the eleven county region, and after July 31, 1990, of the commutershed region, shall be recalculated annually on July 31st of each year if official adjustments have not been made in the PMSA Median Income.

1.27 STRUCTURE: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of any person.

1.28 TOTAL MONTHLY HOUSING COSTS: The total of the following monthly payments associated with the cost of the housing - mortgage payment (principal, interest, private mortgage insurance), applicable Assessments by the Associations, real estate taxes, and fire, theft and liability insurance.

1.29 UNIT: Shall mean and refer to an Affordable Condominium or a Market Condominium, as the case may be. Shall be synonymous with "Condominium Unit".

2. Part of Association. The Affordable Condominiums will be located within Society Hill at Piscataway and shall be a part of the Association.

3. Floor Plans. The Affordable Condominiums shall consist of at least the floor plans described as follows:

- A. Model 5302 - approximately 55 units (Exhibit B);
- B. Model 5303 - approximately ~~55~~⁵⁴ units (Exhibit C).

The Affordable Condominiums actually constructed will be substantially similar to those shown in the Exhibits B and C. K. Hovnanian at Piscataway, Inc. shall have the right to add additional or modify floor plans so long as they meet the criteria and provisions set forth in this

Affordable Housing Plan and the Agency is notified in writing of any modification involving change in the number of bedrooms within the unit. Further, if any unit provides other than two bedrooms, the qualifications of any purchaser and the affordable sales price or rental charge shall be calculated according to the Affordable Housing Ordinance criteria.

4. Location. K. Hovnanian at Piscataway, Inc. shall sell or rent a total of ~~110~~¹⁰⁹ Affordable Condominiums to Lower Income Families, 55 Units to Moderate Income Families and ~~55~~⁵⁴ Units to Low Income Families, in accordance with the provisions of this Affordable Housing Plan. K. Hovnanian at Piscataway, Inc. will specify the location of these Affordable Condominiums on building plans prior to application for building permits for an individual building. The precise legal description of these ~~110~~¹⁰⁹ Affordable Condominiums shall be contained in ~~a supplement~~ an Exhibit to this Plan which shall be recorded simultaneously with the Master Deed creating Society Hill at Piscataway Condominium which is the horizontal property regime of which these Affordable Condominiums shall be a part.

5. Master Deed Provisions: Part of Plan: Duration: Amendment. The Master Deed and Declaration of Covenants and Restrictions for the Condominium Association shall include the following section which specifically addresses Affordable Condominiums and the restrictions on resale of said Condominiums which shall be imposed upon their Owners, the terms of which shall also be a part of and incorporated into the Affordable Housing Plan. The Declaration of Covenants and Restrictions shall bear the following provision and the restrictions contained therein shall apply to all Affordable Condominiums:

Society Hill at Piscataway, comprised of a total of ~~550~~⁵⁴⁵ residential dwellings, includes ~~110~~¹⁰⁹ residential dwellings known as Affordable Condominiums which are subject to an Affordable Housing Plan. The Affordable Housing Plan was a condition of approval imposed upon K. Hovnanian at Piscataway, Inc. by the Planning Board of the Township of Piscataway in connection with the application for development of Society Hill at Piscataway.

The Township of Piscataway imposed this Affordable Housing Plan upon K. Hovnanian at Piscataway, Inc. in an effort to satisfy a portion of the Township's constitutional obligations with respect to making affordable housing available within the Township. Purchasers of Affordable Condominiums may not sell their Units on resale for a purchase price greater than the original purchase price as reflected in their Deeds plus a percentage increase based on the CPI (New York City-Northeastern New Jersey-all items) increase or other equivalent index determined by the Agency described herein and to be established by the Township of Piscataway. Purchasers of Affordable Condominiums also may not sell their Units on resale to a person other than one qualifying as a family of low or moderate income as the applicable case may be and in compliance with all rules, regulations and requirements duly promulgated by the Affordable Housing Agency of the Township of Piscataway. It is the intent and purpose that these Affordable Condominiums be and remain Affordable Condominiums which are affordable to Lower Income Families in accordance with the provisions of the Affordable Housing Plan.

In addition to the foregoing restrictions, the resale of Affordable Condominiums shall be subject to the rules and regulations of the Affordable Housing Agency which shall be established by the Township of Piscataway. This Agency shall monitor and approve resales of Affordable Condominiums to assure that purchasers of same shall be Lower Income Purchasers as defined by the Agency's Income criteria in effect at the time of the proposed resale. The Agency, however, shall approve any resale of an Affordable Condominium so long as the purchase price as required in the contract of sale and the Deed conveying Title to the new Buyer is not greater than the purchase price as reflected in the Deed which conveyed Title to the selling Owner plus a percentage increase based upon the CPI (New York City- Northeastern New Jersey-all items) increase or other equivalent index determined by the Township of Piscataway, provided, however that the resale price may exceed the foregoing if a greater sum is required to pay off and discharge the existing First Purchase Money Mortgage. Furthermore, Affordable Condominiums shall at all times remain owner-occupied except that under exceptional circumstances to be determined by the Agency, such Affordable Condominiums may be leased or rented for limited periods not to exceed one year, upon conditions set forth in the regulations.

Owners of Affordable Condominiums may add amenities or Improvements to such Units, however, the effect of these Improvements may not increase the resale price of the Unit beyond amounts which are considered by the

Agency to be Affordable to Lower Income Purchasers. In the event that such amenities or Improvements are installed, however, the resale price of Affordable Condominiums shall nevertheless be restricted by the Agency in accordance with the foregoing standards.

Owners of Affordable Condominiums shall maintain them in accordance with the standards of the Market Condominiums within the development. Failure to do so shall permit Society Hill at Piscataway Condominium Association to do so at the cost and expense of the Owner of the Affordable Condominium, and the Association shall have a lien on the Unit for the recovery of all sums expended for such purpose as provided for in the Declaration of Covenants and Restrictions for Society Hill at Piscataway. Other than the sums described in the immediately preceding sentence, any and all Assessments by the Association upon these Affordable Condominiums shall be limited to 33% of the Assessment being levied by the Association upon Market Condominiums and at no time shall the Association levy an Assessment upon an Affordable Condominium for an Association expense for which Market Condominiums are not being assessed, except as may be provided in the Affordable Housing Plan.

Owners of Affordable Condominiums shall not convey title to or by lease or otherwise, deliver possession of the Affordable Condominiums other than in accordance with the Affordable Housing Plan and Agency regulations. The Association shall have no responsibility whatsoever for implementing, enforcing or supervising the Affordable Housing Plan. The fair market value of the Affordable Condominiums in the event that the Association elects not to rebuild, with respect to Paragraph 12 of the Master Deed entitled "Restoration and Replacement of Condominium in Event of Fire, Casualty or Obsolescence", and the provisions of Sections 1 and 2 of Article VI of the By-Laws, shall be determined in accordance with the provisions of this plan and shall be limited to the purchase price paid for Affordable Condominium by the Owner increased by a percentage increase based upon the CPI (New York City - Northeastern New Jersey - all items) increase. The Association shall carry insurance coverage upon the Affordable Condominiums equal to the replacement cost of such unit in the event of total destruction and such units shall be rebuilt and replaced and subject to the provisions of this plan in the event the Association elects to rebuild. If the Association elects not to rebuild or dissolve as provided in the Master Deed, then the ~~110~~¹⁰⁹ Affordable Condominiums shall be forever released from the restrictions and requirements of the Affordable Housing Plan.

The terms, restrictions, provisions and covenants of the Affordable Housing Plan, and the provisions of the Master Deed referring to and incorporating the Affordable Housing Plan, shall automatically expire and terminate at the earliest of the following: (1)-thirty (30) years from the date of the Affordable Housing Plan; and (2) the date upon which the right of redemption expires with respect to the Foreclosure of the First Purchase Money Mortgage lien upon an Affordable Condominium by the first mortgagee of the Affordable Condominium as the Plan applies to the specific unit which is subjected to a foreclosure pursuant to this provision; and (3) the date upon which the Association dissolves or ceases to exist for any reason for any period of time in which case a document certifying same shall be duly recorded with the Recorder of Middlesex County.

Neither the Developer, the Owner, the Association nor the Agency shall amend or alter the provisions of this paragraph, or Plan without first obtaining the approval of both the Agency and the Planning Board of the Township of Piscataway. Any such approved amendments or modifications of this Plan shall be in writing and shall contain proof of Planning Board approval and shall not be effective unless and until recorded with the Middlesex County Clerk.

6. Affordable Housing Agency. The Township of Piscataway, by Ordinance shall establish an Agency whose purpose, among others is to administer the provisions of this Affordable Housing Plan to original purchasers, and to structure and enforce the mechanism and criteria for the determination of who are Lower Income Purchasers constituting Qualified Purchasers at time of resale and for determining the allowable resale and rental prices of Affordable Condominiums. The Ordinance shall establish the standards which the Agency shall apply, and the Agency shall, by rules and regulations, establish the details of the application of such standards to resales of Affordable Condominiums, and to the determination of the Lower Income Purchasers constituting Qualified Purchasers in accordance with the terms and provisions of the Affordable Housing Plan.

The standards shall restrict the resales of Affordable Condominiums to prices which are Affordable to Lower Income Families and shall further restrict the installation of Improvements or amenities within or as a part of Affordable Condominiums which would unduly increase the resale prices of such Affordable Condominiums above the amounts considered as Affordable to

Lower Income Families as prescribed by the terms of this Plan and as determined by the Agency.

7. Deeds of Conveyance Provisions. The Deeds of Conveyance from K. Hovnanian at Piscataway, Inc. to the purchasers of Affordable Condominiums shall include the following clause:

The Owner's right, title and interest in this unit and the use, sale and resale of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the "~~Moderately Priced~~ Affordable Housing Plan of Society Hill at Piscataway" dated _____ which plan was filed in the Office of the Clerk of Middlesex County in Misc. Book _____ at Page _____ on _____ and is on file with the Piscataway Township Department of Planning and Community Development.

The above clause shall be in addition to the clause stating that the Unit is subject to the Homeowners Association Declaration of Covenants and Restrictions which clause will also appear in the Deeds for all Units in this development.

8. Statement of Exemption - Low Income Condominiums. The Agency shall, under certain circumstances, declare that the sale, resale or rental of a Low Income Condominium is exempt from the restriction of sale, resale or rental only to a Low Income Family Qualified Purchaser. If no Low Income Family as a Qualified Purchaser of a Low Income Condominium ~~is contractually obligated~~ has signed a contract to ~~complete the purchase of~~ a particular Low Income Condominium within sixty (60) days of the developer's receipt of the certificate of occupancy for that Low Income Condominium, or within one-hundred twenty (120) days of the date upon which the Non-developer Owner of the Low Income Condominium notified the Agency that the Low Income Condominium is on the market available for resale, the Agency shall declare the resale of the Low Income Condominium exempt from the restriction of sale, resale or rental to a Low Income Family and shall permit the resale of the Low Income Condominium to a Moderate Income Family.

If the applicable mortgage Interest Rate has risen above 14% and no Low Income Family has ~~become contractually obligated~~ signed the lease agreement to rent a particular Low Income Condominium within 90 days of the date upon which K. Hovnanian at Piscataway, Inc. notified the Agency that it has been attempting to rent such Low Income Condominiums pursuant to the terms of this Plan, or if the Agency, in its sole and complete discretion finds it prudent and consistent with the intent and purpose of this Affordable Housing Plan, the Agency shall, pursuant to this section, exempt such Low Income Condominium from the restriction of rental to a Low Income Family and shall permit the rental of the Low Income Condominium to a Moderate Income Family subject to the same terms and conditions as are applicable to a Low Income Family.

To permit the sale, resale or rental of a Low Income Condominium under this section, the Agency shall issue a Statement of Exemption in recordable form to the Owner or K. Hovnanian at Piscataway, Inc. as the case may be, desiring to sell, resell or rent the Low Income Condominium. The Agency may, in its sole and exclusive discretion, specify conditions under which the Statement of Exemption may be granted. The Agency may specify different conditions for the grant of each Statement of Exemption. A copy of the Statement of Exemption shall be given, to the purchaser at the time of ~~purchase~~ close of title or ~~rental~~ to the tenant prior to occupancy, to the Moderate Income Family as a Qualified Purchaser. The Statement of Exemption shall deem such Moderate Income Family to be a Low Income Family Qualified Purchaser for purposes of any subsequent resale. A Statement of Exemption issued pursuant to this section shall exempt only the specific sale, resale or rental transaction for which it was issued. Such Statement of Exemption shall be valid according to the terms and conditions, and for such period of time, as specified by the Agency. The restrictions of resale or rental to only Low Income Family Qualified Purchasers shall apply to the subsequent resale or rental of a Low Income Condominium resold or rented pursuant to a Statement of Exemption, unless a new Statement of Exemption is issued pursuant to this section. As provided in this section, the Moderate Income Family Owner which became a Qualified Purchaser and Owner by virtue of a Statement of Exemption (Owner at the time of

subsequent resale) of the Low Income Condominium shall be deemed to be a Low Income Family Qualified Purchaser for purposes of compliance with the restrictions of sale or resale of Low Income Condominiums to Low Income Families. The effect of exemption from the restriction of resale or rental of a Low Income Condominium to only a Low Income Family pursuant to a Statement of Exemption shall be that the Owner may resell or rent, as the case may be, the Low Income Condominium to a Moderate Income Family. Such Moderate Income Family, however, shall take title and/or possession to the Low Income Condominium subject to the same terms, restrictions, conditions and provisions of this Affordable Housing Plan applicable to Low Income Condominiums including those addressing use, occupancy, improvements and resale as though such Moderate Income Family were in fact a Low Income Family Qualified Purchaser.

Nothing shall preclude the Agency from purchasing the Low Income Condominium and holding, renting or conveying it to a Low Income Family if such right is exercised prior to the Owner ~~accepting a bona fide offer~~ signing a valid contract to ~~purchase~~ sell such Low Income Condominium from a Lower Income Family.

9. Statement of Exemption - Moderate Income Condominiums. The Agency shall, under certain circumstances, declare that the sale, resale or rental of a Moderate Income Condominium is exempt from the restriction of sale, resale or rental to a Moderate or Low Income Family Qualified Purchaser. If no Moderate or Low Income Family as a Qualified Purchaser of a Moderate Income Condominium ~~is contractually obligated~~ has signed a contract to ~~complete the purchase of~~ a particular Moderate Income Condominium within sixty (60) days of the developer's receipt of the certificate of occupancy for that Moderate Income Condominium, or within one-hundred twenty (120) days of the date upon which the Non-developer Owner of the Moderate Income Condominium notifies the Agency that the Moderate Income Condominium is on the market available for resale, the Agency shall declare the resale of the Moderate Income Condominium exempt from the restriction of sale or resale to a Moderate or Low Income Family and shall permit the resale of the Moderate Income Condominium to a non-Lower Income Family, provided,

however, that the sale and any subsequent resales of a Moderate Income Condominium under this section shall remain subject to the maximum resale price restrictions set forth in this Plan as well as the obligation of the Condominium Unit Owner to obtain prior approval of the resale from the Agency as provided in this Plan.

If the applicable mortgage Interest Rate has risen above 14% and no Moderate Income Family has ~~become contractually obligated~~ signed the lease to rent a particular Moderate Income Condominium within 90 days of the date upon which K. Hovnanian at Piscataway, Inc. notified the Agency that it has been attempting to rent such Moderate Income Condominium or if the Agency, in its sole and complete discretion finds it prudent and consistent with the intent and purpose of this Plan, the Agency shall, pursuant to this section, exempt such Moderate Income Condominium from the restriction of rental to a Moderate Income Family and may permit the rental of the Moderate Income Condominium to a Non-Moderate Income Family subject to the same terms and conditions as are applicable to a Moderate Income Family.

To permit the sale, resale or rental of a Moderate Income Condominium under this section, the Agency shall issue a Statement of Exemption in recordable form to the Owner desiring to sell, resell or rent the Moderate Income Condominium. A copy of the Statement of Exemption shall be given, at the time of closing, to the purchaser or to the tenant prior to occupancy of the Moderate Income Condominium resold under this section. The Statement of Exemption shall deem such purchaser to be a Moderate Income Family and Qualified Purchaser of the Moderate Income Condominium for purposes of any subsequent resale. A Statement of Exemption issued pursuant to this section shall exempt only the specific sale, resale or rental transaction for which it was issued.

The restrictions of resale or rental to Qualified Purchasers in accordance with this Plan shall apply to all subsequent resales or rentals of the Moderate Income Condominium unless a new Statement of Exemption is issued pursuant to this section specifically for a subsequent resale or rental transaction. As provided in this section, the Qualified Purchasers by reason of a Statement of Exemption (Owner at the time of subsequent resale) of the Moderate Income Condominium shall be deemed to be a Moderate

Income Family and, therefore, a Qualified Purchaser for purposes of compliance with the restrictions of resale to Qualified Purchasers and the restriction of resale or rental to Moderate Income Families. The effect of exemption from the restriction of resale to Qualified Purchasers pursuant to a Statement of Exemption shall be that the Owner may resell or rent the Moderate Income Unit to any potential purchaser or tenant regardless of whether such purchaser or tenant is a Qualified Purchaser, however, all other terms, provisions and restrictions of this Affordable Housing Plan remain in full force and effect and any such purchaser, ~~however,~~ shall take title and possession to the Moderate Income Condominium subject to the terms, restrictions, conditions and provisions of this Affordable Housing Plan applicable to Moderate Income Condominiums including those addressing use, occupancy, improvement and resale as though such purchaser were in fact a Qualified Purchaser.

Nothing shall preclude the Agency from purchasing the Moderate Income Condominium and holding, renting or conveying it to a Qualified Purchaser if such option is exercised prior to the Owner ~~accepting a bona fide offer~~ signing a valid contract to ~~purchase~~ sell such Moderate Income Condominium.

10. Exempt Transactions. The following transactions shall be deemed "non-sales" for purposes of this Affordable Housing Plan and the Owner receiving title by virtue of any of the following transactions shall be entitled to receive from the Agency and the Agency shall issue a Statement of Exemption to the Owner receiving title by virtue of any of the following transactions:

- (a) Transfer of Ownership of an Affordable Condominium between husband and wife;
- (b) Transfer of Ownership of an Affordable Condominium between former spouses ordered as a result of a judicial decree of divorce, (and not including sales to third parties);
- (c) Transfer of Ownership of an Affordable Condominium between family members as a result of inheritance;
- (d) Transfer of Ownership of an Affordable Condominium through an Executor's Deed to any Person;
- (e) Transfer of Ownership of an Affordable Condominium through an Order of the Superior Court or other court.

Such Transfer of Ownership neither extinguish the Restrictions and applicability of this Affordable Housing Plan to such Affordable Condominium nor terminate any liens set forth under this Plan. Liens must be satisfied in full prior to the subsequent resale of the Affordable Condominium and all such subsequent resales are fully subject to the terms and provisions of this Affordable Housing Plan.

11. Violation of Plan. ~~The Agency shall serve a Notice of Breach upon the~~ Owner in the event that the Agency finds that the Owner has violated any provision of this Plan. Such Owner shall have a period of sixty (60) days to either cure such violation or place the Affordable Condominium on the market for resale in accordance with the terms of this Plan. Failure or refusal of the Owner to either cure the violation or place the Affordable Condominium on the market for resale in accordance with terms and restrictions of the Affordable Housing Plan and diligently pursue same as provided herein shall automatically empower and entitle the Agency to immediately commence court action to obtain a judgement against the Owner to the effect that the Owner is in violation of the terms, restrictions and provisions of this Affordable Housing Plan. ~~The interest of any Owner shall~~ be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of this Plan which remains uncured for a period of sixty (60) days after service of a written Notice of Violation upon the Owner by the Agency. The Notice of Violation shall specify the particular infraction and shall advise the Owner that his or her interest is subject to forfeiture if such infraction is not cured within sixty (60) days of receipt of the Notice. The provisions of this paragraph may be enforced by the Agency by court action seeking a judgment which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. ~~Said~~ Any judgement shall be enforceable as if same were a judgement of default of the First Purchase Money Mortgage and shall constitute a lien against the Affordable Condominium. Such judgement shall be enforceable at the option of the Agency, by means of ~~immediately holding a Sheriff's Sale,~~ an execution sale by the Sheriff at which the Affordable Condominium of the violating Owner shall be sold at a sales price which is not less than the amount necessary to fully satisfy and payoff any First Purchase Money Mortgage ~~in full~~

~~compliance with the terms, restrictions and provisions of the Affordable Housing Plan~~ and prior liens and costs of the enforcement proceedings including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's Sale.

The proceeds of the Sheriff's Sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the Affordable Condominium. The excess, if any, shall be applied to reimburse the Agency for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's Sale. In the event that the proceeds from the Sheriff's Sale are insufficient to reimburse the Agency in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the Agency in connection with collecting such deficiency. ~~The remainder,~~ In the event of a surplus, the balance if any, shall be placed in escrow by the Agency for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the Agency for such. Failure of the Owner to claim such ~~remainder~~ balance within the two year period shall automatically result in a forfeiture of such ~~remainder~~ balance to the Agency. Any interest accrued or earned on such ~~remainder~~ balance while being held in escrow shall belong to and shall be paid to the Agency whether such ~~remainder~~ balance shall be paid to the Owner or forfeited to the Agency.

Title shall be conveyed to the purchaser at the Sheriff's Sale subject to the restrictions and provisions of the Affordable Housing Plan. The Owner determined to be in violation of the provisions of this Plan and from whom title and possession were taken by means of the Sheriff's Sale shall not be entitled to any right of redemption. If there are no bidders at the Sheriff's Sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Agency may acquire title to the Affordable Condominium by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating Owner with an amount equal to the difference between the First Purchase Money Mortgage

any any prior liens and costs of the enforcement proceedings including legal fees and the maximum sales price for which the Affordable Condominium could have been sold under the terms of this Affordable Housing Plan. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described. Failure of the Affordable Condominium to be either sold at the Sheriff's Sale or acquired by the Agency shall obligate the Owner to accept an offer to purchase from any Qualified Purchaser, which may be referred to the Owner by the Agency, with such offer to purchase being equal to the maximum sales price of the Affordable Condominium as permitted by the terms and provisions of this Affordable Housing Plan.

The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of this Plan until such time as title is conveyed from the Owner.

12. Covenants Running With Land. The provisions of this Affordable Housing Plan shall constitute covenants running with the land with respect to each Affordable Condominium affected hereby, and shall bind all purchasers of each such Unit, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns, ~~except as provided for in paragraph 13 hereinafter.~~ The terms, restrictions and covenants of this Plan shall, however, automatically expire and terminate at the earliest of the following: (1) thirty (30) years from the date hereof; and (2) the date upon which the event set forth in paragraph ~~12~~¹³ hereinafter shall occur; and (3) the date upon which the Association dissolves or ceases to exist for any period of time for any reason, in which case, an instrument executed by the Association evidencing same must be duly recorded with the Office of the Clerk of Middlesex County.

13. Effect of Foreclosure. Any Affordable Condominium which is acquired by a first mortgagee by Deed in lieu of foreclosure, or by any purchaser at a mortgage foreclosure sale conducted by the holder of the first mortgage (including the first mortgagee but excepting the defaulting mortgagor) shall be permanently released from the restrictions and covenants of this

Plan and all resale restrictions shall cease to be effective as to the first mortgagee and all subsequent purchasers and mortgagees of that particular unit (except for the defaulting mortgagor, who shall be forever subject to the resale restrictions of this plan with respect to the unit owned by him at the time of his default). Execution or Foreclosure sales by any other class of creditor shall not result in a release of the unit from the provisions of this plan.

14. Obligations of Owners. Any Owner of an Affordable Condominium shall notify the Agency within ten (10) days in writing of any default in the performance by the Owner of any obligation under either the Master Deed of the Association including the failure to pay any lawful and proper Assessment by the Association, or any mortgage, or other lien, against the Affordable Condominium which is not cured within sixty (60) days of the date upon which the default first occurs. The Owner shall not permit any lien, other than the First Purchase Money Mortgage, to attach and remain on the property for more than sixty (60) days.

The Owner of an Affordable Condominium shall keep the unit in good repair and shall not commit waste thereon.

The Owner shall pay all taxes and public Assessments and Assessments by the Association levied upon or assessed against the unit, or any part thereof, as and when the same become due and before penalties accrue.

This Affordable Condominium is part of a condominium together with appurtenances thereto. The Owner, in addition to paying 33% of any and all assessments required to be paid by the Market Condominiums pursuant to the Master Deed, shall further fully comply with all of the terms, covenants or conditions of said Master Deed, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Plan.

15. Agency's Right to Cure. The Agency may, at its option, advance and pay all sums necessary to protect, preserve and retain the unit as an Affordable Condominium subject to the terms of this plan. All sums so advanced and paid by the Agency shall become a lien against such unit and shall have a higher priority than any lien except the First Purchase Money

Mortgage lien and liens by duly authorized government agencies. Such sums may include, but are not limited to, insurance premiums, taxes, assessments (public or private) and liens which may be or become prior and senior to any First Purchase Money Mortgage as a lien on the Unit, or any part thereof. In the event any First Mortgagee or other creditor of an Owner of an Affordable Condominium exercises its contractual or legal remedies available in the event of default or nonpayment by the Owner of an Affordable Condominium, the Owner shall notify the Agency in writing within 10 days of such exercise by the First Mortgagee or creditor and no later than 10 days after service of any summons and complaint and the Agency shall have the option to purchase, redeem, or cure any default upon such terms and conditions as may be agreeable to all parties in interest and/or to acquire the First Purchase Money Mortgage to the Unit, thereby, replacing the First Mortgagee as the First Mortgagee of the Unit. The Agency shall have the same priority of lien as was held by the First Mortgagee at the time the Agency acquires such First Purchase Money Mortgage, and shall have the right of subrogation with respect to any other claim or lien it satisfies or acquires.

16. Provisions for First Purchase Money Mortgagees. The terms and restrictions of this Affordable Housing Plan shall be subordinate only to the First Purchase Money Mortgage lien on any Affordable Condominium and in no way shall impair the First Mortgagee's ability to exercise the contract remedies available to it in the event of default as such remedies are set forth in the First Purchase Money Mortgage documents for the unit. So long as the First Purchase Money Mortgage is not sold to the Federal National Mortgage Association or in the secondary mortgage market, the First Mortgagee and/or mortgage servicer shall serve written notice upon the Agency within ten (10) days after the First Purchase Money Mortgage is three (3) months in arrears, and again within ten (10) calendar days of the filing of the complaint seeking foreclosure of the First Purchase Money Mortgage held on an Affordable Condominium.

The obligation of the First Mortgagee and servicer to notify the Agency shall cease automatically and immediately upon the sale of the First

Purchase Money Mortgage to the Federal National Mortgage Association or in the secondary mortgage market unless the rules and regulations or guidelines of the Federal National Mortgage Association are amended so as to not prohibit or exclude placing such obligation upon the holder of the mortgage or its service representative, in which case, an instrument duly evidencing same must be recorded with the Office of the Clerk Middlesex County, New Jersey, before any such obligation shall exist. Provided that the First Mortgagee is obligated to give the Agency the above mentioned notices, the First Mortgagee shall also serve written notice of any proposed Foreclosure sale upon the Agency at least thirty (30) days prior to the first scheduled date of such sale. The First Mortgagee shall serve notice upon the Agency within thirty (30) days of the sale of the First Purchase Money Mortgage to the Federal National Mortgage Association or in the secondary mortgage market.

The Township of Piscataway and/or the Agency or any instrumentality designated by the Township shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment, or within the redemption period thereafter. Notification of a default and of the institution of a Foreclosure action and of a sheriff's sale shall be served in writing upon the Township Clerk as aforesaid. The Township of Piscataway shall at all times be considered a party in interest and shall have the right to be joined as a party defendant and/or shall have the right to intervene in any foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's equity of redemption or to acquire the unit from the Owner upon such terms and conditions as may be determined by the Agency.

17. Surplus Funds. In the event of a Foreclosure sale by the holder of the First Purchase Money Mortgage, the Owner shall be personally obligated to pay to the Agency any surplus funds, but only to the extent that such surplus funds exceed the difference between what the Owner could have resold his unit for under this Plan at the time of the Foreclosure sale and the amount necessary to redeem and satisfy the First Purchase Money Mortgage debt, including costs of foreclosure. For purposes of this

paragraph, surplus funds shall be the total amount paid to the sheriff in excess of the amount required to pay and satisfy the First Purchase Money Mortgage, including the costs of foreclosure, even if junior creditors actually receive payment from said surplus funds to the exclusion of the Owner. The Agency is hereby given a first priority lien, second only to the First Mortgagee of a Unit and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of surplus funds. This obligation of the Owner to pay this full amount to the Agency shall be deemed to be a personal obligation of the Owner of record at time of the Foreclosure Sale and the Agency is hereby empowered to enforce the obligation of the Owner in any appropriate court of law or equity as though same were a personal contractual obligation of the Owner. Neither the First Mortgagee nor the purchaser at the Foreclosure Sale shall be responsible or liable to the Agency for any portion of this excess.

18. Disclosure Statements. K. Hovnanian at Piscataway, Inc. shall provide Disclosure Statements to all initial purchasers of Affordable Condominiums prior to the execution of any contract of sale. The provisions of such disclosure statements shall be as set forth on Exhibit D attached hereto. All Owners of Affordable Condominiums shall provide copies of such Disclosure Statements to subsequent buyers prior to execution of contracts for sale with such buyers. In addition, K. Hovnanian at Piscataway, Inc., shall provide to the initial owner of an Affordable Condominium, who, (as well as all future Owners) in turn, shall provide to prospective buyers, copies of the Ordinance creating the Agency, together with copies of existing regulations promulgated by the Agency and a copy of this Affordable Housing Plan together with any duly approved and recorded amendments at the time the contract of sale is executed and delivered to the prospective purchaser.

19. Phasing. In order to provide assurance to the Township of Piscataway Planning Board that K. Hovnanian at Piscataway, Inc. shall provide Affordable Condominiums throughout the project, K. Hovnanian at Piscataway, Inc. will construct the Affordable Condominiums in a controlled phased

manner in accordance with the following schedule of Certificates of Occupancy. For purposes of this proposal, the term Market Unit shall mean any dwelling unit not an Affordable Condominium.

~~The developer may construct and receive certificates of occupancy for the first twenty (20%) percent of the Market Condominiums without receiving certificates of occupancy for any Low or Moderate Income Condominiums. Not more than forty (40%) percent of the Market Condominium the development shall receive certificates of occupancy until at least twenty (20%) percent of the Low and Moderate Income Condominiums shall have received certificates of occupancy. Not more than sixty (60%) percent of the Market Condominiums in the development shall receive certificates of occupancy until at least forty-five (45%) percent of the Low and Moderate Income Condominiums shall have received certificates of occupancy. Not more than eighty (80%) percent of the Market condominiums in the development shall receive certificates of occupancy until at least seventy (70%) percent of the Low and Moderate Income Condominiums shall have received certificates of occupancy. The developer may receive certificates of occupancy for 100% of the Market Condominiums as soon as 70% or more of the Low and Moderate Income condominiums have received certificates of occupancy.~~

The developer may construct and receive certificates of occupancy for the first 87 Market Condominiums (20% of the 436 Market Units) without receiving certificates of occupancy for any of the Affordable Condominiums. As soon as the developer has received certificates of occupancy for at least 11 (10%) of the Affordable Condominiums, the developer shall be entitled to receive certificates of occupancy for up to 131 (30%) of the 436 Market Condominiums. As soon as the developer has received certificates of occupancy for at least 22 (20%) of the Affordable Condominiums the developer shall be entitled to receive certificates of occupancy for up to 218 (50%) of the Market Condominiums. As soon as the developer has received certificates of occupancy for at least 49 (45%) of the Affordable Condominiums, the developer shall be entitled to receive certificates of occupancy for up to 262 (60%) of the Market Condominiums. As soon as the developer received certificates of occupancy for at least 77 (70%) of the Affordable Condominiums, the developer shall be entitled to receive certificates of occupancy for up to 305 (70%) of the Market Condominiums. As soon as the developer receives certificates of occupancy for all 109 (100%) of the Affordable Condominiums, the developer shall be entitled to receive certificates of occupancy for all 436 (100%) of the Market Condominiums. The release of Market Condominium certificates of

occupancy shall be controlled in order to maintain the above ratios. The Department of Planning of the Township of Piscataway is hereby authorized and empowered to administer the terms of this Phasing and is further empowered and directed to withhold certificates of occupancy for Market Units as might be necessary to enforce the provisions of this Phasing requirement.

20. Service Upon Township or Agency. Wherever in this document the Township Department of Planning and Community Development, the Agency or the Township of Piscataway is authorized to receive letters, contracts or other documents, the Township Clerk shall be the person to whom same are delivered.

21. Captions Headings. All captions and headings in this Affordable Housing Plan are for purposes of reference only and shall not affect the interpretation or construction of any provision of this Affordable Housing Plan.

22. Severability. It is the intention of both the Township of Piscataway and K. Hovnanian at Piscataway, Inc. that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby. In the event that any provisions, condition, covenant or restriction thereof, is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this instrument.

23. Agreement. K. Hovnanian at Piscataway, Inc. shall construct the 110 Affordable Condominiums and agrees that all such designated Affordable Condominiums shall be sold, rented and marketed in accordance with the provisions of this Affordable Housing Plan.

Dated: _____

ATTEST:

HOVNANIAN AT PISCATAWAY, INC.

BY: _____

ATTEST:

TOWNSHIP OF PISCATAWAY

BY: _____

PREPARED BY:

Donald R. Daines
Attorney at Law of New Jersey

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