

Return to: (enclose self-addressed stamped envelope)

Name: Dennis D. Mele, Esq.

Address:

200 East Broward Boulevard
15th Floor
Fort Lauderdale, Florida 33301

This Instrument Prepared by:

Dennis D. Mele, Esq.
Ruden McClosky
200 East Broward Boulevard
15th Floor
Fort Lauderdale, Florida 33301

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DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") made this 27th of February, 2011 by PEMBROKE TOWER, LTD., a Florida limited partnership, having an address of 2750 Old St. Augustine Road Tallahassee, FL 32301 ("Declarant"), shall be for the benefit of CITY OF PEMBROKE PINES, having an address of 10100 Pines Boulevard, Pembroke Pines, FL 33026 ("City"), its successors and assigns.

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of approximately 4.0 acres of land, generally located on the south side of Sheridan Street, east of University Drive in the City of Pembroke Pines, Broward County, Florida, and more particularly described in **Exhibit "A"** attached hereto (the "Property"); and

WHEREAS, Declarant, has submitted an application to the City (Application No. PH-2009-02) and Broward County Planning Council (Application No. PC-5) for a land use plan amendment, to change the existing land use designation for the Property from Commercial to High (25-50) Residential, in conjunction with the redevelopment of the Property ("Project"); and

WHEREAS, the City and the County have approved the Land Use Plan Amendment which will allow residential uses on the Property; and

WHEREAS, Declarant has offered to enter into this Declaration to make certain designations for affordable and senior housing for the period of time provided herein.

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NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with such Property and any part thereof and which shall be binding upon all parties having any right, title or interest in such Property or any part thereof, their heirs, successors and assigns.

1. Recitations. The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.

2. Property Development. Declarant hereby declares the following:

- (a) Residential development of the Property shall be limited to 200 residential units (the "Units");
- (b) One hundred percent of the Units to be constructed on the Property (as set forth on the final site plan approved by the City) shall be affordable as defined in the Broward County Comprehensive Plan and as further restricted by this Declaration; and
- (c) Upon issuance of each final certificate of occupancy for any structure containing residential units, Declarant shall record a Notice of Designation of Affordable Housing Unit (an "Affordable Housing Notice") corresponding to such Units located within the building covered by such certificate of occupancy, the form of which Affordable Housing Notice is set forth on **Exhibit "B"** attached hereto and incorporated herein.

3. Units Offered For Rent. Declarant hereby declares all Units offered for rent shall be rented in accordance with the following:

- (a) All Units constructed on the Property shall be used solely as each renter's principal residence and shall be used solely for residential purposes. No Unit may be used for any non-residential purpose, other than home offices when permitted by applicable zoning regulations; and
- (b) All Units shall be rented solely by persons who meet the following criteria at the time of lease:
 - 1) One or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 120 percent of the median annual adjusted gross income for Broward County, adjusted for family size. Said limits to be published annually by Broward County or other appropriate governmental entity designated by Broward County. For the purposes of this provision, the term "adjusted gross income" shall mean all wages, assets, regular cash or noncash contributions or gifts from persons outside the household and such other resources and benefits as may be determined to be income by the United States Department of

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Housing and Urban Development, adjusted for family size, less deductions allowable under section 62 of the Internal Revenue Code. For the purposes of this provision, the term "adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, based upon a formula as established by the United States Department of Housing and Urban Development; and

2) The renter of a Unit shall have monthly rental payments (including taxes and insurance) that do not exceed thirty (30) percent of their monthly adjusted gross income.

(c) The owner of a Unit offered for rent shall upon request by the City of Pembroke Pines provide written certification that the criteria in 3(b) have been satisfied.

4. Senior Housing (55+ Years). Declarant hereby declares all Units shall be subject to the following senior housing restrictive covenant.

(a) All new leases on Units offered for rent shall require that the Unit be occupied by at least one (1) person who is fifty-five (55) years of age or older at the time of initial occupancy.

(b) The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988), as amended ("Fair Housing Act"), provides that communities cannot reject families with children younger than eighteen (18) years of age. However, the Fair Housing Act provides that a community is exempt from this requirement if (a) at least eighty percent (80%) of the occupied Units are occupied by at least one (1) person who is fifty-five (55) years of age or older; (b) the housing facility or community publishes and adheres to policies and procedures which demonstrate the intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older; and (c) the housing facility or community complies with the rules issued by the Secretary of Housing and Urban Development for verification of occupancy (hereinafter collectively referred to as the "Requirements for Exemption"). Therefore, during the Term, as hereinafter defined, at least one occupant in each occupied Unit must be at least fifty-five (55) years of age or older, except as hereinafter set forth.

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- (c) The Requirements for Exemption contemplate that up to twenty percent (20%) of the Units may be occupied by persons all of whom are under the age of fifty-five (55) without loss of the exemption. Accordingly, the Board of Directors of the homeowners association created for the Property (the "Board"), upon application by a Unit owner, purchaser or proposed tenant, shall have absolute discretion to allow a Unit to be occupied only by individuals under the age of fifty-five (55) based upon criteria that the Board shall determine, which criteria shall include, by way of example and not by limitation, information then known to the Board concerning potential or pending changes in occupancy of other Units, if any, due to known adverse medical conditions or domestic relations and the ages of any likely remaining occupants of such Units; other known prospective changes in occupancy of Units for whatever reasons; proximity to age fifty-five (55) of those occupants of other Units then under such age; and any other information known to and deemed relevant by the Board in carrying out its duty to monitor and control the percentage of the Units becoming occupied only by persons under the age of fifty-five (55). However, throughout the Term, the Board shall comply with the Requirements for Exemption, including, but not limited to, insuring that not more than twenty percent (20%) of the occupied Units will be occupied by individuals under the age of fifty-five (55).
- (d) It shall be the responsibility of the Board to monitor the percentage of Units with occupants all of whom are under the age of fifty-five (55) to insure that the Board does not permit more than twenty percent (20%) of the Units in the Property to be occupied only by persons under the age of fifty-five (55). In the event there is a change in the occupants of the Unit (e.g., a death or a divorce) so that at least one (1) of the occupants is no longer fifty-five (55) years of age or older, the Unit owner must immediately notify the Board of said change in writing. The Board shall have the right to promulgate rules and regulations necessary to comply with the Requirements for Exemption so that the provisions of 4.(d) hereof limiting the number of days that children eighteen (18) years of age or younger may stay in a Unit are enforceable.
- (e) As long as the Property falls within the exemption, no children eighteen (18) years of age or younger shall be permitted to reside in any of the Units, except for a period of time not to exceed a total of sixty (60) days per calendar year. In addition, children shall be allowed to play only in those areas of the Property designated from time to time by the Board and the Declarant.

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- (f) Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that, although it is the intent of Declarant to exempt the Property from the age provisions of the Fair Housing Act so that persons eighteen (18) years of age or younger will be prohibited from residing within the Property, no representation or warranty is given that the Property will comply with the exemption, and in the event for any reason it is determined that the Property is not exempt from the age provisions of the Fair Housing Act, and therefore it is unlawful to discriminate against families with children eighteen (18) years of age or younger, the Declarant shall not have any liability in connection therewith.

5. Recordation and Effective Date.

(a) This Declaration shall not become effective (the "Effective Date") until recorded amongst the Public Records of Broward County, Florida.

(b) Once recorded, this Declaration shall run with the Property for the sole benefit of City and does not operate as a restriction in favor of any Property owner, and shall bind all successors and assigns to the title of the Property.

(c) From and after such time as any Unit is conveyed by Declarant to a third party purchaser, Declarant shall have no further obligations under this Declaration with respect to that particular Unit and such third party purchaser shall be obligated to comply with all of the provisions of this Declaration with respect to said Unit.

6. Term, Release and Termination. The restrictions, covenants, rights and privileges granted, made and conveyed in Paragraphs 3 and 4 herein ("Restrictions") shall be valid for a period of fifteen (15) years from the Effective Date ("Term"), and thereafter, the Restrictions shall be of no further force and effect and shall automatically terminate without the consent of the City or the necessity to record any instrument in the Public Records of Broward County, Florida.

7. Amendments. This Declaration shall not be modified or amended as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, or release and approved in writing by the County. Any modification or amendment of this Declaration shall be recorded in the Public Records of Broward County, Florida.

8. Remedies for Violation. In the event the Declarant, its successors or assigns, violate any of the covenants and restrictions contained herein, Declarant hereby acknowledges and agrees that the City may withhold further permits and approvals with respect to the Property. The City is the beneficiary of these covenants and restrictions, and as such, the City may enforce these covenants and restrictions by action at law or in equity, including without limitation, a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions.

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9. Waiver. Any failure of the City to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter. This document shall be construed in accordance with the laws of Florida and venue shall be Broward County, Florida.

10. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

11. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

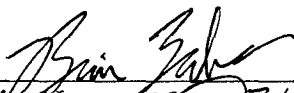
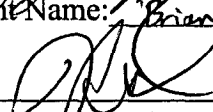
12. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

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IN WITNESS WHEREOF, Declarant has executed this Declaration of Restrictive Covenants on the day first above written.

WITNESSES:


Print Name: Brian Zubart

Print Name: Julie Rich

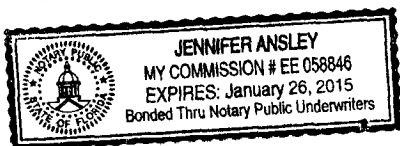
PEMBROKE TOWER, LTD., a Florida limited partnership


By Its General Partner:
Arbor Properties, Inc., an Alabama corporation

By: 
Print Name: W. Gordon Thames, Jr.
Title: President
Date: Feb. 23, 2011

STATE OF FL)
) SS
COUNTY OF Leon)

The foregoing instrument was acknowledged before me this 23 day of Feb, 2010, by W. Gordon Thames, Jr. as President of Arbor Properties, Inc., an Alabama corporation, the General Partner of Pembroke Tower, Ltd., a Florida limited partnership, freely and voluntarily on behalf of said company. He She is personally known to me or has produced William G. Thames as identification.




Notary Public
Jennifer Ansley
Typed, printed or stamped name of Notary Public

My Commission Expires:

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EXHIBIT "A"

[Legal Description of Property]

All of Tract "A" of PEMBROKE TOWER, according to the plat thereof as recorded in Plat Book 101, Page 50 of the public records of Broward County, Florida.

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EXHIBIT "B"

Return recorded copy to:

Document prepared by:

Notice of Designation of Unit

By recordation of this Notice, Pembroke Tower, LTD., , a Florida limited partnership, hereby designates for the Restriction Period, as hereinafter defined, the following unit as a "Unit," as defined by that certain Declaration of Restrictive Covenants recorded in Official Records Book __, Page __ of the public records of Broward County, Florida, which requires that Units be rented or sold only to persons who meet the following criteria at the time of lease or sale: (a) one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 120 percent of the median annual adjusted gross income from Broward County, adjusted for family size; and (b) the renter or purchaser of the Unit shall have monthly rental or mortgage payments (including taxes and insurance) that do not exceed thirty (30) percent of their monthly adjusted gross income.

Unit Address: _____
and/or Unit Number: _____

The restriction period of the foregoing designation is fifteen (15) years from the recordation of this Notice against the applicable Unit ("Restriction Period").

Witnesses:

Name typed:

Name typed:

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by W. Gordon Thames, Jr. as President of Arbor Properties, Inc., an Alabama corporation, the General Partner of Pembroke Tower, Ltd., a Florida limited partnership, freely and voluntarily on behalf of said company. He/She is personally known to me or has produced _____ as identification.

[NOTARY SEAL]

By _____
Its _____
Name: _____
Address: _____
_____ day of _____, 20__.

Print Name: _____
Notary Public, State of _____
My commission expires: _____

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