

Prepared by and return to:
Manatee County Neighborhood Services Department
1112 Manatee Avenue West, Fifth Floor
Bradenton, FL 34205

**LAND USE RESTRICTION AGREEMENT
AND DEED RESTRICTIONS
FOR OAKWOOD APARTMENTS**

THIS LAND USE RESTRICTION Agreement and DEED RESTRICTIONS (hereinafter Agreement) is made and entered into by and between the County of Manatee, a County existing by and under the laws of the State of Florida (hereinafter referred to as the "County") and Oakwood Apartments, LLC, a Florida Limited Liability Corporation, for itself and its successors, assigns, and agents (hereinafter referred to as the "Owner").

Recitals

WHEREAS, the Owner owns certain land described in Exhibit "A" attached hereto and incorporated herein by reference, hereinafter referred to as the "Property"; and

WHEREAS, the Owner agrees to comply with certain occupancy, rent and resale restrictions for the remaining useful life of the Property; and

WHEREAS, the Owner is composed of the parties listed on Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, Chapter 13 of Manatee County's Land Development Code (LDC), states that an Agreement may be entered into by a developer and the Board of County Commissioners to guarantee that the requirements of the Florida Local Comprehensive Planning Act are followed; and

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

Definitions

Section 1.1 General. Capitalized terms used in this Agreement shall have, unless the context clearly states otherwise, the meaning specified in this Article I. Certain additional terms may be defined elsewhere in this Agreement.

- (a) **"Agreement"** means the Land Use Restriction Agreement and the Deed Restriction Agreement, as it may from time to time be amended.
- (b) **"Dwelling Unit"** means a residential accommodation constituting a part of the Property and containing separate and complete living facilities.
- (c) **"Elderly"** describes a person 62 years of age or older.
- (d) **"Family Household"** describes a household of two or more eligible persons.
- (e) **"Low Income Households"** shall mean one (1) or more persons or a family, with a total annual gross income above 50% and up to 80% of the Median Household Income, as calculated based upon the number of persons residing in the Dwelling Unit.
- (f) **"Median Household Income"** means the Housing and Urban Development (HUD) established standard for Manatee County. This may be updated from time to time by HUD and confirmed by Manatee County.
- (g) **"Project"** means the multi-family residential development to be located on the Property described in Exhibit "A", with a maximum of one hundred forty-four (144) Dwelling Units.
- (h) **"Qualified Unit"** means Dwelling Unit for which monthly rents do not exceed thirty (30) percent of 1/12th of the total gross annual income for a Low Income Household based upon the number of persons residing in the Dwelling Unit.
- (i) **"Rental Housing"** means housing units made available for rental and not ownership, by eligible persons who are members of the general public, each of which units shall contain complete living facilities which are to be used other than on a transient basis and facilities which are functionally related and subordinate to the living facilities. The housing units shall at all times be constructed and maintained in substantial accordance with applicable Manatee County Building Code Standards.
- (j) **"Very Low Income Households"** shall mean one (1) or more persons or a family, with a total annual gross income at or below 50% of the Median household Income, as calculated based on the number of persons residing in the Dwelling Unit.

ARTICLE II

Use, sale and Occupancy of the Property

Section 2.1 The Owner shall maintain the Property as multifamily rental housing and shall rent and hold available for rental as Qualified Units twenty-five (25%) or thirty-

six (36) of the Dwelling Units in the Project for the life of the Agreement to Low or Very Low Income households.

- Section 2.2** For purposes of complying with the requirements set forth in Section 2.1 above, if the income of the household in a Dwelling Unit did not exceed the applicable income limit (adjusted for the number of persons residing in the Dwelling Unit) at the commencement of such resident's occupancy, such person(s) or family may be treated as continuing to be very low or low income household. Any household in a dwelling unit which exceeds the applicable income limit shall, upon vacancy, be rented to a household with the appropriate very low or low income limits.
- Section 2.3** The property on the future land use map is designated as IL, ROR; RES3, RES6, and RES16 and is zoned PDMU. The preliminary site plan approving the project was specifically approved by the County for the purpose of providing affordable rental housing, and the Project shall be managed and operated as multi-family rental housing.
- Section 2.4** The Owner shall comply with all the requirements of the Comprehensive Plan, all standards and requirements of the Manatee County Land Development Code (LDC), Manatee County Building Codes and the approved preliminary and final site plans for the Property and all conditions or stipulations thereto. In addition, all future development of the property shall be consistent with this Agreement.
- Section 2.5** The Owner shall maintain the Project in a condition which is consistent to comply with the Land Development Code and the Standard Housing Code.
- Section 2.6** During the Term of this Agreement, the Owner will not convert the Project to condominium ownership.
- Section 2.7** The Owner shall not discriminate on the basis of race, creed, religion, color, sex, familial status, national origin or handicap in the lease, use or occupancy of the Project. Age discrimination and discrimination against minor dependents, except when units are specifically being held for the elderly, are also not permitted.
- Section 2.8** The Owner hereby covenants and agrees that it will immediately withdraw from circulation any advertisement determined by the County to violate or be inconsistent with its policies, with respect to promoting rental housing and consents to the remedy of specific performance.

ARTICLE III

Administration

- Section 3.1** The Owner or the Owner's successors and assigns shall submit an Annual Report to the Manatee County Neighborhood Services Department. Said report shall be

submitted in accordance with the schedule established by the Neighborhood Services Department.

Section 3.2 Should a sale or transfer of ownership for all or any part of the Project take place during the life of the property, owner must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible recipients {F.S. 420.9075(f)}. Information relating to the new Owner, including name, address and telephone number, shall be forwarded by letter to the Director of the Neighborhood Services Department.

Section 3.3 This Agreement for the project shall become effective upon approval by the Manatee County Board of County Commissioners and shall run with the land for a period of thirty (30) years after a certificate of occupancy has been issued on the final building.

Section 3.4 The omission of any County requirement in this Agreement shall not relieve the Owner from the necessity of complying with any and all applicable County rules and regulations.

Section 3.5 The Neighborhood Services Department shall review the Project at least every twelve (12) months to determine compliance with the terms of this Agreement. Failure of the Neighborhood Services Department to conduct said review or identify violations of this Agreement shall not relieve Owner of any obligation hereunder or prevent subsequent enforcement.

Section 3.6 The County shall have the right to review and audit the records of the Owner relating to the Property as the County deems appropriate to determine compliance with Section 2.1. The Owner shall be required upon written notification, to provide the necessary information to perform an audit to the satisfaction of the County. This information may include all tenant lists, applications, leases, waiting lists, income examinations and re-examination relating to the Project. These materials shall at all times be kept separate and identifiable from any other business or Owner which is unrelated to the Property, and shall be maintained in reasonable condition for property audit, subject to examination and photocopying during business hours by representatives of the County. Manatee County shall provide at least five (5) days prior written notice before performing such audit.

Section 3.7 The County will periodically monitor Owner's compliance with the requirements of this Agreement. In conducting its compliance review, the County will rely primarily on information obtained from Owner's records and reports, including those prepared for other governmental agencies, findings from on-site monitoring and audit reports. The County may consider relevant information gained from other sources, including litigation and citizen complaints.

ARTICLE IV

Enforcement and Remedies

Section 4.1 If Owner defaults in the performance of obligation under this Agreement or restriction set forth herein, and if such default remains uncured for a period of sixty (60) days after notice thereof has been given by Manatee County, Manatee County shall be entitled to apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or for such other monetary relief as may be appropriate.

Section 4.2 As an alternative to the provisions of Section 4.1, if the Owner defaults in the performance of obligations under Sections 2.1, 3.1 or 3.6 of this Agreement, and if such default remains uncured for a period of sixty (60) days after notice thereof has been given by Manatee County, Manatee County may elect, at its sole option, to be paid the amount of \$12,000.00 (a) per Dwelling to a maximum of twenty five percent (25%) of all dwelling units, less any units rented as Affordable Units and (b) any units rented as Affordable Units that are not in compliance with the above requirements, which Owner and the County agree on as a proper measure of liquidated damages for each calendar year for which a violation of the aforementioned Sections occurred. In addition, the Owner shall be required to repay to the County any partial or full refund of any fees received by, or on behalf of, the Owner, for failure by Owner to comply with Section 2.1 of this Agreement. Every violation of either Section 3.1 or 3.6 shall be considered a violation for all Dwelling Units within the Project. Any such payment under this Section shall be made by cashier's check, deposited in the County's Affordable Housing Trust Fund, or other cost center utilized for aiding in the development of Affordable Housing. Sums paid under this Section shall not represent payment of a penalty.

Section 4.3 Owner agrees to begin construction of the project no later than four years from the date of the Final Site Plan approval for the project. Should Owner fail to have begun construction by such date, the County upon due notice to Owner shall have the right to pursue the remedies as set forth in Sections 4.1 and 4.2 above.

ARTICLE V

Representations and Warranties of Owner

Section 5.1 Owner has validly executed this Agreement and the same constitutes the binding obligation of the Owner. Owner has full power, authority and capacity to enter into this Agreement, to carry out the Owner's obligations as described in this Agreement and to assume responsibility for compliance with all applicable Local, State and Federal rules and regulations.

Section 5.2 To the best of Owner's knowledge, the making of this Agreement and the Owner's obligations hereunder:

- (a) will not violate any contractual covenants or restrictions between Owner or any third party, or affecting the Property;
- (b) will not conflict with any of the instruments that create or establish Owner's authority;
- (c) will not conflict with any applicable public or private restrictions;
- (d) do not require any consent or approval of any public or private authority which has not already been obtained; and
- (e) are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against Owner, without regard to capacity, any person with whom Owner may be jointly or severally liable, or the Property or any part thereof.

Section 5.3 No litigation or proceedings are disclosed and pending or to the best of Owner's knowledge, threatened against Owner which if adversely determined could individually or in the aggregate have an adverse affect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

Section 5.4 There is not a pending or to Owner's best knowledge, threatened against Owner, any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, or any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for owner under any present or future federal, state or other statute, law, regulation relating to bankruptcy, insolvency, or relief from debtors.

Section 5.5 Owner agrees to indemnify and hold harmless County from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees, through appeal, if necessary) incurred by County as a result of any inaccuracy in any of the representations and warranties contained in Sections 5.1 through 5.4, inclusive.

Section 5.6 In carrying out its obligations hereunder, Owner shall be entitled to rely upon information provided and published by the United States Department of Housing and Urban Development with respect to (i) income limits applicable to low income household and very low income households, (ii) the method for calculating the incomes of such families, and (iii) the maximum rents which may be charged to such families pursuant to Section 2.1 hereof. The Owner shall be responsible for obtaining such information in a timely manner from HUD.

Section 5.7 This Agreement may not be amended or modified except by written instrument signed by each party hereto.

Section 5.8 Notices required to be given by this Agreement shall be in writing, certified mail through the United States Postmaster. Mail shall also have return receipt requested, addressed to the persons and places specified for giving notice below. Requirements for such other place or staff person specified for giving notice below. Requirements for such other place or staff person specified for providing notice may be amended by written notice of the County Administrator of Manatee County. This in no way impacts the requirement to provide notice to the Board of County Commissioners and to the County Attorney in the manner outlined above.

Notice shall be forwarded to the following:

FOR THE COUNTY:

**Chairman
Manatee County Board of County Commissioners
1112 Manatee Avenue West
Post Office Box 1000
Bradenton, FL 34206-1000**

with copies by U.S. Mail to:

**Office of the County Attorney
Manatee County Government
1112 Manatee Avenue West
Post Office Box 1000
Bradenton, FL 34206-1000**

**Director
Department of Neighborhood Services
1112 Manatee Avenue West, Fifth Floor
Post Office Box 1000
Bradenton, FL 34206-1000**

FOR THE OWNER:

**Delton L. Haynes, Managing Member
2712 Palma Sola Boulevard
Bradenton, FL 34209**

Section 5.9 The Owner and County agree that both parties have played an equal and reciprocal part in the drafting of this Agreement and, therefore, no provisions of this Agreement shall be construed by any court or other judicial authority against

any party hereto because such party is deemed to have drafted or structured such provisions.

Section 5.10 In the event any term of provision of this Agreement shall be held invalid, such invalid term or provisions shall not affect the validity of any other term or provision hereof and all such other terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been apart of this Agreement; provided, however, if any term or provision of this agreement is held to be invalid due to the scope or extent hereof, such term or provision shall automatically be deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

Section 5.11 This Agreement shall be construed, and the rights and obligations of County and Owner hereunder shall be determined, in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusive in Manatee County, Florida, unless prohibited by law.

Section 5.12 In a litigation between the parties hereto arising out of this Agreement, the prevailing party shall be entitled to recover all fees and costs incurred in such litigation, including reasonable attorneys' fees, through appeal, if necessary.

Section 5.13 This Agreement shall run with the land and shall remain in full force and effect for a period of thirty (30) years after a certificate of occupancy has been issued on the final building, and shall be binding on both parties, their heirs, successors and assigns. Further, this Agreement shall be recorded in the Public Records of Manatee County, Florida at the expense of the Owner. Certified copy of the recorded documents shall be provided to the Neighborhood Services Department within ten (10) days of receipt of the executed agreement.

Section 5.14 This Agreement shall become effective upon its execution by both parties, and recording of the Agreement in the Public Records of Manatee County, Florida pursuant to Section 5.13 above.

IN WITNESS WHEREOF, the Owner and the County have entered into this Agreement, as of the 22nd day of JUNE 2010.

WITNESSES:

Kathleen Donnelly
Brenda W. Riccio

OWNER
Delton L. Haynes
OAKWOOD APARTMENTS LLC
By: DELTON L. HAYNES
As its Managing Member

STATE OF FLORIDA
COUNTY OF MANATEE

SWORN AND SUBSCRIBED before me this 22nd day of June, 2010,
by Delton L. Haynes, (known as "Managing Member" of Oakwood Apartments, LLC), who
is ~~personally known to me~~ and/or provided N/A as identification, and
who did take an oath (or affirm). If no type of identification is indicated, the above named
persons are personally known to me.

(Stamp and Seal)



ROBIN L. TABOR-MILLER
MY COMMISSION # DD 807257
EXPIRES: November 18, 2012
Bonded Thru Budget Notary Services

[Handwritten Signature]

Signature of Notary Public

MANATEE COUNTY, FLORIDA
Board of County Commissioners

By: *[Handwritten Signature]*

Chairman

7/27/10

ATTEST: R. B. SHORE
CLERK OF THE CIRCUIT COURT

By: *[Handwritten Signature]*

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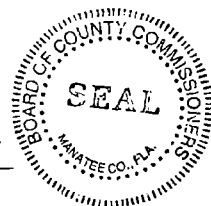


EXHIBIT "A"Legal Description

PARCEL 1

Description from Title Report Noted Hereon:

Beginning at a point on the north line of the Southeast 1/4 of the Southeast 1/4 of Section 24, found by measuring from the Northeast Corner of said Southeast 1/4 of the Southeast 1/4, N.89°54'39"W., 450.00 feet to above mentioned Point of Beginning; thence continue N.89°54'39"W., and along the south line of Whitfield Country Club Heights Subdivision, Unit 1, 634.06 feet; thence S.00°32'00"W., 140.00 feet; thence along the northerly and easterly line of Phase II, the following 5 courses; 1) S.87°54'36"E., 60.61 feet; 2) S.32°14'58"E., 78.00 feet; 3) S.00°05'21"W., 87.29 feet; 4) S.57°25'14"E., 77.76 feet; 5) S.00°05'21"W., 84.36 feet; thence along the northerly line of Phase I, the following 3 courses; 1) S.89°52'40"E., 157.18 feet; 2) S.78°33'08"E., 40.00 feet; 3) S.89°58'27"E., 271.46 feet; thence N.00°00'33"E., 429.03 feet to the aforementioned Point of Beginning.

ALSO the east 50.00 feet of Lot 2, Block B, Unit 1, Whitfield Country Club Heights Subdivision, as per plat thereof recorded in Plat Book 11, Page 80 of the Public Records of Manatee County Florida. Situate and being in the Southeast 1/4 of the Southeast 1/4 of Section 24, Township 35 South, Range 17 East, Manatee County, Florida.

PARCEL 2

Description from Title Report Noted Hereon:

From the Northeast Corner of the Southeast 1/4 of the Southeast 1/4 of Section 24, as a Point of Reference; thence N.89°54'39"W., along the north line of said Southeast 1/4 of the Southeast 1/4, and partly along the south line of the Whitfield Country Club Heights Subdivision, Unit One, 1084.06 feet; thence S.00°32'00"W., 140.00 feet for a POINT OF BEGINNING; thence S.38°26'30"W., 41.45 feet; thence N.74°05'30"W., 239.18 feet to a point on the west line of the Southeast 1/4 of the Southeast 1/4; thence S.00°21'00"E., along the west line of said 1/4-1/4 Section, 732.37 feet; thence S.89°52'40"E., 376.63 feet; thence N.00°07'20"E., along the west line of Phase I, 418.00 feet; thence S.89°52'40"E., along a portion of the north line of Phase 2, 41.81 feet; thence along the westerly line of Phase III, the following 5 courses: (1) N.00°05'21"E., 84.36 feet; (2) N.57°25'14"W., 77.76 feet; (3) N.00°05'21"E., 87.29 feet; (4) N.32°14'58"W., 78.00 feet; (5) N.87°54'36"W., 60.61 feet to Point of Beginning. Containing 6.055 Acres more or less. Situate and being in the Southeast 1/4 of the Southeast 1/4 of Section 24, Township 35 South, Range 17 East, Manatee County, Florida.

Tax Parcel #6619000000

Description from Title Report Noted Hereon:

Beginning at the SE corner of the NE 1/4 of the SE 1/4 of said Section 24, Township 35 South, Range 17 East Manatee County, Florida and being further described as follows:

Beginning at the SE corner of the NE 1/4 of the SE 1/4 of said Section 24, as shown on the Plat of WHITFIELD COUNTRY CLUB HEIGHTS, Unit 1 & 2, as recorded in Plat Book 11, Page 80 of the Public Records of Manatee County Florida; thence westerly along the North line of the SE 1/4 of the SE 1/4 of said Section 24, a distance of 450.0 feet to an iron pipe; thence Southerly and parallel to the East line of said SE 1/4 of SE 1/4 150.0 feet to an iron pipe; thence Easterly and parallel to the North line of said SE 1/4 of SE 1/4 450.0 feet to a point on west line of said SE 1/4 of SE 1/4; thence Northerly along said East line to the SE 1/4 of SE 1/4, 150.0 feet to the above mentioned point of beginning;

LESS:

The East 50.0 feet for the right of way of U.S. Highway #301

Tax Parcel #6600000001

Description from Warranty Deed O.R. Book 1845, Page 4099 - Not Included in Title Commitment:

Begin at the southeast corner of the northeast 1/4 of the southeast 1/4 of Section 24, Township 35 South, Range 17 East, Manatee County, Florida; thence west 630 feet; thence north 210 feet; thence east 630 feet; thence south 210 feet to the Point of Beginning, less the easterly 50 feet thereof for highway right-of-way (U.S. 301), lying and being in Section 24, Township 35 South, Range 17 East, Manatee County Florida.

LESS:

The portions thereof conveyed by Deeds recorded in O.R. Book 924, Page 428 and O.R. Book 1078, Page 22, of the Public Records of Manatee County, Florida.

Tax Parcel #6617500001

Description from Title Report Noted Hereon:

THAT CERTAIN TRIANGULAR PARCEL OF LAND, SHOWN AS "NOT INCLUDED IN THIS PLAT" AND DESCRIBED AS: BEGIN AT THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 CORNER OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 35 SOUTH, RANGE 17 EAST, AND RUN THENCE WEST 218.34 FEET TO A CANAL, RUN THENCE NORTHEAST AND ALONG THE EAST LINE OF SAID CANAL TO THE EAST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND RUN THENCE SOUTH TO THE POINT OF BEGINNING, AS PER PLAT OF WHITFIELD COUNTRY CLUB HEIGHTS, UNIT 5, RECORDED IN PLAT BOOK 11, PAGE 83, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

EXHIBIT "B"

Principals of Current Owner
Oakwood Apartments, LLC

OWNER/S:

Delton L. Haynes Family Trust
Dated September 20, 1985
2712 Palma Sola Boulevard
Bradenton, FL 34209

Marcia B. Haynes Family Trust
Dated September 20, 1985
2712 Palma Sola Boulevard
Bradenton, FL 34209

MOPNJ Investment Limited Partnership
A Delaware Limited Partnership
1030 Sweetwater Club Boulevard
Longwood, FL 32779