

**RETURNED TO**

348

Prepared by WILLIAM S BOSS, JR

TC1514

Mail after recording to: NCHFA, Attn Rental Investment, PO Box 28066, Raleigh, NC 27611-8066

**Mailed To**

DECLARATION OF LAND USE RESTRICTIVE COVENANTS  
FOR LOW-INCOME HOUSING TAX CREDITS

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS (the "AGREEMENT"), dated as of December 20, 2000 by GARDEN LAKE ESTATES LIMITED PARTNERSHIP, and its successors and assigns (the "Owner") is given as a condition to the allocation of low-income housing credits by the North Carolina Federal Tax Reform Allocation Committee, an instrumentality of the State of North Carolina (together with any successor to its rights, duties and obligations, the "NCTRAC")

**WITNESSETH:**

WHEREAS, the Owner is the owner of a 429 unit rental housing development located on lands in the City of WILMINGTON, County of NEW HANOVER, State of North Carolina, more particularly described in Exhibit A attached hereto and incorporated herein by reference, known as or to be known as GARDEN LAKE ESTATES (the "Project"), and

WHEREAS, the NCTRAC has been designated by the State of North Carolina as the housing credit agency for the State of North Carolina for the allocation of low-income housing credit dollars (the "Credit"), and

WHEREAS, Owner has applied to the NCTRAC for an allocation of Credit to the Project in an annual amount of approximately \$615,615.51 of low-income housing credits as approved by NCTRAC, and

WHEREAS, the Owner has represented to the NCTRAC in Owner's Low-Income Housing Credit Application (the "Application") that Owner shall lease 100% of the units in the Project to individuals or families whose income is 60% or less of the area median gross income (including adjustments for family size) (the "Low-Income Tenants") as determined in accordance with Section 42 of the Internal Revenue Code of 1986 as amended or as may be amended from time to time ("Section 42 of the Code"), and

WHEREAS, the Owner recognizes that it must covenant to maintain rent and income restrictions under Section 42 of the Code for an extended use period beyond the initial compliance period and has represented to the NCTRAC in the Application that it will impose additional rent restrictions and/or will not apply for relief under Section 42(h)(6)(E)(i)(II) of the Code for a minimum period of 15 years after the close of the initial 15-year compliance period, and

WHEREAS, Section 42 of the Code requires as a condition for allowance of the Credit that the Owner execute and deliver this Agreement and record this Agreement in the official land deed records of the county in which the Project is located in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code and the occupancy restrictions found in Sections 4 and 5 hereof by regulating and restricting the use and occupancy and transfer of the Project as set forth herein, and

WHEREAS, the Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the Project for the term stated herein and binding upon all subsequent owners of the Project for such term, and are not merely personal covenants of the Owner

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner agrees as follows

## SECTION 1 - DEFINITIONS

All words and phrases defined in Section 42 of the Code and all applicable rules, rulings, policies, proceedings, regulations, or other official statements promulgated or proposed by the United States Department of the Treasury, or the Internal Revenue Service, or the United States Department of Housing and Urban Development or the United States Department of Agriculture pertaining thereto shall have the same meanings in this Agreement

## SECTION 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- (a) Upon execution, acknowledgement, and delivery by the Owner, the Owner shall cause this Agreement and all amendments hereto to be recorded and filed in the office of the Register of Deeds of the county in which the Project is located, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Owner shall immediately transmit to the NCTRAC a certified copy of the recorded Agreement showing the date, deed book and page numbers of record. The original recorded executed Agreement shall be transmitted to NCTRAC as soon as it is available from the Register of Deeds. The Owner agrees that the NCTRAC will not issue the Internal Revenue Service Form(s) 8609 constituting final allocation of the Credit unless and until the NCTRAC has received the recorded executed original of the Agreement.
- (b) The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Project during the term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement (i) shall be and are covenants running with the Project, encumbering the Project for the term of this Agreement, binding upon the Owner, the Owner's successors in title and all subsequent owners and operators of the Project, (ii) are not merely personal covenants of the Owner, and (iii) shall bind the Owner and its respective successors and assigns, and the benefits shall inure to the NCTRAC and any former, present or prospective tenant of the Project during the term of this Agreement. The Owner hereby agrees that any and all requirements of the laws of the State of North Carolina to be satisfied in order for the provisions of this Agreement to constitute deed restrictions and covenants running with the Project and which touch and concern the Project shall be deemed to be satisfied in full, that any requirements of privity of estate are intended to be satisfied, and that an equitable servitude in the form of a negative easement has been created to insure that these restrictions run with the land. For the longer of the period this Credit is claimed or the term of this Agreement, each and every contract, option, memorandum of option, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Agreement, provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, option, memorandum of option, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.
- (c) The Owner covenants to obtain the consent of any prior recorded lienholder on the Project to be bound by the terms of this Agreement, and such consent shall be a condition precedent to the issuance of Internal Revenue Service Form(s) 8609 constituting final allocation of the Credit.

## SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner hereby represents, covenants and warrants as follows

- (a) The Owner (i) is a limited partnership organized under the laws of the State of North Carolina, and is qualified to transact business under the laws of North Carolina, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.
- (b) The execution and performance of this Agreement by the Owner (i) will not violate or, as applicable, have not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, have not violated any provision of any indenture, agreement, mortgage, mortgage note, partnership agreement, corporate charter, corporate resolution, bylaws, or other instrument to

which the Owner is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature

- (c) The Owner will, at the time of execution, acknowledgement, and delivery of this Agreement, have good and marketable title to the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project or other permitted encumbrances)
- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition or which would impair the use of the Project as contemplated by this Agreement
- (e) The Project constitutes or will constitute a qualified low-income building or qualified low-income project, as applicable, as defined in Section 42 of the Code and applicable regulations
- (f) Each unit in the Project contains or will contain upon completion of construction, complete facilities for living, sleeping, eating, cooking and sanitation (unless the Project qualifies as a single-room occupancy project or transitional housing for the homeless) which are to be used on other than a transient basis
- (g) During the term of this Agreement, all units subject to the Credit shall be leased and rented or made available to members of the general public who qualify as Low-Income Tenants (or otherwise qualify for occupancy of the low-income units) under the applicable election specified in Section 42(g) of the Code
- (h) The Owner agrees to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended
- (i) During the term of this Agreement, the Owner covenants, agrees and warrants that each low-income unit is and will remain suitable for occupancy
- (j) Subject to the requirements of Section 42 of the Code and this Agreement, the Owner may sell, transfer or exchange the entire Project at any time, but the Owner shall notify in writing and obtain and submit to the NCTRAC the written agreement of any buyer or successor or other person acquiring the Project that such acquisition is subject to the requirements of this Agreement and to the requirements of Section 42 of the Code and applicable regulations. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Project or any low-income portion of the Project, including, but not limited to, the restriction under Section 42(h)(6)(B) of the Code that no portion of any building in the Project may be sold, transferred or exchanged unless all of the building is sold, transferred or exchanged to the transferee
- (k) The Owner agrees to notify the NCTRAC in writing at least thirty (30) days in advance of any sale, transfer or exchange permitted under this Agreement of the entire Project or any low-income portion of the Project. Within thirty (30) days of the closing of such sale, transfer or exchange, the Owner shall provide the NCTRAC a complete copy of all the closing documents
- (l) The Owner shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of any residential rental unit for any purpose other than rental housing during the term of this Agreement unless required by law
- (m) The Owner represents, warrants and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement

- (n) The Owner warrants that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith
- (o) During the term of this Agreement, the Owner shall not refuse to lease any residential unit in the Project to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder

**SECTION 4 - INCOME RESTRICTIONS; RENTAL RESTRICTION**

The Owner represents, warrants and covenants to the NCTRAC throughout the term of this Agreement and in order to satisfy the requirements of the occupancy restrictions of Section 42 of the Code ("Section 42 Occupancy Restrictions") that

- (a) At least 100% or more of the residential units in the Project are both rent-restricted and occupied (or if unoccupied, held for occupancy only) by individuals whose income is 60% or less of area median gross income (subject to any exceptions permitted under Section 42 of the Code for tenants whose income increases after initially meeting such restriction)
- (b) Except as may be otherwise provided under Section 42 of the Code or by the Internal Revenue Service, the determination of whether a tenant meets the low-income requirement shall be made by the Owner at least annually on the basis of the current income of such Low-Income Tenant
- (c) Except as may be permitted under Section 6 of this Agreement, the Owner will extend the tenant income and rental restrictions set forth in this Agreement for 15 years after the close of the "compliance period" as defined in Section 42 of the Code (the "Compliance Period")

**SECTION 5 - NCTRAC OCCUPANCY RESTRICTIONS (this section shall not apply unless one or more of the blanks is (are) checked and information filed in)**

This Section is intended to make enforceable those extended use or deeper targeting covenants which the Owner represented to the NCTRAC in its Application. The portion of the Application relating to such deeper targeting or extended use is attached hereto as Exhibit B and incorporated herein by reference.

The Owner represents, warrants and covenants to the NCTRAC throughout the term of this Agreement that Owner will satisfy the NCTRAC occupancy restrictions (the "NCTRAC Occupancy Restrictions") that (Check if applicable)

- (a)  Throughout the term of this Agreement the low-income units shall rent for at least \_\_\_\_\_% lower than the maximum gross rent allowed under Section 42 of the Code
- (b)  For a period ending at least 15 years after the end of the Compliance Period (the "Restriction Period"), the Owner shall make no request under Section 42(h)(6) of the Code to find a buyer and a "qualified contract" as defined in Section 42 of the Code ("Qualified Contract") for the Owner's interest in any low-income portion of any building in the Project, and the Owner shall not, with respect to any building in the Project, request, seek or cause termination pursuant to Section 42(h)(6)(E)(i)(II) of the Code of the extended use period during which the income and rental restrictions apply

Regardless of any provision in Section 6 of this Agreement to the contrary, the Section 42 Occupancy Restrictions and the NCTRAC Occupancy Restrictions provided by this Section shall remain in place until the later of the end of the Restriction Period or the time otherwise applicable under Section 6 of this Agreement, except in the case of foreclosure or instrument

in lieu of foreclosure, in which case the Section 42 Occupancy Restrictions and the NCTRAC Occupancy Restrictions shall terminate as provided in Section 6(c) of this Agreement

#### **SECTION 6 - TERM OF AGREEMENT**

- (a) Except as hereinafter provided, this Agreement and the Section 42 Occupancy Restrictions and any NCTRAC Occupancy Restrictions specified herein shall commence with the first day on which any building which is part of the Project is placed in service and shall end on the date which is 15 years after the end of the Compliance Period. The period from the beginning of the Compliance Period until 15 years after the end of the Compliance Period (or such earlier date as may be determined under subsection (b) below) is the extended use period (the "Extended Use Period")
- (b) The Extended Use Period for any building which is part of this Project shall terminate as set forth below, if earlier than 15 years after the end of the Compliance Period
  - (1) On the date the Project is acquired by foreclosure or instrument in lieu of foreclosure, unless the Internal Revenue Service determines that such acquisition is part of an arrangement with the Owner in which a purpose of such arrangement is the termination of the Extended Use Period, or
  - (2) On the date which is one year after the date the Owner has properly requested in writing that the NCTRAC assist in procuring a qualified contract for the acquisition of the low-income portion of any building which is a part of the Project if the NCTRAC was unable to present a qualified contract as defined in Section 42 of the Code ("Qualified Contract") during such one-year period, provided, however, this subsection (b)(2) shall apply only if such request by the Owner was not in violation of any restriction imposed under Section 5 of this Agreement
- (c) Notwithstanding subsection (b) above, for the purposes of the covenant made in Section 3(g) of this Agreement, the term of this Agreement shall continue for a period of three years following any termination of the Extended Use Period pursuant to the procedures specified in subsection (b) above. During such three-year period, the Owner shall not evict or terminate the tenancy of an existing tenant of any low-income unit other than for good cause and shall not increase the gross rent above the maximum allowed under Section 42 of the Code with respect to such low-income unit
- (d) If the Owner has agreed to NCTRAC Occupancy Restrictions as reflected in Section 5 of this Agreement, this Agreement shall not terminate before the time period for compliance with such NCTRAC Occupancy Restrictions has expired

#### **SECTION 7 - ENFORCEMENT**

- (a) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the NCTRAC to inspect any books and records of the Owner regarding the Project with respect to the incomes, rent levels, and housing costs of Low-Income Tenants which pertain to compliance with this Agreement
- (b) The Owner shall submit any other information, documents or certifications requested by the NCTRAC which the NCTRAC shall deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the Section 42 Occupancy Restrictions specified in this Agreement
- (c) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and applicable regulations or this Agreement. Moreover, Owner covenants and agrees to take any lawful action (including amendment of this Agreement as may be necessary, in the opinion of the NCTRAC) to comply fully with Section 42 of the Code and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States

Department of the Treasury, or the Internal Revenue Service, or the United States Department of Housing and Urban Development or the United States Department of Agriculture from time to time pertaining to Owner's obligations under Section 42 of the Code and affecting the Project

- (d) The Owner and the NCTRAC acknowledge that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Agreement is to assure compliance of the Project and the Owner with Section 42 of the Code and applicable regulations, AND BY REASON THEREOF, THE OWNER IN CONSIDERATION FOR RECEIVING LOW-INCOME HOUSING CREDITS FOR THIS PROJECT HEREBY AGREES AND CONSENTS THAT THE NCTRAC AND ANY INDIVIDUAL WHO MEETS THE INCOME LIMITATION APPLICABLE UNDER SECTION 42 OF THE CODE (WHETHER PROSPECTIVE, PRESENT OR FORMER OCCUPANT) SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO OBTAIN SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN ANY COURT OF COMPETENT JURISDICTION The Owner hereby further specifically acknowledges that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder
- (e) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the NCTRAC and all persons interested in Project compliance under Section 42 of the Code and the applicable regulations
- (f) The Owner acknowledges that Section 42 of the Code and regulations implementing said Section require the NCTRAC (or an agent or other contractor of the NCTRAC) to monitor the Section 42 Occupancy Restrictions, and the Owner hereby agrees to take any and all actions reasonably necessary and required by the NCTRAC (or any agent of, or other contractor hired by, the NCTRAC) to substantiate the Owner's compliance with the Section 42 Occupancy Restrictions or the NCTRAC Occupancy Restrictions

**SECTION 8 - MISCELLANEOUS**

- (a) Severability The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof
- (b) Notices All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing

**To the North Carolina Federal Tax Reform Allocation Committee  
c/o North Carolina Housing Finance Agency  
PO Box 28066  
Raleigh, NC 27611-8066**

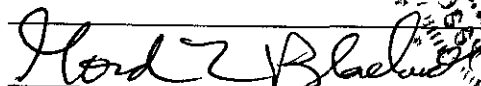
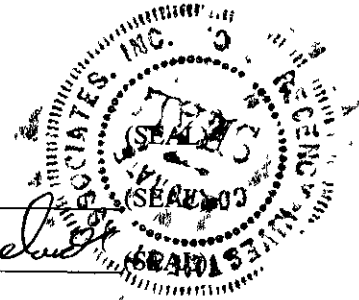
**To the Owner:** GORDON BLACKWELL  
GARDEN LAKE ESTATES LIMITED PARTNERSHIP  
2700 WYCLIFF RD , SUITE 312  
RALEIGH, NC 27607-

The North Carolina Federal Tax Reform Allocation Committee and the Owner, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent


- (c) Amendment The Owner agrees that it will take all actions necessary to effect amendment of this Agreement as may be necessary to comply with Section 42 of the Code (or any other applicable provisions of the Internal Revenue Code of 1986) and any and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Credit Upon proper recordation of this Agreement in the county registry, the Owner agrees that no amendment(s) to the terms or conditions of this Agreement shall apply or have effect unless the written consent to or acknowledgement of such amendment(s) shall have been given on behalf of the NCTRAC
- (d) Subordination of Agreement This Agreement and the restrictions hereunder are subordinate to the loan and loan documents, if any, on the Project except insofar as Section 42 of the Code requires otherwise (e.g., restrictions relating to the three-year vacancy control during the extended use period, as set forth in Section 6(c) hereof)
- (e) Governing Law This Agreement shall be governed by the laws of the State of North Carolina and, where applicable, the laws of the United States of America
- (f) Survival of Obligations The obligations of the Owner as set forth herein and in the Application shall survive the allocation of the Credit and shall not be deemed to terminate or merge with the awarding of the allocation
- (g) Recovery of Attorney's Fees If the NCTRAC shall incur legal fees or other expenses in enforcing its rights and/or remedies, or the Owner's obligation, under this Agreement, the Owner shall reimburse the NCTRAC for those fees and other expenses within a reasonable time after receipt of written demand therefor
- (h) Successors and Assigns This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the NCTRAC and the successors and assigns of the Owner
- (i) Successor Statutes and Agencies Any references in this Agreement to specific statutory provisions, specific regulatory provisions or specific governmental agencies or entities shall include any successor statutory provision, regulatory provision or governmental agency or entity, as the case may be

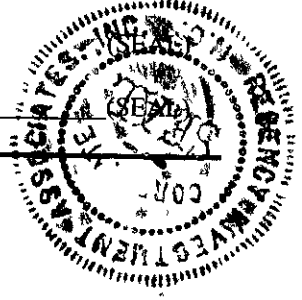
IN WITNESS WHEREOF, the Owner (i) if an individual, has hereunto set his/her hand and seal, or (ii) if corporate, has caused this Agreement to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, or (iii) if a partnership, has caused this Agreement to be signed under seal in its partnership name by its duly authorized general partner(s), or (iv) if a limited liability company, has caused this Agreement to be signed under seal in its name by its duly authorized member(s) and/or manager(s), as of the day and year first written above

(Corporate Name)  
 GARDEN LAKE ESTATES LIMITED PARTNERSHIP,  
 a North Carolina limited partnership  
 Regency Investment Associates, Inc.,  
 By a North Carolina corporation, its  
 Managing General Partner  
 President

  
 Gordon L. Blackwell  


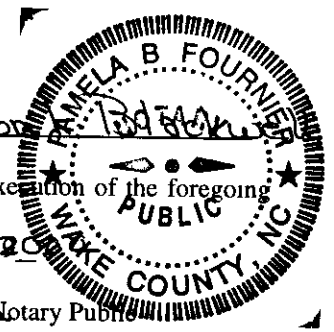
ATTEST

  
 Secretary (Corporate Seal)



SEAL-STAMP NORTH CAROLINA, Wake County

I, a Notary Public of the County and state aforesaid, certify that Gordon B. Fournier  
Grantor, personally appeared before me this day and acknowledged the execution of the foregoing  
instrument Witness my hand and official stamp or seal, this 28 day of 12 2000  
My Commission expires 6-13-2003 Pamela Fournier Notary Public

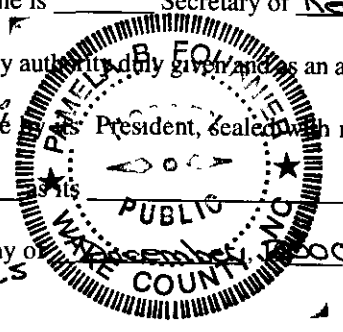


SEAL-STAMP NORTH CAROLINA, Wake County

I, a Notary Public of the County and state aforesaid, certify that Joan Manna

personally appeared before me this day and acknowledged that she is Secretary of Regency  
Investment Assoc<sup>INC</sup> a North Carolina corporation, and that by authority duly given and as an act  
as managing partner of GARDEN LAKE ESTATES  
of the corporation, the foregoing instrument was signed in its name President, sealed with its  
corporate seal and attested by Joan Manna

Secretary \* Witness my hand and official stamp or seal, this 28 day of December 2000  
ON BEHALF OF GARDEN LAKE ESTATES



My Commission expires 6-13-2003 Pamela Fournier Notary Public

**OWNER**

(SEAL)

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

ATTEST/WITNESS: \_\_\_\_\_

**EXHIBIT**

**A**

**Parcel 1**

Commence at a point in the south right of way line of Greenfield Street (66' public right of way) at its intersection with the west right of way line of 11th Street (60' public right of way), thence along and with the west right of way line of 11th Street South 03 degrees 11 minutes 52 seconds West a distance of 243.84 feet to a point, thence along and with the west right of way line of 11th Street as it curves to the right (radius=279.35 feet, arc=95.37 feet) a chord which bears South 12 degrees 58 minutes 44 seconds West a chord distance of 94.91 feet to the Point of Beginning, thence along and with the west right of way line of 11th Street as it curves to the right (radius=279.35 feet, arc=24.09 feet) a chord which bears South 25 degrees 13 minutes 49 seconds West a distance of 24.09 feet to a point, thence along and with the west right of way line of 11th Street South 27 degrees 42 minutes 04 seconds West a distance of 247.85 feet to a point, thence along and with the west right of way line of 11th Street as it curves to the right (radius=501.92 feet, arc=131.67 feet) a chord which bears South 35 degrees 13 minutes 33 seconds West a chord distance of 131.29 feet to a point, thence along and with the west right of way line of 11th Street South 42 degrees 45 minutes 04 seconds West a distance of 199.07 feet to a point, thence along and with the west right of way line of 11th Street South 41 degrees 28 minutes 34 seconds West a distance of 270.05 feet to a point, thence along and with the west right of way line of 11th Street as it curves to the left (radius=234.86 feet, arc=138.42 feet) a chord which bears South 25 degrees 48 minutes 28 seconds West a chord distance of 136.43 feet to a point in the north right of way line of Lake Shore Drive (public right of way), thence along and with the north right of way line of Lake Shore Drive North 57 degrees 38 minutes 11 seconds West a distance of 66.92 feet to a point, thence along and with the north right of way line of Lake Shore Drive North 77 degrees 36 minutes 11 seconds West a distance of 31.19 feet to a point in the east right of way line of Lake Branch Drive (public right of way), thence along and with the east right of way line of Lake Branch Drive North 23 degrees 18 minutes 51 seconds East a distance of 200.63 feet to a point, thence along and with the east right of way line of Lake Branch Drive as it curves to the left (radius=446.82 feet, arc=458.46 feet) a chord which bears North 06 degrees 09 minutes 46 seconds West a chord distance of 438.61 feet to a point; thence along and with the east right of way line of Lake Branch Drive North 35 degrees 29 minutes 41 seconds West a distance of 85.83 feet to a point, thence along and with the east right of way line of Lake Branch Drive along a curve to the right (radius=213.05 feet, arc=45.52 feet) a chord which bears North 28 degrees 49 minutes 19 seconds West a chord distance of 45.25 feet to a point, thence South 86 degrees 24 minutes 17 seconds East a distance of 358.41 feet to a point, thence South 17 degrees 58 minutes 49 seconds East a distance of 48.67 feet to a point, thence North 70 degrees 30 minutes 56 seconds East a distance of 348.64 feet to the Point of Beginning, containing 5.21 acres, more or less.

**Parcel 2**

Beginning at a point in the south right of way line of Greenfield Street (66' public right of way) at its intersection with the west right of way line of 11th Street (60' public right of way), thence along and with the west right of way line of 11th Street South 03 degrees 11 minutes 52 seconds West a distance of 213.29 feet to a point, thence North 17 degrees 38 minutes 19 seconds West a distance of 219.30 feet to a point in the south right of way line of Greenfield Street, thence along and with the south right of way line of Greenfield Street along a curve to the right (radius=698.30 feet, arc=78.49 feet) a chord which bears North 87 degrees 05 minutes 58 seconds East a chord distance of 78.45 feet to the Point of Beginning, containing 0.19 acre, more or less.

Parcel 3

Beginning at a point in the south right of way line of Greenfield Street (66' public right of way) at its intersection with the east right of way line of 11th Street (60' public right of way), thence along and with the south right of way line of Greenfield Street along a curve to the right (radius=692.42 feet, arc=207.64 feet) a chord which bears South 76 degrees 36 minutes 37 seconds East a chord distance of 206.06 feet to a point, thence along and with a curve to the left (radius=670.79 feet, arc=250.67 feet) a chord which bears South 02 degrees 00 seconds East a chord distance of 249.21 feet to a point in the west right of way line of 12th Street (60' public right of way), thence along and with the west right of way line of 12th Street South 02 degrees 33 minutes 00 seconds East a distance of 301.30 feet to a point, thence along and with the west right of way line of 12th Street South 01 degrees 31 minutes 12 seconds East a distance of 74.01 feet to a point, thence along and with the west right of way line of 12th Street along a curve to the right (radius=674.13 feet, arc=239.50 feet) a chord which bears South 08 degrees 33 minutes 24 seconds West a chord distance of 238.41 feet to a point, thence along and with the west right of way line of 12th Street along a curve to the right (radius=669.68 feet, arc=362.02 feet) a chord which bears South 30 degrees 02 minutes 11 seconds West a chord distance of 360.61 feet to a point, thence along and with the west right of way line of 12th Street South 47 degrees 33 seconds West a distance of 74.00 feet to a point, thence along and with the west right of way line of 12th Street along a curve to the left (radius=644.74 feet, arc=110.11 feet) a chord which bears South 25 degrees 24 minutes 17 seconds West a distance of 109.98 feet to a point, thence along and with the north line of Lake Forest, Inc. Tract North 06 degrees 39 minutes 11 seconds West a distance of 451.79 feet to a point in the east right of way line of Lake Shore Drive (public right of way), thence along and with the east right of way line of Lake Shore Drive North 20 degrees 27 minutes 49 seconds East a distance of 126.70 feet to a point, thence along and with the east right of way line of Lake Shore Drive along a curve to the left (radius=231.19 feet, arc=170.54 feet) a chord which bears North 00 degrees 05 seconds West a chord distance of 166.70 feet to a point, thence along and with the east right of way line of 11th Street along a curve to the right (radius=175.16 feet, arc=104.25 feet) a chord which bears North 12 degrees 56 minutes 11 seconds East a chord distance of 175.07 feet to a point, thence along and with the east right of way line of 11th Street North 41 degrees 28 minutes 34 seconds East a distance of 269.39 feet to a point, thence along and with the east right of way line of 11th Street North 42 degrees 45 minutes 04 seconds East a distance of 198.41 feet to a point, thence along and with the east right of way line of 11th Street along a curve to the left (radius=552.47 feet, arc=147.43 feet) a chord which bears North 35 degrees 13 minutes 35 seconds East a chord distance of 146.99 feet to a point, thence along and with the east right of way line of 11th Street North 27 degrees 42 minutes 04 seconds East a distance of 247.05 feet to a point, thence along and with the east right of way line of 11th Street along a curve to the left (radius=339.35 feet, arc=145.13 feet) a chord which bears North 15 degrees 26 minutes 59 seconds East a chord distance of 144.02 feet to a point, thence along and with the east right of way line of 11th Street North 03 degrees 11 minutes 52 seconds East a distance of 244.47 feet to the Point of Beginning, containing 20.37 acres, more or less.

Parcel 4

Beginning at a point in the south right of way line of Greenfield Street (66' public right of way) at its intersection with the east right of way line of 12th Street (60' public right of way), thence along and with the south right of way line of Greenfield Street North 07 degrees 29 minutes 10 seconds East a distance of 334.24 feet to a point in the west right of way line of 13th Street (66' public right of way), thence along and with the west right of way line of 13th Street South 02 degrees 32 minutes 04 seconds East a distance of 970.80 feet to a point, thence along and with the west right of way line of 13th Street along a curve to the right (radius=257.40 feet, arc=254.03 feet) a chord which bears South 25 degrees 44 minutes 16 seconds West a chord distance of 243.04 feet to a point, thence along and with the west right of way line of 13th Street South 54 degrees 00 minutes 37 seconds West a distance of 164.75 feet to a point; thence along and with the west right of way line of 13th Street along a curve to the left (radius=607.06 feet, arc=262.33 feet) a chord which bears South 41 degrees 37 minutes 50 seconds West a chord distance of 260.29 feet to a point, thence along and with the west right of way line of 13th Street South 29 degrees 15 minutes 03 seconds West a distance of 57.10 feet to a point, thence along and with the north line of Lake Forest, Inc. Tract North 06 degrees 39 minutes 11 seconds West a distance of 579.00 feet to a point in the east line of 12th Street, thence along and with the east line of 12th Street along a curve to the right (radius=584.74 feet, arc=211.17 feet) a chord which bears North 32 degrees 40 minutes 59 seconds East a chord distance of 210.02 feet to a point, thence along and with the east line of 12th Street North 42 degrees 37 minutes 23 seconds East a distance of 365.72 feet to a point, thence along and with the east line of 12th Street North 42 degrees 54 minutes 39 seconds East a distance of 74.00 feet to a point, thence along and with the east line of 12th Street along a curve to the left (radius=929.60 feet, arc=351.06 feet) a chord which bears North 31 degrees 11 minutes 31 seconds East a chord distance of 349.77 feet to a point, thence along and with the east line of 12th Street North 17 degrees 15 minutes 14 seconds East a distance of 75.00 feet to a point, thence along and with the east line of 12th Street along a curve to the left (radius=933.97 feet, arc=259.52 feet) a chord which bears North 06 degrees 12 minutes 36 seconds East a chord distance of 258.60 feet to a point, thence along and with the east line of 12th Street North 02 degrees 33 minutes 00 seconds West a distance of 339.76 feet to the Point of Beginning, containing 16.45 acres, more or less.

Parcel 5

Beginning at a point in the north right of way line of Greenfield Street (66' public right of way) at its intersection with the east right of way line of 12th Street (60' public right of way), thence along and with the east right of way line of 12th Street North 02 degrees 32 minutes 56 seconds West a distance of 396.01 feet to a point in the south right of way line of Martin Street (66' public right of way), thence along and with the south right of way line of Martin Street North 87 degrees 26 minutes 49 seconds East a distance of 334.36 feet to a point in the west right of way line of 13th Street, thence along and with the west right of way line of 13th Street South 02 degrees 32 minutes 04 seconds East a distance of 397.04 feet to a point in the north right of way line of Greenfield Street, thence along and with the north right of way line of Greenfield Street South 87 degrees 29 minutes 10 seconds West a distance of 334.26 feet to the Point of Beginning, containing 3.05 acres, more or less.

Parcel 6

Beginning at a point in the north right of way line of Greenfield Street (66' public right of way) at its intersection with the east right of way line of 9th Street (66' public right of way), thence along and with the east right of way line of 9th Street North 02 degrees 43 minutes 30 seconds West a distance of 396.30 feet to a point in the south right of way line of Martin Street (66' public right of way), thence along and with the south right of way line of Martin Street North 87 degrees 26 minutes 49 seconds East a distance of 1127.97 feet to a point in the west right of way line of 12th Street; thence along and with the west right of way line of 12th Street South 02 degrees 32 minutes 56 seconds East a distance of 398.10 feet to a point in the north right of way line of Greenfield Street, thence along and with the following courses and distances all being along the north right of way line of Greenfield Street: (1) curve to the right (radius=604.79 feet, arc=224.95 feet) a chord which bears North 83 degrees 06 minutes 08 seconds West a chord distance of 223.66 feet, (2) curve to the left (radius=758.42 feet, arc=187.58 feet) a chord which bears North 75 degrees 17 minutes 49 seconds West a chord distance of 187.10 feet, (3) North 85 degrees 01 minutes 40 seconds West a distance of 82.04 feet, (4) curve to the left (radius=762.95 feet, arc=342.23 feet) a chord which bears South 79 degrees 01 minutes 40 seconds West a distance of 339.37 feet, (5) South 66 degrees 19 minutes 35 seconds West a distance of 11.00 feet, (6) South 66 degrees 45 minutes 46 seconds West a distance of 74.09 feet, (7) curve to the right (radius=450.44 feet, arc=142.52 feet) a chord which bears South 78 degrees 59 minutes 33 seconds West a chord distance of 141.92 feet, (8) South 87 degrees 28 minutes 33 seconds West a distance of 91.87 feet to the Point of Beginning, containing 8.99 acres, more or less.

**PROJECT NAME AND ADDRESS**

Name Garden Lake Estates  
Address 1519 Lake Branch Drive  
City Wilmington County New Hanover  
Zip 28401  
Census Tract 110 High Cost Area Yes  No

**SPONSOR/APPLICANT**

Name Garden Lake Limited Partnership  
Address 2700 Wycliff Road, Suite 312  
City Raleigh State NC Zip 27607  
Contact Person Gordon L Blackwell Telephone (919) 510-9660  
For-Profit  Nonprofit  Other

**OWNERSHIP ENTITY**

Owner Name Garden Lake Limited Partnership  
Address 2700 Wycliff Road, Suite 312  
City Raleigh State NC Zip 27607  
Federal Taxpayer ID umber TBD  
General Partner(s)/Managing Member(s) Gordon L Blackwell, Regency Investment Associates, Inc  
Entity Exists  To Be Formed

**I. MINIMUM REQUIRED SET ASIDES**

(Note: If Set-Aside Election #1 is selected below, all Tax Credit Eligible Units in the project are restricted by rent and income to 50% median income limits)

- 1) 20% of the units are rent restricted and occupied by households with incomes less than 50% of the median income
- 2) 40% of the units are rent restricted and occupied by households with incomes less than 60% of the median income
- 3) 40% of units are rent restricted and occupied by households with incomes less than 50% of median income

**II. MINIMUM SET ASIDES TO RECEIVE POINTS: HIGH-INCOME COUNTIES**

- 4) 100% of units rent restricted and occupied by households with incomes less than 50% of median income
- 5) 50% of units are rent restricted and occupied by households with incomes less than 50% of median income.
- 6) Other (proposed by developer) \_\_\_\_\_ % of the units rent restricted and occupied by households with incomes less than \_\_\_\_\_ % of the median income

### III. MINIMUM SET ASIDES TO RECEIVE POINTS: LOW-INCOME COUNTIES

- 7) 50% of units are rent restricted and occupied by households with incomes less than 50% of median income.
- 8) 40% of units are rent restricted and occupied by households with incomes less than 50% of median income.
- 9) 100% of units are rent restricted to households with incomes less than 60% of median income
- 10) Other: (proposed by developer) \_\_\_\_\_ % of the units rent restricted and occupied by households with incomes less than \_\_\_\_\_ % of the median income.

### EXTENDED LOW-INCOME OCCUPANCY (must be completed)

The project will remain in low-income service and the applicant/owner agrees not to request relief from Section 42 of the IRS Code for a period of 30 years.

### APPLICANT CERTIFICATION

The undersigned hereby makes application to the North Carolina Federal Tax Reform Allocation Committee through the North Carolina Housing Finance Agency for a reservation of federal low-income housing tax credits in the amount of \$ 626,140 for the purpose of providing low-income housing

YTB 615,616

The applicant certifies that the applicant believes the project can be completed within the development budget set forth and operated within the operating budget set forth, and certifies that the information in the exhibits and attachments is true, correct and complete to the best of the applicant's knowledge and belief. The applicant understands that if a tax credit reservation is granted as a result of this application, the applicant will furnish promptly such other supporting information as may be requested, and that in carrying out the development and operation of the project, the applicant agrees to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all tax credit program rules and regulations. Neither the Committee nor the Agency is responsible for actions taken by the applicant in reliance on a prospective tax credit reservation. Internal Revenue Service regulations have not been totally promulgated. By execution of this application, the applicant understands and agrees that the Agency may conduct its own independent review and analysis of the information in the application, that any such review and analysis will be made for the sole and exclusive benefit and protection of the Agency and the Committee.

It is further understood and agreed by the applicant that, for the purpose of determining the terms under which the reservation may be made, the Agency may require changes in the information contained herein (including attachments) or in any documentation or materials now or hereafter submitted in connection with this application.

DATE

BY



Signature

Date of Application April 23, 1999

**NORTH CAROLINA HOUSING FINANCE AGENCY  
RENTAL HOUSING PROGRAMS  
APPLICATION FORM**

*ap Bone 98*

**PART I. PROGRAM FUNDS REQUESTED**

Low-Income Housing Tax Credit

**RECEIVED**

**APR 23 1999**

Rental Production Program (RPP) Loan Funds  
Requested Loan Amount \$ \_\_\_\_\_

Loan Product Requested (Check one)  
Multi-family Production \_\_\_\_\_  
CHDO \_\_\_\_\_

**NCNFA**

**PART II. BASIC INFORMATION**

**A. Project Name and Address**

Project Name Garden Lake Estates

Address 1519 Lake Branch Drive

City Wilmington County New Hanover Zip 28401

Census Tract 110 Block Group R05418-004-002

Is this project located in a Qualified High Cost area?  Yes  No

Name of Political Jurisdiction in which project will be located City of Wilmington

Name of Jurisdiction's Chief Executive Officer (typically the Mayor)  
Mayor Hamilton Hicks Jr

Mailing Address 102 N 3<sup>rd</sup> Street

City Wilmington Zip Code 28402 Telephone (910) 341-7810

Proposed Number of Units 429 Renovation  New Construction  Family  Elderly

*2nd Census Tract*

*Change per copy - 6/25/99*

**B. Applicant/Developer Information**

Applicant Name Garden Lake Estates Limited Partnership Regency Row Ass Inc

Address 2700 Wycliff Road, Suite 312

City Raleigh State NC Zip 27607

Contact Person Claude Hicks

Title Chief Operating Officer

Telephone (919) 510-9660 FAX (919) 510-9670

Applicant Entity is  For-Profit  Nonprofit

Is the applicant a Community Housing Development Organization (CHDO) which has been certified by the North Carolina Housing Finance Agency?  Yes  No

If Applicant is a nonprofit organization, please attach as Exhibit A copy of each of the following

- Articles of Incorporation
- Bylaws
- 1997 IRS Form 990
- IRS 501(c)(3) or (c)(4) Determination Letter
- Current Board of Directors List, including occupations and phone numbers
- Current Certificate of Existence from the North Carolina Secretary of State

A nonprofit sponsor/applicant/owner must be a community-based 501(c)(3) or (c)(4) organization in existence in North Carolina for at least 12 months

**C. Project Owner**

Ownership Entity Name Garden Lake Estates Limited Partnership

Address 2700 Wycliff Road, Suite 312

City Raleigh State NC Zip 27607

Federal Tax Identification Number(TID) TBD

Is this TID assigned to  Project Owner?  Applicant?

(If a TID number has not yet been assigned to the project's ownership entity, please use the apr

Please attach as Exhibit B a current financial statement for each of the principal owners In a.

entity is an existing organization, the most recent and the prior year's audited financial statements must be attached

**D. Ownership Structure**

Owner is a  Limited Partnership  Limited Liability Co  Individual  Corporation

List full name, title, complete address including zip code, and phone number of all proposed General Partners or Officers Specify who is serving as the managing partner or member

- |   |  |
|---|--|
| 1) <u>Gordon L Blackwell, General Partner</u><br><u>2700 Wycliff Road, Suite 312</u><br><u>Raleigh, NC 27607</u><br><hr/> <hr/> | 2) <u>Regency Investment Associates, Inc General Partner</u><br><u>2700 Wycliff Road, Suite 312</u><br><u>Raleigh, NC 27607</u><br><hr/> <hr/> |
| 3) _____<br><hr/> <hr/>   | 4) _____<br><hr/> <hr/>  |

*Please attach additional sheets if necessary*

Ownership Entity  Exists  To Be Formed

Please provide in Exhibit C a joint venture partnership agreement between any development organization venture, including those between for-profit and nonprofit entities, and between for-profit and for-profit entities Fee splits between partnerships must be explicitly stated in this agreement along with other requirements described in the General Requirements If these components are not listed in the agreement, the submission will be considered incomplete.

**E. Private Lenders:**

Permanent First Mortgage Lender PW Funding Kasper Mortgage Capital  
Construction Lender Use Bond Funds

**F Development Team**

Management Agent (Must be identified )  
Interstate Property Management, Inc  
7801 East Independence Blvd, Suite 708  
Charlotte, NC 28212

Architect  
Ross/Deckard Architects  
8320 Litchford Road, Suite 114  
Raleigh, NC 27615

Attorney  
Blanco Tackabery Combs & Matamoros  
110 S Stratford Road, Fifth Floor  
Winston Salem, NC 27104

Syndicator  
Suntrust Bank  
50 Hurt Plaza #1350  
Atlanta, GA 30303

Development/Housing Consultant  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Market Analyst  
Community Targeting Associates  
101 N Main Street  
Ovid, MI 48866

General Contractor  
Regency Constructors, Inc  
2700 Wycliff Road  
Raleigh, NC 27607

General Contractor Selected by  
 Bid  
 Negotiation  
 Identity of Interest

Please attach as Exhibit D a letter of agreement between the developer and proposed management agent It must state 1) the Management Agent will manage the proposed development for at least two years, unless Agent is guilty of specific non performance of duties, and 2) the Management Agent has reviewed the market study, proposed