



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF HOUSING & COMMUNITY DEVELOPMENT
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December 31, 2003

Eamon McGillian, Executive Director
Planning Department
93 Highland Avenue
Somerville, Ma 02143

RE: 343-349 Summer Street
Somerville Zoning Board of Appeal
Case No. 2002-23: Inclusionary Housing

Dear Eamon:

This is to confirm that the City of Somerville's Office of Housing and Community Development (OHCD) has agreed to an affordable housing implementation plan, signed on December 16, 2003, with Dakota Partners, LLC, developers of 343-349 Summer Street, which complies with all requirements under Article 13 of the Somerville Housing Zoning Ordinance and cited as Condition #4 in their in Zoning Board of Appeal Case #2002-23.

I have attached a copy for your records. If you have further questions please don't hesitate to contact me.

Very truly yours,

Dharmena Downey
Director of Housing, OHCD

Cc. Steven Post, Executive Director, OHCD
Inspectional Services Department

Affordable Housing Implementation Plan

Agreement made this 16th day of December 2003, by the owner, Dakota Partners, LLC ("Owner") described below, with a usual address 103 Morse Street Watertown, MA, and the Executive Director of the City of Somerville Office of Housing and Community Development ("Housing Director") with a usual address c/o the OHCD Housing Division, 50 Evergreen Avenue, Somerville, MA 02145. The Owner has been granted a special permit with site plan review under Article 13 of the Somerville Zoning Ordinance for the Development described below. This Agreement is intended to serve as the "Implementation Plan" referred to Article 13, §13.3.1. Any change in the special permit with site plan review that would affect the number of affordable housing units required to be provided in connection with the Development shall require an amendment to this Agreement.

Development:

The Development consists of one building located at 343-349 Summer Street, Somerville, MA. There are a total of fourteen (14) residential units in the development.

The building at 343-349 Summer Street Somerville, MA comprise The Dakota Condominium (the "Condominium"), a Massachusetts condominium subject to G.L. c. 183A, to be created by Master Deed and recorded with the Middlesex South District Registry of Deeds prior to the issuance of certificate of occupancy. The Condominium is being constructed in one phase.

Name and Address of Owner: The Owner of 343-349 Summer Street is Marc Daigle, as Manager of The Dakota LLC, under Certificate of Organization filed with the Secretary of State dated November 5, 2002. The mailing address of the Owner is 103 Morse Street, Watertown, MA 02472-2551.

Affordable Units:

The Owner is required to provide either two or three affordable units ("Affordable Units") under the Somerville Zoning Ordinance, more particularly described as follows:

If located in Wards Five or Six

Two (2) Affordable Units at a location to be determined , consisting of:

(1) 2-bedroom family style unit(s) to be sold to a family at or below 80% of Boston Area Median Income ("AMI")

(1) 2-bedroom family style unit(s) to be sold to a family at or below 110% of AMI

If a suitable property can not be obtained in Wards five or six the owner and the City agree to an alternate means of compliance which may be a three unit property located elsewhere in Somerville as follows:

Three Affordable Units at a location to be determined prior to the issuance of a certificate of Occupancy for the market rate units 343-349 Summer Street, consisting of:

(2) 2-bedroom family style unit(s) to be sold to a family at or below 80% of Boston Area Median Income ("AMI")

(1) 2-bedroom family style unit(s) to be sold to a family at or below 110% of AMI

Affordable Housing Restrictions:

The Implementation Plan shall form the basis of, and shall be attached as an Appendix to, an Affordable Housing Restriction governing the Affordable Units *in perpetuity* which shall be prepared by counsel for the City of Somerville, approved in writing by the Mayor and the Housing Director, and recorded or filed with the Middlesex South District Registry of Deeds or Land Registration Office. In the case of a building that is not a condominium, the Affordable Housing Restriction shall be recorded or filed with said Deeds when the certificate of occupancy is issued for the building. In the case of a condominium, the Affordable Housing Restriction shall be recorded or filed immediately after the Master Deed and Condominium Trust and before recording of the first Unit Deed. Mortgagees shall agree to abide by the terms of the Affordable Housing Restriction.

Additional Fractional Obligation:

In General: Where the number of Affordable Units required under the Somerville Zoning Ordinance results in a fraction of less than .5, a fractional cash payment shall be made. The cash payment shall be calculated in the manner set forth in Article 13 of the Ordinance.

For this Development: No cash payment is required.

Unit Finishes:

It is acknowledged that the Affordable Units will come from the existing housing stock in Somerville. Therefore, the finishes will not be the same as the standard finishes for new market-rate units. Nonetheless, the Affordable Units should have existing finishes of decent quality. The City shall inspect the existing finishes. If it finds them unacceptable, the City reserves the right to require a reasonable upgrade of the finishes in the Affordable Units.

Appurtenant Interests/Amenities:

Affordable Units shall have the same appurtenant interests and/or amenities as market rate units, including without limitation, indoor parking spaces, balconies, private yard space and storage areas.

Certificates of Occupancy:

No certificates of occupancy shall be issued for any market rate units in the Development until all of the required Affordable Units have obtained certificates of occupancy, or bonding or other equivalent security arrangements have been made which are satisfactory to the Housing Director and the Special Permit Granting Authority.

Tenant Relocation Plan:

In General: In cases where a Development will include the temporary or permanent relocation of existing tenants, the Owner will be required to submit a Tenant Relocation Plan for approval by the Housing Director which includes the name, address, and telephone number of each affected tenant, a copy of such tenant's lease or rental agreement, the location and cost of alternative housing, the construction schedule, the estimated duration of the relocation if temporary, the relocation costs to be paid by the Developer, the notification to be sent to the tenant regarding the relocation, and any other information reasonably requested by the Housing Director.

For this Development: This is a new Development with no existing tenants and a Tenant Relocation Plan is not required.

Sales Prices for Affordable Units:

Prior to marketing "for sale" Affordable Units, OHCD will provide the Owner with a sales price worksheet which the Owner shall complete and sign. Upon written notification by the Owner to OHCD that marketing activities may commence, OHCD will calculate a final sales price which reflects then current and confirmed data. The final sales price will be based on the most current HUD Boston Area Median Income adjusted for family size, and current mortgage interest rates, property taxes, and insurance costs estimated by OHCD, and a monthly common area condominium fee estimated by the Owner. The Owner will provide verification to OHCD of the component costs making up the common area fee. If there is a material change in the common area fee prior to the closing, OHCD reserves the right to recalculate the sales price.

Rental Prices for Affordable Units:

The maximum rent limits for families at or below 80% of AMI shall be the then current "High HOME Rent" published annually by the U.S. Department of Housing and Urban Development adjusted for family size. The maximum rent for families at or below 50% of AMI shall be the then current "Low HOME Rent" published annually by the U.S. Department of Housing and Urban Development adjusted for Family size. If a Section 8 tenant Family or other rental subsidy recipient Family rents an Affordable Unit, the maximum rent limits shall be the maximum rent limits allowed by the subsidy source. The maximum rent limits include all utility costs except cable and telephone.

Marketing of Affordable Units:

OHCD will bear the primary responsibility for marketing "for sale" Affordable Units. Marketing efforts will be targeted to income eligible Families who live or work in the City of Somerville. Marketing activities conducted by OHCD will include publication of criteria as to sufficient

income, credit status, residency status and down payment requirements. The Affordable Units will be marketed through the following media:

- Direct mail to OHCD's database of approximately 110 local organizations and agencies and approximately 200 homebuyer graduates.
- Newspaper advertising in the Somerville Journal (twice), Somerville News (once), El Mundo (twice), and the Bay State Banner (twice).
- A notice on the City of Somerville's cable television channel.
- Inter-departmental e-mails to Somerville municipal employees.
- Flyers distributed within the neighborhood of the Affordable Units.

Prior to OHCD's instituting any marketing efforts, the Owner shall pay to OHCD the sum of \$2,500 to cover the cost of advertising. The cost of the above-mentioned activities will not exceed \$2,500. However, if any additional marketing activities or the re-marketing of a Unit or Units are required, the Owner will be required to pay the cost of such additional activities.

In addition to OHCD's marketing efforts, the Owner may market the Affordable Units independently at the Owner's sole cost and expense.

Eligible Families:

Families must be certified by OHCD as income eligible and must, in addition, either live or work in the City of Somerville.

Buyer Selection and Certification Process:

- The marketing materials will include notice of a deadline for the submission of Initial Applications.
- OHCD will review each *Initial Application* and notify each applicant of initial eligibility or ineligibility [Note: all applicants deemed initially ineligible will have 5 business days to appeal to the Housing Director, and information on the appeal process will be provided at time of notification.]
- OHCD and the Owner will conduct a joint *Information Session* for applicants deemed initially eligible. The session will include information on the property, individual units, and the construction schedule. The Owner shall provide copies of a Master Deed, Condominium Trust and Bylaws, and Master Deed Plans (all of shall have been reviewed prior to the Information Session by OHCD's attorney). OHCD shall provide copies of an Affordable Housing Restriction and details on the City's Income Certification process.
- When a representative condominium unit is substantially complete, OHCD and the Owner will schedule a property walk-through for initially eligible applicants.

- Initially eligible applicants must obtain pre-approvals from a bank or other conventional lending institution with rates, terms, and conditions deemed reasonable by OHCD in consultation with the Owner. OHCD may, if it deems necessary, establish a deadline for the obtaining of pre-approvals, which deadline shall be communicated to applicants.
- OHCD and the Owner will schedule a LOTTERY drawing for all initially eligible applicants who have obtained acceptable pre-approvals. OHCD will conduct the lottery.
- The City will perform a Final Income Certification on the *Selected Applicants* and will notify the Owner to proceed with the execution of a Purchase and Sale Agreement.

Tenant Selection and Certification Process:

The Development is a condominium project. There are no rental units and therefore no tenants.

"For Sale" Affordable Units: The City will verify annually that any "for sale" Affordable Unit is occupied on a year-round basis as the eligible family's principal residence.

"For Rent" Affordable Units: The Development is a condominium project. There are no rental units and therefore no tenants.

General Conditions:

The Owner will extend to the buyer of a "for-sale" Affordable Unit, a warranty against all defects in materials and labor for (1) one year from the date that ownership transfers.

The Owner will allow the City reasonable access during construction and during marketing.

EXECUTED UNDER SEAL on the day and year first written above.

OWNER: THE DAKOTA LLC

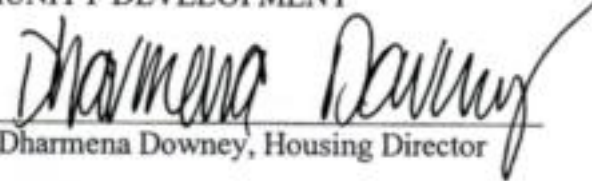
By:


Marc R. Daigle

Its: Manager

HOUSING DIRECTOR: CITY OF SOMERVILLE OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

By:


Dharmena Downey, Housing Director