

8901 E. 5th Ave
Gary 46403

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**SWANSON III ASSOCIATES
AGREEMENT AND CERTIFICATE
OF LIMITED PARTNERSHIP**

THIS AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP (hereinafter called this "Agreement and Certificate") is entered into at Gary, Indiana, as of the 2nd day of January, 1982 by and among CHARLES S. LAZERWITZ, a general partner (hereinafter called the "General Partner"), and JERRY BERNSTEIN, DONNA LAZERWITZ, DEBRA FLEEGER and CHARLES S. LAZERWITZ, as limited partners (hereinafter called the "Limited Partners"). The General Partner and Limited Partners are hereinafter collectively called the "Partners".

WHEREAS, the General Partner and Limited Partners desire to form an Indiana limited partnership (the "Partnership") for the purpose of developing, owning, constructing, maintaining and operating a multi-family apartment project containing 96 units, on the property located in Portage, Indiana described on Exhibit A attached hereto and made a part hereof (the "Real Estate") and known as FHA Project No. 073-35419-PM-L8 (the "Project").

WHEREAS, the Partners collectively own the entire beneficial interest under Gary National Bank Trust No. 5960 (hereinafter referred to as the "Trust") which holds legal title to the Real Estate and the Project (hereinafter collectively referred to as the "Development") and the Partners agree to contribute their interests in the Trust to the Partnership as their capital contributions.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the Partnership's Agreement and Certificate shall read as follows:

1. Name, Office and Purpose.

(a) The Partners hereto do hereby create and form a Limited Partnership pursuant to the Uniform Limited Partnership Act of the State of Indiana (the "Act").

(b) The Partnership shall be conducted under the name and style of "Swanson III Associates" and the principal office thereof shall be maintained at c/o 8901 East 5th Avenue, Gary, Indiana 46403, or under such other name and style or at such other place as may be determined by the Partners hereto from time to time.

Aug 4 12 27 PM '82
STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
WILLIAM B. BISHOP JR.
RECORDER

1900

(c) The purposes of the Partnership shall be:

(i) to acquire and hold the Real Estate, record title to which is held by the Trust and the Partnership shall be the sole beneficiary of the Trust;

(ii) to obtain financing to construct the Development from a mortgage loan to be made by Puller Mortgage Associates, Inc. ("Lender"), as construction lender, and permanent financing by means of a purchase of the mortgage loan by the Government National Mortgage Association ("GNMA"). The mortgage loan will be insured by the Federal Housing Administration ("FHA") of the Department of Housing and Urban Development ("HUD");

(iii) to obtain subsidy funds to operate the Development by entering into an Agreement to Enter Into Housing Assistance Payments Contract ("Section 8 Agreement") with HUD, and pursuant thereto a Housing Assistance Payments Contract ("HAP Contract"), for housing assistance payments under the Section 8 Housing Assistance Payments Program;

(iv) to manage and operate the Development as a rental project for profit; and

(v) to hold the Development as an investment.

2. Term of Partnership. The term of the Partnership shall commence on the date hereof and shall continue until December 31, 2022 unless sooner terminated as hereinafter set forth and provided. The Partners agree to execute such certificates or other documents and do such filings and recordings and all other acts, including the filing or recording of this Agreement and Certificate in the appropriate offices in the State of Indiana, as may be required to comply with applicable laws.

3. Capital, Profits and Losses.

(a) The Partners shall each contribute to the Partnership their interest in the Trust and the Partners' respective contributions and ownership percentages (which shall also be used to allocate profits and losses) hereunder shall be as set forth on Schedule "A" attached hereto and made a part hereof. The Limited Partners shall not be required to make additional capital contributions.

(b) An individual capital account shall be maintained for each Partner, and no interest shall be paid or shall accrue on the capital account of any Partner.

SCHEDULE "A"

<u>Name and Address</u>	<u>Capital Contribution</u>	<u>Ownership Percentage</u>
 <u>GENERAL PARTNER</u>		
Charles Lazerwitz 8901 East 5th Avenue Gary, Indiana 45403	Undivided 37% interest in the Trust	37%
 <u>LIMITED PARTNERS</u>		
Jerry Bernstein 880 West 66th Avenue Merrillville, Indiana 46410	Undivided 3% interest in the Trust	3%
Donna Lazerwitz 8901 East 5th Avenue Gary, Indiana 45403	Undivided 5% interest in the Trust	5%
Debra Fleeger 6407 Hayes Street Merrillville, Indiana 46410	Undivided 5% interest in the Trust	5%
Charles Lazerwitz 8901 East 5th Avenue Gary, Indiana 45403	Undivided 50% interest in the Trust	50%

(c) Prior to completion of the Development any further funds which may be necessary or required from time to time in connection with the completion of such Development in excess of the proceeds of financing, capital contributions of limited partners to the Partnership and Development revenues, shall be contributed by the General Partner.

(d) No Limited Partner shall be given priority over other Limited Partners as to contributions or as to compensation by way of income.

(e) No Limited Partner shall have the right to demand and receive return of its capital contribution prior to the termination of the Partnership and no Limited Partner shall have the right to demand and receive property other than cash in return for his contribution.

(f) The General Partner shall have the right to admit new limited partners to the Partnership for any purpose that he deems in the best interests of the Partnership and to in that connection shall have the right to amend, modify or restate the terms of this Agreement and Certificate.

4. Management of the Partnership.

(a) The Partners shall receive no compensation for services rendered in their capacity as Partners.

(b) If any Partner or any person, firm or corporation with which a Partner is associated renders architectural, legal, construction, accounting, real estate management, or other services for the Partnership, such Partner or such person, firm or corporation shall be entitled to receive compensation for such services notwithstanding such association or being a Partner.

(c) Any Partner may engage in other business ventures of every kind, independently or with others, including but not limited to, the real estate business in all its phases, and including without limitation, the ownership, operation, management, and development of real property other than that upon which the Development is to be constructed, and neither the Partnership nor the Partners shall have any rights in such independent ventures or the income derived therefrom.

(d) During the continuance of this Partnership, the rights and liabilities of the General Partner and the Limited Partners, respectively, shall be as follows:

(i) The General Partner, subject to the terms and provisions of the Act, shall conduct, manage and control the business of the Partnership and shall have, at his sole

discretion, full power and full right and authority (i) to deal with, to mortgage, to pledge, and to sell, transfer, assign or otherwise dispose of any and all of the assets of the Partnership, at any time that he may see fit; (ii) to borrow money; (iii) to prepay in whole or in part, refinance, recast, increase, modify or extend any mortgages which may affect any of the property owned by the Partnership; (iv) to execute or cause to be executed for and on behalf of the Partnership, any mortgage and note, renewals, extensions, or modifications thereof, and (v) to execute or cause to be executed any and all other instruments to carry out the intention and purposes hereof; provided, however, that nothing contained herein shall, directly or indirectly, increase the liability of the Limited Partners, or any of them, as stipulated in this Agreement and Certificate.

(ii) The Limited Partners shall have no right to participate in the management of the business of the Partnership.

(e) No Partner shall be liable in damages or otherwise to the Partnership or to any of the Partners for any acts performed within the scope of the authority conferred by this Agreement and Certificate, except for gross negligence or willful malfeasance.

(f) The Partnership may employ such persons, firms or corporations as the General Partner may deem advisable for the operation of the business of the Partnership.

5. Assignment of Partnership Interest, Death or Dissolution of Partnership.

(a) The Limited Partners shall not assign, transfer, pledge, hypothecate or otherwise dispose of their interest in the Partnership without the consent of the General Partner. A Limited Partner shall not have the right to substitute an assignee as contributor in his place. The General Partner shall have the right, however, to admit new limited partners to the Partnership. If the General Partner shall be adjudged a bankrupt, enter into an assignment for the benefit of creditors, have a receiver appointed to administer the General Partner's interest in the Partnership or have such interest seized by a judgment creditor, or in the event of the death or incompetency of a General Partner, such General Partner shall immediately retire as a General Partner of the Partnership, and such retiring General Partner shall become a limited partner, retaining his then interest in profits, losses and distributions of the Partnership. If the retiring General Partner shall be the last remaining General Partner, the Partnership shall terminate and the assets of the Partnership shall be liquidated and distributed to the Partners, unless the remaining Limited

Partners shall, within ninety (90) days thereafter, by the unanimous vote of all Limited Partners (exclusive of any retired General Partner) appoint a new General Partner as successor General Partner. In such event, the Limited Partners shall create for such successor General Partner an interest in the Partnership profits, losses and distributions, as the Limited Partners may agree, from their collective interests in the Partnership.

(c) The Partnership shall terminate and be dissolved on December 31, 2022 or sooner on the happening of either of the following events:

(i) The sale of all or substantially all of the Partnership property; or

(ii) Any events causing termination pursuant to the Act.

Each of the Partners does hereby waive any and all rights to partition the Real Estate or any part thereof or to otherwise divide (whether through an action in equity or through some other means) the beneficial interest of the Trust holding legal title to the Real Estate.

6. Bank Accounts. All funds of the Partnership shall be deposited in such bank accounts as may be determined by the General Partner or as required by Lender or HUD.

7. Books and Annual Accounting.

(a) Accurate books and accounts shall be kept by the Partnership showing all of its assets, liabilities, operations, transactions, and financial condition. As soon as practical after the end of each fiscal year of the Partnership (but in no event later than 90 days after the end of such fiscal year), financial statements shall be prepared by the Partnership's accountants covering the assets, properties, liabilities and net worth of the Partnership, and its transactions and operations during the preceding fiscal year, and all matters and things customarily included in such statements, and a copy of such statement shall be furnished to all Partners and, if necessary, Lender and HUD, showing such assets, properties, and net worth and the profits and losses of the Partnership for the preceding fiscal year. Any Partner shall have the right to object to such statement by giving written notice to the other Partners within 30 days after such statement is received by such Partner, setting forth in reasonable detail the objections of such Partner and the basis for such objections. Such statement and the contents thereof shall be deemed binding upon any Partner if he or it fails to give such notice within such 30 day period. All Partners shall have the right and power to

examine and copy, at any and all reasonable times, the books, records and accounts of the Partnership.

(b) The Partnership fiscal year for all accounting and tax purposes shall be the calendar year.

(c) The Partnership shall report its operations for tax purposes in accordance with the accrual basis method of accounting.

8. Construction.

(a) This Agreement and Certificate may be modified only by an instrument in writing signed by all of the Partners hereto.

(b) The Partners agree that at any time they will execute and deliver such further instruments and documents, and will do such further acts and things as may reasonably be required in order to carry out the intent and purpose of this Agreement and Certificate.

(c) Wherever the context may require, any pronouns used herein shall include the corresponding masculine, feminine, or neuter forms, and the singular form of any noun or pronoun shall include the plural and vice versa.

(d) The validity, construction, performance and effect of this Agreement and Certificate shall be governed by the laws of the State of Indiana.

9. Notices. All notices, requests and demands herein required or permitted to be given or made shall be deemed to be effectively served and delivered when delivered personally or when deposited in the United States registered or certified mail, postage prepaid, return receipt requested, and

if intended for the Partnership, addressed to the Partnership at the principal office of the Partnership; and

if intended for a Partner, addressed to the Partner at his address appearing on Schedule "A" attached hereto and made a part hereof,

or to such other person and/or at such other address designated by written notice given to the Partnership and all Partners in accordance herewith.

10. Counterparts. This Agreement and Certificate may be executed in counterparts by any or all of the Partners and in such case the counterparts taken together shall be the same as if all of the Partners had together executed the same instrument.

11. Descriptive Headings. The descriptive headings of this Agreement and Certificate are inserted for convenience and reference only, and do not constitute a part of this Agreement and Certificate.

12. Divisibility. If any clause, sentence, word, phrase, paragraph or part of this Agreement and Certificate shall be construed as invalid, unconstitutional, or otherwise illegal, or void, such clause, sentence, word, phrase, paragraph or part shall be stricken, and this Agreement and Certificate shall continue to be in full force and effect as to all other remaining provisions.

13. Miscellaneous Provisions Re: HUD.

(a) Anything herein to the contrary notwithstanding, no Partner shall sell, assign or transfer any portion of his interest in the Partnership without the prior written consent of HUD, if HUD regulations then require such consent.

(b) The General Partner has heretofore caused the Trustee to execute a note and a mortgage to evidence and secure the loan to be insured by HUD and to execute a Regulatory Agreement and other documents required by HUD in connection with any such loan. The Partnership hereby ratifies the foregoing and the Partnership and each Partner agrees to be bound by the Regulatory Agreement. Any incoming partner shall, as a condition to receiving an interest in the Partnership property, agree to be bound by the note, mortgage and Regulatory Agreement and other documents required in connection with the HUD-insured loan to the same extent and on the same terms as the other partners. Upon any dissolution, no title or right to possession and control of the Development and no right to collect the rents therefrom, shall pass to any person who is not bound by the Regulatory Agreement in a manner satisfactory to HUD.


IN WITNESS WHEREOF, the undersigned hereby execute this Agreement and Certificate, as of the date first above written.

GENERAL PARTNER:




CHARLES S. LAZERWITZ

LIMITED PARTNERS:



JERRY BERNSTEIN



DONNA LAZERWITZ



DEBRA FLEEGER



CHARLES S. LAZERWITZ

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, a Notary Public, in and for the County of Cook, State of Illinois, do hereby certify that CHARLES S. LAZERWITZ, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged and swore that the statements set forth in the foregoing Agreement and Certificate are true and correct, and that he signed the same as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and seal this ____ day of _____, 1982.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, a Notary Public, in and for the County of Cook, State of Illinois, do hereby certify that JERRY BERNSTEIN, DONNA LAZERWITZ, DEBRA FLEEGER and CHARLES S. LAZERWITZ, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged and swore that the statements set forth in the foregoing Agreement and Certificate are true and correct, and that he signed the same as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and seal this ____ day of _____, 1982.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

Parcel I:

Part of the NE 1/4 of the SW 1/4 of Section 23, Township 36 North, Range 7 West of the 2nd P.M., Porter County, Indiana, more particularly described as:

Commencing at the SW corner of the NE 1/4 of the SW 1/4 of said Section 23; thence N 00°-32'-30" W, along the West line of the NE 1/4 of the SW 1/4 of said Section 23, 570.05 ft., to the point of beginning; thence N 89°-27'-30" E, 270.00 ft.; thence S 0°-32'-30" E, 70.00 ft.; thence Northeasterly along a curve concave Southeasterly having a radius of 185.03 ft., a central angle of 35°-49'-02" and an arc length of 115.67 ft., to a point of non-tangency; thence N 89°-27'-30" E 17.59 ft.; thence N 60°-00'-00" E, 404.10 ft.; thence N 30°-00'-00" W, 230.52 ft., to a point of non-tangency on a circular curve; thence Northeasterly, Northerly and Northwesterly along a curve concave to the East having a radius of 189.72 ft., a central angle of 135°-51'-18", and an arc length of 449.848 ft., to a point of non-tangency; thence N 00°-47'-37" W, to the North line of the NE 1/4 of the SW 1/4 of said Section 23, 35.0 ft.; thence N 89°-12'-23" W, along the North line of the NE 1/4 of the SW 1/4 of said Section 23, 346.67 ft.; thence S 0°-47'-37" E, 35.0 ft., to a point on the Southerly right of way line of the E.J. & E. Railroad; thence S 60°-36'-15" W, along the Southerly right of way line of E.J. & E. Railroad, 306.61 ft., to a point on the West line of the NE 1/4 of the SW 1/4 of said Section 23; thence S 00°-32'-30" E, along the West line of the NE 1/4 of the SW 1/4 of said Section 23, 561.79 ft. to the point of beginning, excepting the West 35.0 ft. thereof and the North 35.0 ft. thereof, containing 10.21 acres, more or less.

Parcel II:

A non-exclusive easement for ingress and egress for the benefit of Parcel I created by that certain Declaration and Grant of Easement dated February 27, 1981 by Gary National Bank as Trustee under Trust No. P-1818 and recorded March 24, 1981 as Instrument No. 17910 in the office of the Recorder of Porter County, Indiana.