

First American Title

RECORDING REQUESTED BY AND
AND WHEN RECORDED, RETURN TO:

City of Redlands
35 Cajon Street
Suite 200
Redlands, California 92373
Attn: Office of the City Attorney

243160 12/2/97

Doc No. 19980027623
12:39pm 01/27/98

First American Title # 601

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ASSIGNMENT AND ASSUMPTION AGREEMENT
(Orange Village Apartments)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "*Agreement*") is made and entered into this 2nd day of December, 1997, by and between MASKAN DEVELOPMENT COMPANY, A CALIFORNIA LIMITED PARTNERSHIP (the "*Owner*"), and THOMAS TOMANEK and ANGELITA TOMANEK, husband and wife as community property (jointly, the "*New Owner*").

R E C I T A L S

WHEREAS, the Owner has financed the acquisition, development and construction of a multifamily rental housing project located on the real property described in **Exhibit A** hereto in the City of Redlands, County of San Bernardino, State of California and known as "Orange Village Apartments" (the "*Project*"), through the use of funds made available by the City of Redlands (the "*Issuer*") for such purpose through the issuance of its Variable Rate Demand Multifamily Revenue Bonds, 1988 Series A and Series B (the "**Bonds**") in the original principal amount of \$8,000,000.00. The proceeds of the Bonds were loaned to the Owner in accordance with the provisions set forth in, among others, the following documents:

1. Indenture of Trust, dated as of July 1, 1988, between the Issuer and Seattle-First National Bank as predecessor to First Trust Washington (the "*Trustee*"), in its capacity as trustee for the owners of the Bonds (the "*Indenture*");

2. Loan Origination and Servicing Agreement, dated as of July 1, 1988, among the Issuer, the Trustee, Redlands Federal Savings and Loan Association as predecessor to Redlands Federal Bank, a federal savings bank ("**Redlands**") and the Owner (the "*Loan Agreement*"), and the Developer Loan Documents executed pursuant thereto (the "*Developer Loan Documents*");

LAW OFFICES OF
BRET H. REED, JR.
A LAW CORPORATION
1300 DOVE STREET, SUITE 200
NEWPORT BEACH, CALIFORNIA 92660-2416
(714) 955-9150

TELECOPIER
(714) 833-2461

FACSIMILE TRANSMISSION COVER SHEET

DATE: January 21, 1998

PLEASE DELIVER THE FOLLOWING 1 PAGE (S) (INCLUDING COVER SHEET) TO:

• THIS IS A GROUP TRANSMISSION

NAMES: Dan McCue, Esq.

FIRMS: REDLANDS CITY ATTY.

FAX NOS.: (909) 798-7503

RE: ORANGE VILLAGE APTS.

COMMENTS: Dan: We understand that the assumption of the Orange Village bond financing was approved by the City Council yesterday. It would be appreciated if you would have the Issuer consent form executed by the authorized representative for the City and have it delivered to Heritage Escrow Company, 4010 Barranca Parkway, Suite 120, Irvine, CA 92604 for receipt by the escrow officer, Ms. Linda Reichel, not later than Friday, January 23, 1998. We are recording at 8:00 a.m. on Monday, January 26 and all recording documents must be in hand on the 23rd. Give me a call if you foresee any problem with this request. Thank you for your continuing assistance.

CONFIDENTIALITY NOTE: The information contained in this transmission is legally privileged and confidential, intended only for the use of the individual(s) or entity(ies) named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone and return the original transmission to us at the address above via the United States Postal Service. Thank you.

If all pages are not received, please call (714) 955-9150.

cc: (via facsimile)
Mr. Thomas Tomanek
Jeffrey Rabin, Esq.

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3. Regulatory Agreement and Declaration of Restrictive Covenants, dated as of July 1, 1988, executed by the Owner, the Issuer and the Trustee (the "*Regulatory Agreement*") (the Indenture, Loan Agreement, the Developer Loan Documents, and Regulatory Agreement are collectively referred to herein as the "*Bond Documents*"); and

WHEREAS, the Owner has agreed to sell, convey and transfer to New Owner the Project, and the New Owner desires to acquire the right, title and interest of the Owner in and to the Project;

WHEREAS, a sale, transfer and conveyance of the Project by the Owner requires the consent of the Issuer and Redlands under *Section 5.2* of the Loan Agreement and the consent of the Issuer the *Section 10* of the Regulatory Agreement;

WHEREAS, the Issuer and Redlands are willing to consent to the sale, conveyance and transfer of the Project to the New Owner, provided the New Owner assumes in full all of the obligations of the Owner under the Bond Documents; and

WHEREAS, in order to induce the Issuer and Redlands to consent to the sale, transfer and conveyance of the Project to the New Owner and to induce the assumption by the New Owner of the obligations of the Owner under the Loan Documents, the parties have agreed to enter into this Agreement;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Owner and the New Owner agree as follows:

SECTION 1. ASSIGNMENT AND ASSUMPTION OF OBLIGATIONS; NO CONFLICT.

The Owner hereby fully and unconditionally assigns to the New Owner all of its rights, and delegates to the New Owner all of its obligations, in and under each of the Bond Documents. The New Owner accepts such assignment and hereby assumes all of the obligations of the Owner in and under the Bond Documents and agrees to perform all such obligations in accordance with the terms of this Agreement; provided, however, that such assumption and agreement are limited to the obligations of the Owner arising on or after the Effective Date (as hereinafter defined) and shall not include the Owner's obligations which were required to be performed on or prior to the Effective Date. With respect to the period commencing upon the Effective Date, the New Owner agrees to be bound in every way by all of the grants, terms, conditions, and covenants contained in the Bond Documents and by all of the grants, terms, conditions, and covenants contained therein as if the New Owner were named as borrower, trustor, debtor or obligor, as applicable, thereunder.

The New Owner acknowledges and agrees that it holds or will hold title to the Project, together with all rights and interests appurtenant thereto, subject to the charge, lien, terms and conditions of the Regulatory Agreement and the deeds of trust of record securing the Bond Documents, and that the New Owner shall be bound by all of the terms, conditions and covenants contained therein and herein. Without in any way limiting the foregoing, the New Owner acknowledges that the Project is subject to the requirements and restrictions contained in the Regulatory Agreement and that, by its assumption of the Bond Documents as set forth herein, the New Owner is bound by, and has agreed to comply with, the requirements and restrictions contained in the Regulatory Agreement.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF NEW OWNER. The New Owner hereby represents and warrants to the Issuer, Redlands and the Owner that as of the Effective Date (as hereinafter defined):

- (i) the New Owner are individuals residing in the state of California and have the capacity and to enter into, execute and perform this Agreement;
- (ii) the New Owner has the power and authority to (a) acquire the Project and operate the Project in compliance with and as contemplated under the Bond Documents, and (b) execute and deliver this Agreement and carry out the

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Page 4

obligations which are being assigned to and assumed by them under the Bond Documents;

- (iii) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action and proceeding by or on behalf of the New Owner;
- (iv) this Agreement and the Bond Documents constitute the legal, valid and binding obligations of the New Owner, enforceable against the New Owner in accordance with their respective terms, except to the extent that the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law);
- (v) neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and conditions of this Agreement or the Bond Documents does or will conflict with or result in any breach or violation of (a) any law applicable to or binding upon the New Owner or (b) any judgment or court order applicable to or binding upon the New Owner.
- (vi) the property management firm engaged by the New Owner has at least three years' experience in the ownership, operation and management of income rental housing projects similar to the Project without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects; and
- (vii) there presently exists no fact (financial or otherwise) unique to the New Owner which would make the New Owner incapable of complying in all material respects with or discharging all of its obligations under either the Loan Documents or the Subordinate Loan Documents.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF OWNER. The Owner hereby represents and warrants to the Issuer, Redlands and the New Owner that as of the Effective Date:

- (i) there are no defaults or events that, with the passage of time or the giving

Assignment and Assumption Agreement

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of notice, would constitute an Event of Default under the Bond Documents;

- (ii) all provisions of the Bond Documents are unmodified and remain in full force and effect;
- (iii) he has fully power and authority to enter into this Agreement, and this Agreement is binding upon the Owner in accordance with its terms.

SECTION 4. CONDITIONS PRECEDENT.

Subject to compliance with the conditions listed below, the execution and the recordation of this Agreement in the Official Records of San Bernardino County evidence the satisfaction of all conditions precedent to the Owner's obtaining of the Issuer's consent to the transfer of the Project to and the assumption by the New Owner of the Owner's obligations under the Bond Documents. The execution of the Consent of Redlands shall evidence the satisfaction of all conditions precedent to the Owner's obtaining of the Redlands' consent to the transfer of the Project to and the assumption by the New Owner of the Owner's obligations under the Bond Documents, subject to compliance by the New Owner of each of the following:

- (i) the receipt by the Issuer, the Trustee and Redlands of an opinion of legal counsel to the New Owner in form and substance acceptable to the Issuer and Redlands;
- (ii) the receipt by the Issuer of an opinion of Bond Counsel to the effect that the sale and transfer will not, in and of itself, adversely affect the exclusion from gross income for purposes of federal income taxation or State of California personal income taxation of interest on the Bonds; and
- (iii) evidence that the sale or transfer will not cause a reduction in the current rating on the Bonds maintained by the Rating Agency.

SECTION 6. MISCELLANEOUS

A. Continuing Liability of Owner. Notwithstanding the consent by the Issuer and Redlands to the sale, transfer and conveyance of the Project to the New Owner, and the assumption by the New Owner of all of the Owner's obligations under the Bond Documents, the Owner shall remain liable to the Issuer, the Trustee and Redlands for the performance of its obligations under the Bond Documents with respect to the period beginning August 18, 1988 and ending on the Effective Date (the "*Owner's Holding Period*") and for any claims, demands, losses, liabilities or causes of action arising under the Bond Documents out of any act or omission of the Owner during the Owner's Holding Period. Furthermore, the Owner agrees to pay, defend, protect, indemnify, save and hold harmless the New Owner against any and all liabilities, losses, damages, costs, expenses (including attorneys fees), causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature caused by or directly or indirectly arising from or in any way relating to the breach, default or violation by the Owner of the Owner's obligations under the Bond Documents during the Owner's Holding Period.

B. Effective Date. This Agreement shall become effective on the date (the "*Effective Date*") on which this Agreement is recorded in the Official Records provided that fee title to the Project is transferred to the New Owner by grant deed recorded in the Official Records.

C. No Further Consents. This Agreement, upon becoming effective, will satisfy all requirements of consent by the Issuer and Redlands imposed by the Bond Documents in connection with the transfer and assumption contemplated hereby.

D. Notice. The New Owner notifies the Issuer, the Trustee and Redlands that the New Owner's address for receipt of notice under the Bond Documents is as follows:

Mr. Thomas Tomanek
TOMANEK INTERNATIONAL COMPANY
26601 Durham Way
Hayward, CA 94542

With a copy to (which copy shall not constitute notice to the New Owner):

Bret H. Reed, Jr.
A Law Corporation
1300 Dove Street, Suite 200
Newport Beach, CA 92660

E. Construction. This Agreement and all related documents shall be deemed to be contracts made and delivered in the State of California and shall be governed by and construed in accordance with the laws of the State of California.

F. Attorneys' Fees. In the event of any dispute, mediation, arbitration or litigation concerning the enforcement, validity or interpretation of this Agreement, or any part hereof, the nonprevailing party shall pay all costs, charges, fees and expenses (including reasonable attorneys' fees and disbursements) paid or incurred by the prevailing party, regardless of whether any action or proceeding is initiated relative to such dispute and regardless of whether any such litigation is prosecuted to judgment. For the purpose of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photocopying, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegal, librarians and others not admitted to the bar but performing services under the supervision of an attorney.

G. Execution in Counterparts. This Agreement may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall constitute but one and the same instrument. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to physically form one document, which may be recorded.

H. No Further Modifications. All other terms and conditions of the Bond Documents are expressly reaffirmed as if set forth in their entirety herein and shall remain unaffected, unchanged and unimpaired by reason of the transfer, except as expressly set forth in this Agreement.

Assignment and Assumption Agreement
Page 8

IN WITNESS WHEREOF, the parties have executed this Agreement as of
the date first above written.

OWNER:

**MASKAN DEVELOPMENT COMPANY, A
CALIFORNIA LIMITED PARTNERSHIP**

By: _____

Ali Shashani, General Partner

By: _____

Mary M. Shashani, Trustee of Shashani Family
General Partner Trust dtd 2-14-90

NEW OWNER:

By: _____

Thomas Tomanek

By: _____

Angelita Tomanek

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Page 8

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OWNER:

**MASKAN DEVELOPMENT COMPANY, A
CALIFORNIA LIMITED PARTNERSHIP**

By:


Ali Shashani, General Partner

NEW OWNER:

By:

Thomas Tomanek

By:

Angelita Tomanek

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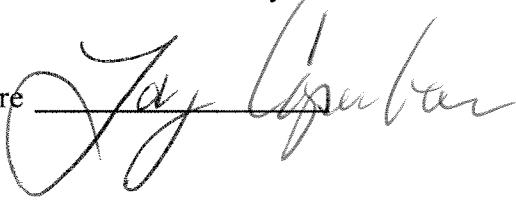
State of California }
County of ORANGE }

On JAN 12, 1998, before me, LARRY COOPENBARGER, a
Notary Public, personally appeared A/I SHASHANT

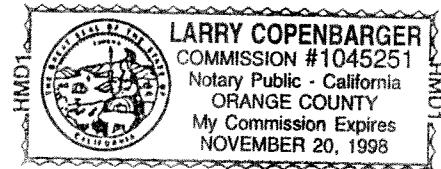
_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature



(seal)



State of California }
County of _____ }

On _____, 19____, before me, _____, a
Notary Public, personally appeared _____

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

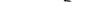
WITNESS my hand and official seal.

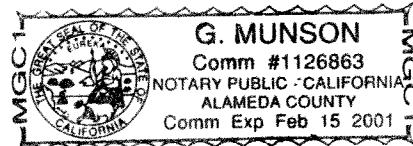
Signature _____
(seal)

Assignment and Assumption Agreement

State of California }
County of Alameda }
On 1-9, 1998, before me, G. Munson, a
Notary Public, personally appeared Thomas Tomanek and
Angelita Tomanek, personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature  John Munsen



(seal)

State of California }
County of _____ }

On _____, 19_____, before me, _____, a
Notary Public, personally appeared _____
_____, personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____
(seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

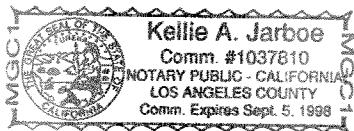
County of Los Angeles

On 1-26-98 before me, Kellie A. Jarboe, Notary Public,
Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mary M. Shashani,
Name(s) of Signer(s)

~~personally known to me~~ OR proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her~~ authorized capacity(ies), and that by ~~his/her~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.



Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Assignment and Assumption Agreement

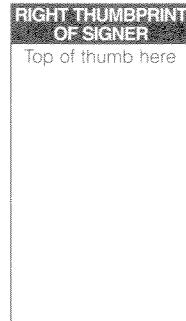
Document Date: December 2, 1997 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

Signer Is Representing:

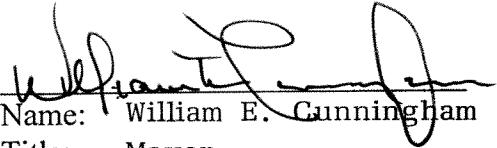
CONSENT OF ISSUER (CITY OF REDLANDS)

Pursuant to **Section 5.2** of the Loan Agreement and **Section 10** of the Regulatory Agreement, and in consideration of the foregoing assignment by the Owner and assumption by the New Owner, the undersigned hereby consents to such assignment and to the transfer of the Project to the New Owner.

Dated as of January 20, 1998.

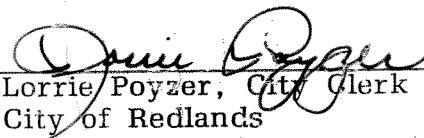
CITY OF REDLANDS

By:



Name: William E. Cunningham
Title: Mayor

ATTEST:



Lorrie Poyzer, City Clerk
City of Redlands

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF REDLANDS)

By the authority granted under Chapter 4, Article 3, Section 1181, of the California Civil Code, and Chapter 2, Division 3, Section 40814, of the California Government Code, on January 20, 1998, before me, Beatrice Sanchez, Deputy City Clerk, on behalf of Lorrie Poyzer, City Clerk of the City of Redlands, California, personally appeared William E. Cunningham and Lorrie Poyzer { X} personally known to me - or - { } proved to me on the basis of satisfactory evidence to be the persons whose names) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.



WITNESS my hand and official seal.

LORRIE POYZER, CITY CLERK

By: Beatrice Sanchez
Beatrice Sanchez, Deputy City Clerk
(909)798-7531

CAPACITY CLAIMED BY SIGNER(S)

{ } Individual(s) signing for oneself/themselves

{ } Corporate Officer(s)

Title(s) _____

Company _____

{ } Partner(s)

Partnership _____

{ } Attorney-In-Fact

Principal(s) _____

{ } Trustee(s)

Trust _____

{xx} Other

Title(s) Mayor and City Clerk

Entity Represented City of Redlands, California

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Title or Type of Document: Assignment & Assumption Agreement

Number of Pages : 14 Date of Document: December 2, 1997

Signer(s) Other Than Named Above: Maskan Development Company, Thomas and Angelita Tomanek, and Redlands Federal Bank

CONSENT OF REDLANDS

Pursuant to *Section 5.2* of the Loan Agreement and the provisions of the reimbursement and collateral security documents between Redlands and Owner, which are being assumed by the New Owner pursuant to and in accordance with a separate assumption agreement between Redlands and the New Owner, and in consideration of the foregoing assignment by the Owner and assumption by the New Owner, the undersigned hereby consents to such assignment and to the transfer of the Project to the New Owner.

Dated as of January 9th 1998.

REDLANDS FEDERAL BANK, a federal
savings bank

By:



Name: Lydia Orrantia
Title: Vice President

State of California

}

1

County of San Bernardino

On January 9th, 1997, before me, Annemarie Mead, a
Notary Public, personally appeared Lydia Orrantia

WITNESS my hand and official seal.

Signature Annemarie Mead

(seal)

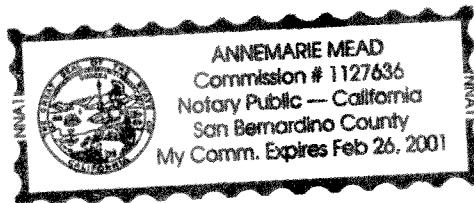


EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

All that certain real property, together with all appurtenances thereto and all improvements now or hereafter located thereon, situated in the City of Redlands, County of San Bernardino, State of California, and described as follows:

Parcel 3 of Parcel Map No. 9105, as per plat recorded in Book 95 of Parcel Maps, Pages 98 and 99, Records of said County

Project Name: Orange Village Apartments

Project Address:

A.P. No(s): 167-151-24