



January 10, 2007

Fax To: Joan Bernard, City of Mason
229-8511

From: Donna Tudor, Property Manager *Donna Tudor*

Subject: Management Agreement
(Lexington Square Apartments)

Total Sheets: 11 (including this sheet)

Attached, please find a copy of our Management Agreement, per your request.

Please let me know if you should need any additional information. Have a great day!

- PROPERTY MANAGEMENT -

MANAGEMENT AGREEMENT

This Agreement, made and entered into as of October 1, 2002, between the CITY OF MASON, OHIO, ("Owner") and MALHOTRA REAL ESTATE, INC., an Ohio Corporation ("Agent"), who hereby agree as follows:

WITNESSETH:

In consideration of the covenants herein contained, the parties agree as follows:

ARTICLE I

Appointment and Authority of Agent

1.1 Owner hereby appoints Agent as its agent to manage all of Owner's rental property located at 113 S. Mason Montgomery Road, Mason, Ohio, (the "Property"), and hereby authorizes Agent to exercise such powers with respect to the Property as may be necessary for the performance of Agent's obligations under Article II hereof, and Agent accepts such appointment on the terms and conditions hereinafter set forth. Everything performed by Agent pursuant to the provisions of this Agreement shall be done as agent of owner, and all obligations or expenses incurred and authorized hereunder shall be for the account of, on behalf of, and at the expense of Owner, except as otherwise specifically provided in this Agreement.

ARTICLE II

Agent's Agreements

2.1 Agent agrees to use its best efforts in the management and operation of the Property, to comply with Owner's accounting instructions, and in connection therewith, as Agent and on behalf of the Owner,

(a) To operate the Property as residential apartment rental units;

(b) To negotiate, for periods limited to Owner's possession of the Property, in the name and at the expense of Owner, for such services as Owner is required to furnish to the Property pursuant to applicable lease agreements; and to negotiate contracts for supplies, materials, labor and equipment for operation and maintenance of the Property, for tenant "make ready" installations and improvements, provided that all contracts be reviewed and executed by Owner.

(c) To keep the Property in a clean and sightly condition, and to make all interior repairs and changes, do all interior maintenance, and purchase all supplies, necessary for proper operation of the premises or fulfillment of Owner's obligations under any lease or compliance with governmental requirements affecting the Property; provided that Agent may hire or contract with others at Owner's expense for such work. Agent shall notify Owner immediately of the necessity for, the nature of, and the cost of, such emergency repairs and capital expenditures or compliance over \$500.00. Owner shall receive the benefit of all discounts and rebates obtainable by Agent in its operation of the Property;

(d) To handle complaints and requests from tenants, to notify Owner of any major complaint made by a tenant, and to notify Owner promptly (together with copies of supporting papers) of any notice of violation of any governmental requirements relating to the Property or of any defect in the Property; to notify owner of any fire or other damage to the Property, and to complete customary loss reports in connection with fire or other damage to the Property, and file all such reports with the insurers and Owner;

(e) To notify Owner's general liability insurance carrier and Owner promptly of any personal injury or property damage occurring to or claimed by any tenant or third party on or with respect to the Property, and to forward to the carrier any summons, subpoena or other like legal document served upon Agent relating to actual or alleged potential liability of Owner, Agent or the Property, with copies of all such documents to Owner;

(f) To receive and collect rent and all other moneys payable to Owner by all tenants and licensees and to deposit or cause to be deposited the same promptly in the Bank of choice by the City of Mason.

(g) At the expense, and with the prior written approval, of Owner, to institute all legal actions or proceedings for the collection of rent or other income from the Property or other persons therefrom. Owner reserves the right to control litigation of any character affecting or arising out of the operation of the Property;

(h) To exercise reasonable diligence to maintain, safeguard and preserve materials, equipment and supplies which at any time shall be stored on the Property;

(i) To contract with and pay at the expense of Owner any real estate leasing commissions authorized by Owner, such commissions not to exceed the prevailing rates for such services in the area in which the building with respect to which the commission is to be paid is situated; provided, however, such brokers and agents shall not be affiliated with Agent;

(j) To secure and pay for at the expense of Owner at and when needed, such advertising as may be approved by the Owner;

(k) To pay for at the expense of Owner all real estate and personal property taxes, special assessments, insurance premiums, principal and interest payments on indebtedness (if any) secured by liens on the Property, and other indebtedness relating to the Property, utility

charges relating to the Property which are payable by Owner, and all other costs and expenses relating to the ownership, operation, maintenance and leasing of the Property;

(I) To maintain and repair the interior and exterior of the building, but excluding lawn care and snow removal.

The aforesaid costs and expenses incurred by the Agent in the performance of its obligations hereunder shall be the costs and expenses of the Owner, except as otherwise expressly provided herein.

2.2 Agent agrees to render to Owner annual budgets pertaining to the Property. Agent agrees to render to Owner detailed statements in duplicate form required by Owner of receipts and disbursements (including Agent's management fees and leasing commissions) for the preceding calendar month, and to remit to Owner with each such monthly statement all receipts then in the Bank Account, less the amount reasonably deemed necessary by Agent to pay operating expenses of the Property and other amounts to be paid by Agent under the terms of this Agreement. Each monthly statement shall be supported by an itemization of and supporting data for, any sums paid out and disbursed by Agent on behalf of Owner pursuant to this Agreement, any sums paid out and disbursed to Agent as management fees and leasing commissions, and any sum retained in the Bank Account to pay operating expenses of the Property and other amounts to be paid by Agent under the terms of this Agreement. Agent agrees that Owner shall have the right to require the transfer to Owner at any time any funds in the Bank Account considered by Owner to be in excess of an amount reasonably required by Agent for disbursement purposes.

2.3 Any payments made by Agent hereunder shall be made out of such funds as may from time to time be on deposit in the Bank Account or as may be provided by Owner. Agent

shall not be obligated to make any advance to or for the account of Owner or to pay any sums except out of funds in the Bank Account, nor shall Agent be obliged to incur any liability or obligation for the account of Owner without assurance that the necessary funds for the discharge thereof will be provided. However, if Agent shall advance voluntarily for Owner's account any amount for the payment of any necessary expenses connected with the ownership, development, operation or maintenance of the Property where permitted in accordance with this Agreement, Agent shall give Owner prompt notice thereof, and Owner shall reimburse Agent therefore promptly on demand, without interest.

2.4 Agent agrees to keep proper records of all receipts and disbursements with respect to the ownership, improvement, management and operation of the Property, to retain all records for a reasonable period of time, and to deliver such records to Owner upon request. Agent shall obtain, at Agent's expense, a fidelity bond in a customary amount in view of Agent's duties hereunder insuring against losses to Owner arising out of the acts or omissions of Agent, or Agent's agents, employees, contractors and subcontractors, in connection with all receipts and disbursements with respect to the ownership, improvement, management and operation of the Property. Agent shall provide a certificate of said fidelity bond to Owner, along with renewals thereof. Owner shall have the right at any time, through its representatives and without expense to Agent, to examine the records of Agent with respect to Agent's management of the Property. In addition, Owner shall have the right, at the expense of Owner, to audit the statements required by Section 2.2 at any time.

2.5 Agent agrees to use its best efforts to have the Property rented to desirable tenants, and in connection therewith, to secure and negotiate written Leases and renewals of Leases at appropriate times, and to deliver promptly to Owner an executed copy of each such

Lease and renewal thereof. Owner hereby grants authority to Agent to negotiate Leases with substantially the rentals and other terms and conditions, and on substantially the forms, provided by Owner to Agent from time to time with respect to space in the Property. In connection with all leasing activities and in the general operation and management of the Property, Agent shall comply with any applicable fair housing and landlord-tenant laws. Agent shall keep Owner reasonably informed as to the progress of leasing negotiations, and all Leases shall be executed by Agent with respect to leasing any portion of the Property.

2.6 With respect to liabilities in connection with the Property and arising out of the agency established by this Agreement, Agent shall indemnify and save harmless Owner from and against all claims, losses and liabilities resulting from damage to property or injury to, or death of, persons, defamation and false arrest (including, but not limited to, the property and persons of the parties hereto and their agents, contractors, subcontractors and employees), or occasioned by or in connection with or arising out of acts of omissions of Agent or Agent's agents, employees, contractors and subcontractors, and from and against all litigation costs, fees and reasonable attorneys' expenses in connection therewith.

ARTICLE III

Owner's Agreement

3.1 Agent shall pay directly all taxes, special assessments, insurance premiums, and mortgage payments relating to the Property out of the monthly cash flow of the project. Owner agrees to cover any shortfall in monthly cash flow necessary to make such payments within ten (10) days of receiving notice from Agent.

3.2 Owner shall carry insurance upon the Property and shall look solely to such insurance for indemnity for any loss or damage to the Property, except losses or damages caused by Agent, and to the extent that policies shall be procured.

3.3 With respect to liabilities in connection with the Property and arising out of the agency established by this Agreement, Owner shall indemnify and save harmless Agent from and against all claims, losses and liabilities resulting from damage to property or injury to, or death of, persons, defamation and false arrest (including, but-not limited to, the property and persons of the parties hereto and their agents, contractors, subcontractors and employees), or occasioned by or in connection with or arising out of acts or omissions of Owner or Owner's agents (other than Agent), employees, contractors and subcontractors, and from and against all costs, fees and reasonable attorneys' expenses in connection therewith.

3.4 Agent shall be added to the owner's public liability policies relating to the Property as an additional named insured. Said insurance shall be maintained during the term of this Agreement in amounts of not less than \$2,000,000.00 each occurrence for personal injury, and \$1,000,000.00 for property damage, with ten (10) day notice of cancellation clause to Owner and Agent. Owner shall provide a certificate of said insurance to Agent, along with renewals thereof.

ARTICLE IV

Compensation of Agent

4.1 As compensation for the services performed by Agent pursuant to Sections 2.1 through 2.5, Owner agrees to pay Agent a base management fee equal to ten percent (10%) of the gross collected revenue derived from the Property during each month of the term of this Agreement or a flat fee of Five Hundred Dollars (\$500.00) per month, whichever is the greater payable monthly in arrears. The aforesaid compensation shall be due on the first (1st) day of the following month. If said compensation is not received by the end of the tenth (10th) day of the month, a late fee of Thirty Dollars (\$30.00) shall be imposed on Owner.

ARTICLE V

Miscellaneous

5.1 This Agreement shall continue for a minimum term of six (6) months, except as otherwise provided for in this Agreement, commencing on 1st day of October, 2002, and continuing until terminated. At the expiration of said six months, this Agreement shall continue on a month-to-month basis, subject to the terms and conditions stated herein, until terminated by either or both parties pursuant to Paragraph 5.5.

5.2 Any statement, notice, recommendation, request, demand, consent or approval under this Agreement shall be in writing and shall be deemed given by Owner when delivered personally to Agent, or three (3) days after having been mailed addressed to Agent, at 118 East Main Street, Mason, Ohio 45040, or if to Owner, when delivered personally to Owner or three

(3) days after having been mailed addressed to Owner at 202 West Main Street, Mason, Ohio 45040. Either party may, by notice in writing, designate a different address.

5.3 This Agreement embodies the entire Agreement and understanding by the parties relating to the subject matters hereof, and may not be amended, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver, or discharge is signed. This Agreement supersedes all prior agreements and memoranda.

5.4 In the event that the Owner shall sell, transfer, or convey the Property, or any part thereof, Agent agrees that this Agreement shall immediately terminate as to that portion of the Property. This entire Agreement shall likewise terminate at the option of the party as to which the condition or events referred to hereinafter have not occurred, in the event that:

(a) Owner or Agent shall default pursuant to this Agreement, and the same shall not be cured within fifteen (15) days following the sending of written notice specifying the nature of such default.

(b) Owner or Agent shall file a petition under any section or chapter of the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Owner or Agent shall be adjudged bankrupt or insolvent in proceedings filed against Owner or Agent thereunder.

(c) A receiver or trustee shall be appointed for all or substantially all of the assets of Owner or Agent and not discharged within sixty (60) days thereafter.

5.5 Notwithstanding anything to the contrary contained in this Agreement, Owner and Agent shall have the right in their sole discretion to terminate this Agreement without cause, after the initial six-month term, upon thirty (30) days notice to the other party.

5.6 Notwithstanding anything to the contrary contained in this Agreement, in the event of any termination of this Agreement by Owner, Agent shall be paid its management fees, set forth in Section 4.1 hereof, earned up to the date of the termination of this Agreement.

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

Signed in the Presence of:

Kelli R. Rastocnsak

Bruce S. Anell

Signed in the Presence of:

Judy Weise

Gloria McEvoy

Owner:
CITY OF MASON, OHIO

By: [Signature]
Title: City Manager

Agent:
MALHOTRA REAL ESTATE, INC.

By: [Signature]
Title: Property Manager

This instrument prepared by:

Thomas D. Shackleford
Attorney at Law