

MEMORANDUM OF AGREEMENT
Among the U.S. Department of Housing and Urban Development,
the New York State Historic Preservation Office,
the New York City Housing Authority and
Markham Developers LLC
regarding the redevelopment of Markham Gardens residential complex
submitted to the Advisory Council on Historic Preservation
pursuant to the National Historic Preservation Act

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act (“NHPA” or “Section 106”) (16 U.S.C. §470f) and the regulations promulgated thereunder (36 C.F.R. §800 *et. seq.*), the replacement of the Markham Gardens residential complex (“Markham Gardens”) located in Richmond County, New York, has been established as an undertaking, as such term is defined in the NHPA, in that disposition and demolition of the replacement housing site is only permitted upon prior approval of an application by the U.S. Department of Housing and Urban Development (“HUD”) pursuant to Section 18 of the Housing Act of 1937 (42 U.S.C. §1437, *et seq.*) (the “Section 18 Application”); and

WHEREAS, in the course of preparation of the Section 18 Application by the New York City Housing Authority (“NYCHA”) and the attendant environmental reviews conducted by Parsons Brinckerhoff Quade and Douglas, Inc., and Urbitran Associates, Inc., it was determined that Markham Gardens, a 12.41 acre public housing site comprised of 360 units, is eligible for inclusion in the National Register of Historic Places by the New York State Historic Preservation Office; and

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation acts as the State Historic Preservation Officer for the State of New York (“SHPO”) pursuant to NHPA § 101(b)(1); and

WHEREAS, a Request for Proposals dated August 29, 2005 (“RFP”) was released to the public advising of the proposed replacement of the existing housing development located at the Markham Gardens site with newly-constructed housing; and

WHEREAS, Markham Developers LLC (“MDL”) was selected by NYCHA and the New York City Department of Housing Preservation and Development (“HPD”) pursuant to a competitive solicitation, as the developer of a new affordable housing development to be constructed at the Markham Gardens site, the commencement of which will begin upon HUD’s approval of the Section 18 Application; and

WHEREAS, in connection with the Section 18 Application, and as required by HUD’s regulations found at 24 C.F.R. Part 970, *et. seq.*, public meetings were held on occasion during the period between April 2004 and November 15, 2006 regarding the redevelopment of Markham Gardens and such meetings were open to the public for the airing of their views and for the public’s comment on the substantive provisions,

including historic preservation issues, of this Memorandum of Agreement (“MOA”); and

WHEREAS, HUD and NYCHA have identified SHPO, the City of New York Landmarks Preservation Commission (“LPC”) and HPD as consulting parties with regulatory authority; and

WHEREAS, HUD and NYCHA have identified the Pratt Institute Center for Community and Environmental Development (“Pratt”), and the West Brighton Restoration Society (“WBRS”) as additional consulting parties due to each consulting party’s demonstrated interest in the undertaking, made known to NYCHA through each of such party’s commencement of its own review of the undertaking; and

WHEREAS, MDL and its affiliates are in the process of determining the availability and sources of funding for the replacement of the Markham Gardens housing development with newly-constructed housing, and whether funds may be available from the Federal Government and/or the government of the State of New York, and therefore SHPO will coordinate compliance with Section 106 of the NHPA and Section 14.09 of the New York States Parks, Recreation, and Historic Preservation Law of 1980, as amended, should there be any funding participation by the State of New York for the replacement of Markham Gardens; and

WHEREAS, HUD, in consultation with SHPO, has determined that the undertaking of the proposed replacement of Markham Gardens will constitute an adverse effect because the extensive and irreparable physical deterioration of Markham Gardens, based upon physical evaluations and internal NYCHA reports, requires its total demolition; and

WHEREAS, HUD and NYCHA, in reliance upon, and in consultation with, SHPO, and based upon an opinion obtained from WBRS, a report from Pratt and a Phase IA Archaeological Assessment prepared by Historical Perspectives, Inc., of the surrounding area, has identified Markham Gardens as the sole historic property within the area of potential effect; and

WHEREAS, the LPC has determined that the replacement of Markham Gardens will not have an impact on archaeological resources; and

WHEREAS, HPD and NYCHA guided and reviewed the design of the proposed replacement of the development with the participation of the public, and consulted in review and revision of the design thereof for the purpose of historic linkage to the existing open site plan and low-rise housing; and

WHEREAS, NYCHA has participated in the discussions between HUD and SHPO as they regard the replacement of Markham Gardens and has been invited to concur in this MOA; and

WHEREAS, MDL has agreed to implement the terms of this MOA as part of a Development Agreement it will enter into with NYCHA in connection with its responsibilities for the demolition of Markham Gardens and the construction of a replacement housing development.

NOW, THEREFORE, the signatories to this MOA agree to mitigate the adverse effects of the replacement of Markham Gardens, in accordance with the following stipulations.

Stipulations

HUD, in coordination with NYCHA, will ensure that the following stipulations are carried out by MDL and its heirs and assigns:

1. Upon the execution of this MOA, MDL will develop documentation and an interpretive exhibit to mitigate the adverse effects upon Markham Gardens. Such documentation will be created, installed, and maintained within the replacement housing development to be created upon the Markham Gardens site. In the event that the documentation is not completed until after the Markham Gardens site is conveyed to the MDL-affiliated owner pursuant to HUD's approval of the Section 18 Application, then, in the context of, and as a condition to, that conveyance, (a) the MDL-affiliated owner will complete all remaining responsibilities for the documentation and interpretive exhibit and (b) NYCHA will be responsible for oversight to ensure that the MDL-affiliated owner will have legal responsibility therefor.
2. In accordance with the scope of work approved by SHPO, documentation of Markham Gardens will be accomplished through photographs taken by MDL, in consultation with NYCHA, that meet the standards found in the National Park Service's "HABS/HAER Photographs: Specifications and Guidelines". The photographic documentation will provide a permanent record of Markham Gardens for use in preparing the interpretive materials discussed in this Stipulation 2 and in Stipulation 3, below. Photographic documentation is anticipated to be completed by January 15, 2006, or such other date as may otherwise be agreed upon in writing by the signatories to this MOA.
3. The narrative history of Markham Gardens to be prepared by MDL or the MDL-affiliated owner, in consultation with NYCHA, will meet the standards found in the National Park Service's "HABS/HAER Guidelines: HABS Historical Reports". It is anticipated that the narrative history will be completed by the MDL-affiliated owner on or before March 15, 2007, or such other date as may otherwise be agreed upon in writing. Four copies of a bound report of the narrative and photographic documentation will be prepared by MDL or the MDL-affiliated owner using archivally stable materials: two copies will be submitted to SHPO, one of which will

be forwarded to the New York State Museum; one copy will be offered to a Staten Island library or historical society, to be determined; and one copy will be retained on the Markham Gardens site; all copies of which shall be available to the public.

4. The on-site interpretive materials developed by MDL or the MDL-affiliated owner, in consultation with NYCHA and SHPO, will be displayed in an area located on the development site and will be accessible to residents of the new housing units and the interested public, subject to appropriate security measures. Development and installation of such interpretive materials by MDL or the MDL-affiliated owner will be completed within one (1) year of the issuance of a certificate of occupancy for the new rental housing complex or at a later date as may otherwise be agreed upon in writing by the signatories to this MOA.
5. MDL or the MDL-affiliated owner shall monitor the progress of the photographic documentation, narrative history and on-site interpretive materials for display required by Stipulations 2, 3 and 4, above. MDL or the MDL-affiliated owner shall report to all other signatories on such progress of the above described mitigation efforts quarterly beginning ninety (90) days following the execution of this MOA until the completion of such mitigation efforts.
6. In the event that additional historic properties are discovered during project implementation, MDL or the MDL-affiliated owner shall contact SHPO, the consulting parties and other signatories to this MOA to advise them of the subsequent discovery. MDL shall develop an identification and evaluation plan, and an appropriate mitigation plan in consultation with SHPO and the other parties hereto.
7. Should HUD, NYCHA, SHPO or MDL determine that the terms of this MOA cannot be, or have not been, carried out in accordance with the stipulations of this MOA, the signatories hereto shall consult to seek amendment of this MOA. If the parties cannot reach agreement on an amendment within thirty (30) days following the consultation between the signatories, any signatory may notify the Advisory Council on Historic Preservation ("ACHP") for its written comments. ACHP will provide comments within 30 days of the receipt of adequate documentation of the dispute.
8. In the event that MDL or the MDL-affiliated owner receives actual written notice, at the development site, of an objection from a member of the public to the manner in which MDL or the MDL-affiliated owner is complying with the terms of this Memorandum of Agreement, and concurrent written notification is received by NYCHA's Department for Development, Attn: Deputy Director, 250 Broadway, 24th Floor, New York, New York 10007, then MDL or the MDL-affiliated owner and NYCHA shall consult with SHPO to consider the merits of the objection and its relevance to historic preservation. MDL or the MDL-affiliated owner shall notify the signatories to this MOA in writing of the nature of the public objection and its resolution of the public objection once the matter has been discussed and concurred with by SHPO. Notification by MDL or the MDL-affiliated owner to signatories

regarding the disposition of the public objection shall include written acknowledgement from NYCHA that the matter has been satisfactorily addressed.

9. Following the execution of this MOA, should MDL or the MDL-affiliated owner receive financial assistance from HUD or another Federal agency, to assist with the Markham Gardens redevelopment project, HUD or the Federal agency can fulfill its Section 106 compliance responsibilities by accepting the terms of this MOA. HUD or the Federal agency shall notify ACHP and SHPO in writing of its intent to adhere to the terms of this MOA prior to the approval of financial assistance. In addition, HUD or the Federal agency will reference its compliance with Section 106 through acceptance of the terms of this MOA in all environmental documents prepared for the Markham Gardens redevelopment project.

Execution of this MOA by HUD and SHPO, concurrence with the terms by NYCHA and MDL, and implementation of its terms evidence that HUD has afforded ACHP an opportunity to comment on the replacement of the Markham Gardens residential complex and its effects on historic properties and that HUD has taken into account the effects of Markham Gardens on historic properties.

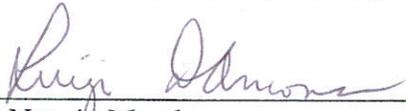
In addition, execution of this Memorandum of Agreement and implementation of its terms satisfies the review requirements of Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980, as amended, placed on New York State agencies that may now or in the future participate in Markham Gardens.

A copy of this MOA shall remain on file, and available to the public, at the former Markham Gardens' site for a period of two (2) years following its execution.

This MOA may be executed in multiple counterparts with appropriate citations and references, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

[Signatures on following page]

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By:  Date: 12/5/06
Mirza Negrón Morales,
Director, Office of Public Housing

NEW YORK STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Bernadette Castro,
State Historic Preservation Officer

NEW YORK CITY HOUSING AUTHORITY

By: _____ Date _____
Ilene Popkin,
Assistant Deputy General Manager for Development

MARKHAM DEVELOPERS LLC

By: _____ Date: _____
Matthew Schwartz,
Member

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: _____ Date: _____
Mirza Negrón Morales,
Director, Office of Public Housing

NEW YORK STATE HISTORIC PRESERVATION OFFICE

By: Bernadette Castro Dep SHPO Date: 12/16/06
for Bernadette Castro,
State Historic Preservation Officer

NEW YORK CITY HOUSING AUTHORITY

By: _____ Date: _____
Ilene Popkin,
Assistant Deputy General Manager for Development

MARKHAM DEVELOPERS LLC

By: _____ Date: _____
Matthew Schwartz,
Member

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Mirza Negrón Morales,
Director, Office of Public Housing

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By: _____ Date: _____
Bernadette Castro,
State Historic Preservation Officer

NEW YORK CITY HOUSING AUTHORITY

By:  _____ Date: 12/05/06
Ilene Popkin,
Assistant Deputy General Manager for Development

MARKHAM DEVELOPERS LLC

By: _____ Date: _____
Matthew Schwartz,
Member

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By: _____ Date: _____
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Director, Office of Public Housing

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State Historic Preservation Officer

NEW YORK CITY HOUSING AUTHORITY

By: _____ Date: _____
Ilene Popkin,
Assistant Deputy General Manager for Development

MARKHAM DEVELOPERS LLC

By:  _____ Date: 12/1/06
Matthew Schwartz,
Member