EXHIBIT A

CHARTER TOWNSHIP OF SOUTH HAVEN
VAN BUREN COUNTY, MICHIGAN

ORDINANCE NO. 175

AN ORDINANCE TO PROVIDE FOR A PAYMENT IN LIEU OF TAXES

THE CHARTER TOWNSHIP OF SOUTH HAVEN ORDAINS:

Section 1: Purpose and Findings.

A. Providing affordable housing, including rent-restricted housing, is an important public necessity and a proper public purpose for local governments. South Haven Charter Township wishes to encourage developers to build affordable housing by accepting a service charge or payment in lieu of property taxes (a "PILOT"), as authorized by the State Housing Development Authority Act of 1966, 1966 PA 356, MCL 125.1401 *et seq.*, as amended. The Township may require a PILOT up to the amount of taxes that would otherwise be due in exchange for the exemption from property taxes. The Township intends to establish a PILOT so that developers can determine if a housing project with a PILOT is economically feasible.

B. The Sponsor (as defined in Section 2) has offered to construct, own, and operate a housing project with income and rent limitations identified as "South Haven Apartment Homes," consisting of 50 housing units, on real property, particularly described in Exhibit A, in the Township. This offer is contingent on the Sponsor's receipt of a Mortgage Loan (as defined in Section 2), and/or an allocation of Section 42 low-income housing tax credits from the Michigan State Housing Development Authority.

C. The Sponsor offers to pay a PILOT to the Charter Township of South Haven in the amount of 4% of the difference between the annual shelter rents actually collected.

Section 2: Definitions.

A. Act means the State Housing Development Authority Act, Public Act 346 of 1966, as amended.

B. Authority means the Michigan State Housing Development Authority.

C. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges exclusive of utilities.

D. Housing Development means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low or

moderate income. For the purposes of this Ordinance, the name of this development is South Haven Apartment Homes and comprises 50 housing units.

E. LIHTC means low income housing tax credits.

F. Mortgage Loan means either a loan that is Federally-Aided (as defined in Section 11 of the Act), or a loan made by the Authority, the USDA-Rural Development, or the US Department of Housing and Urban Development to sponsor the construction, rehabilitation, acquisition, or permanent financing of a housing development or a mortgage loan insured by HUD, as defined by the Act.

G. Sponsor means any entity or entities that have applied to the Authority for a Mortgage Loan or applied for other government insured mortgage financing or LIHTC funds to finance a Housing Development. For the purposes of this Ordinance, the Sponsor is South Haven Apartment Homes Limited Dividend Housing Association LLC and their successors and assigns.

H. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Section 3: Class of Housing Development Exempt from Taxation.

The PILOT will apply to the Housing Development known as South Haven Apartment Homes Phases I, financed or assisted under the Act for low and moderate income housing for families.

Section 4: Establishment of PILOT.

A. The Housing Development identified as South Haven Apartment Homes, comprising 50 housing units, and the property on which it shall be constructed (described in Exhibit A) is exempt from all property taxes from and after the commencement of construction. The Charter Township of South Haven acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from property taxes and a PILOT as established in this Ordinance. The Charter Township of South Haven acknowledges that the Sponsor's performance is contingent on receipt of a Mortgage Loan from the Authority or other appropriate source, to construct, own, and operate the Housing Development, and agrees to accept payment of a PILOT. The PILOT shall be equal to four (4%) percent of the Annual Shelter Rents.

B. The Housing Development must report to the Charter Township of South Haven its Annual Shelter Rents within 120 days of the last day of the applicable calendar year.

C. The Township has the right to inspect the Housing Development's records and the right to audit and re-compute any amounts determined to be Annual Shelter Rents.

EXHIBIT A

Section 5: Limitation on the PILOT.

Notwithstanding Section 4, the PILOT for the part of the Housing Development which is tax exempt and which is occupied by individuals or households other than low and moderate income persons or families is equal to the full amount of the taxes that would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

Section 6: Contractual Effect.

To the extent permitted by law and notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the Charter Township of South Haven and the Sponsor to provide the PILOT is effectuated by enactment of this Ordinance.

Section 7: Payment Of PILOT.

The PILOT is payable in the same manner as general property taxes are payable in the Charter Township of South Haven except that the PILOT shall be paid on or before July I of each year for the previous calendar year. Collection procedures shall be in accordance with the provisions of the General Property tax Act (1893 PA 206, as amended; MCL 21 I.I, *et seq.).*

Section 8: Duration.

This Ordinance will remain in effect so long as a Mortgage Loan remains outstanding and the housing project remains subject to income and rent restrictions under the LIHTC program, and the Housing Development remains subject to the rent and income restrictions found in applicable law, provided that the construction of the first phase of the project commences within five (5) years from the effective date of this Ordinance.

Section 9: Severability.

The provisions of this ordinance are severable. If any portion of this Ordinance is declared void or unenforceable for any reason by a court of competent jurisdiction, the remainder of the Ordinance will remain in full force and effect.

Section 10: Repealer.

All ordinance or parts of ordinances in conflict with this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

Section 11: Effective Date.

This Ordinance must be published and recorded as provided by law and takes effect on the date of publication.