

DEVELOPERS AGREEMENT

This Developers Agreement is entered into this 5th day of April, 2004, by and between the NEW JERSEY MEADOWLANDS COMMISSION, ("NJMC"), an agency and body politic of the State of New Jersey, with offices at One DeKorte Plaza, Lyndhurst New Jersey, 07071, and ADVANCE RESIDENTIAL COMMUNITIES, LLC, with offices at One Gateway Center, Suite 230, 11-43 Raymond Plaza West, Newark, N.J., 07102, and any subsidiaries, assignee(s), or transferee(s) thereof (the "Developer") (sometimes collectively referred to as the "Parties")

WHEREAS, the NJMC has the authority to investigate and determine if an area within its jurisdiction is an area in need of redevelopment; and

WHEREAS, on June 25, 2003, the Commission adopted Resolution No. 03-48, authorizing NJMC staff to conduct a preliminary investigation of property located at Block 228, Lot 3, located in the Township of Lyndhurst, and to conduct a public hearing to determine if the property satisfied the statutory criteria as an area in need of redevelopment; and

WHEREAS, a public hearing was conducted on September 3, 2003 by the NJMC to fulfill the mandate as set forth above, as part of its investigation to determine if the aforesaid property was an area in need of redevelopment; and

WHEREAS, a staff report was issued following the public hearing, which recommended that the Commission declare that Block 228, Lot 3, located in the Township of Lyndhurst be determined as an area in need of redevelopment, and to authorize NJMC staff to proceed with the preparation of a redevelopment plan for the area; and

WHEREAS, on September 29, 2003, the Commission adopted Resolution 03-67 adopting the aforesaid findings and recommendations, and directed the NJMC staff to proceed to prepare a redevelopment plan for the property in question; and

WHEREAS, the NJMC staff proceeded to prepare a redevelopment plan for the property in question, and conducted a public hearing on the proposed plan on December 9, 2003 to present the proposed plan and to receive oral and written comments from the public; and

WHEREAS, the NJMC staff issued a report, in which it was recommended to the Commission that the Redevelopment Plan be adopted for the property in question; and

WHEREAS, on December 17, 2003 the Commission voted to adopt the Redevelopment Plan for the property located at Block 228, Lot 3, in the Township of Lyndhurst; and

WHEREAS, the Developer submitted an application to the NJMC to redevelop the property in a manner consistent with the requirements and specifications set forth in the Redevelopment Plan; and

WHEREAS, the NJMC issued a Conditional Zoning Certificate dated January 12, 2004, conditionally approving the application and related plans for a five story building containing 350 residential units, a six story parking garage and related site improvements; and

WHEREAS, pursuant to the aforesaid Certificate and Section IV.D.1.h. of the aforesaid Redevelopment Plan, the Developer is required to enter into this developers agreement with the NJMC to address and memorialize the issues set forth in Attachment A to the Conditional Zoning Certificate.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and agreements as set forth herein, the Parties hereto agree as follows:

1. Conditional Zoning Certificate. The Conditional Zoning Certificate, which is attached hereto as Exhibit A, and the contents of which are incorporated herein by reference, permits the Developer, and any successors and assigns to the Developer, upon satisfaction of the conditions set forth therein, to proceed with the aforesaid development as described therein and reflected in the plans as summarized in Attachment B to the aforesaid Certificate.
2. Conditions. By way of elaboration upon the conditions set forth therein which the Developer is required to satisfy, the Developer agrees to perform the following tasks:
 - A. A Plan Release for any and all building construction shall not be issued by the NJMC for the building(s), or part thereof, unless the applicant has submitted to the NJMC copies of all permit applications, reports and studies, required by and submitted to the New Jersey Department of Transportation ("NJDOT") for the purpose of identifying the necessary traffic infrastructure improvements required to support the proposed development, including but not limited to the installation of a traffic light at the intersection of Wall Street West and the Route 3 Service Road.
 - B. A final or temporary Certificate of Completion and/or Occupancy Certification, or a Certificate of Approval, shall not be issued by the NJMC for the building(s), or part thereof, until such time that the applicant has:
 - a) installed all NJDOT required and approved traffic signalization at the intersection of Wall Street West and the Route 3 Service Road, and b) constructed all NJDOT required and approved traffic infrastructure improvements.
 - C. The applicant shall prepare an analysis of the downstream storm drainage system within Wall Street West and Chubb Avenue and the effects of the project on said system, as required by Section IV. D. 1.vi.(1) of the Land Use Standards of the "Redevelopment Plan". In addition to determining the capacity of the drainage system, the analysis shall also include an assessment of the condition (structural and maintenance) of the existing storm sewers, discharge pipe, headwall and outlet protection below the manhole noted in "Storm Drainage System Analysis" report as J3, which is located downstream of Storm Manholes J1 and J11 as labeled on "Utility Plan", Sheet UP-1 prepared by McNally Engineering dated 12/5/03, last revised 1/7/04. The applicant shall install the necessary improvements to the storm drainage

system as identified in the analysis, with the approval of the Municipal Engineer.

- D. Prior to the issuance of a Certificate of Completion and/or Occupancy Certification, or a Certificate of Approval, the applicant shall either arrange for improvements to raise the elevation of Wall Street West from the northernmost driveway to the intersection with the Route 3 Service Road to an elevation of approximately 8.3 feet, in order to provide safe access for residents and emergency vehicles during period of heavy flooding, to be completed as a public improvement by the Town of Lyndhurst, with the applicant paying its fair assessment for the street improvement work, or failing that, the applicant shall be obligated to finish the work itself before issuance of a Certificate of Completion and/or Occupancy Certification, or a Certificate of Approval.
 - E. As required by CZM Condition No. 5, the Developer submitted the revised Cost/Benefit analysis and the NJMC has reviewed and accepted same.
3. Roadway Improvements. The applicant shall install all NJDOT required and approved traffic signalization at the intersection of Wall Street West and the Route 3 Service Road and construct all NJDOT required and approved traffic infrastructure improvements. Should the NJDOT determine that, after evaluation of the aforesaid application referenced above in Sections 2A and 2B, that the installation of a traffic light at the intersection of Wall Street West and the Route 3 Service Road is not warranted at this time, then the Developer shall pay, within thirty (30) calendar days of such a determination by the NJDOT, the sum of \$200,000.00 to either the NJDOT or the NJMC to be held in trust for the sole purpose of contributing toward the cost of such a traffic signal. The Developer shall, as part of the improvements to this area, include the necessary underground infrastructure for the future installation of such a traffic light.
4. Affordable Housing. The Developer shall provide for affordable housing by entering into a separate agreement with the Township of Lyndhurst, in accordance with either: (1) the provisions set forth in Section IV.C.1.(c) of the Redevelopment Plan, which provides the Developer with the option of providing units or making a contribution toward a Regional Contribution Agreement to be entered into between the Township and a receiving municipality; or, again at its option, (2) entering into an agreement with the Township to pay a residential development fee in accordance with a duly adopted ordinance pursuant to COAH guidelines and regulations in effect at the time. The Developer acknowledges that Town of Lyndhurst is in the process of applying for COAH certification and will adopt an ordinance to collect residential development fees. In the event that the Town of Lyndhurst does not become certified and adopt a fee collection ordinance then the Developer shall enter into an agreement with the NJMC if and when statutory legislation permits same. Proof of such payments under any agreement entered into between the Township and the Developer shall be made within ten (10) calendar days of the date of tender of such payment. Should the Developer choose to enter into one of the aforesaid agreements, proof of such payment shall be made prior to the issuance of a

Certificate of Occupancy. Notwithstanding anything to the contrary herein the Developer acknowledges that the Town of Lyndhurst is a third party beneficiary with the right to enforce the provisions of this paragraph and that the aforesaid obligations shall survive the termination of this agreement. The Developer has the right to enter into negotiations with the Township immediately to pursue the options as described above, and has the right to conclude such and enter into an agreement with the Township pending adoption of any residential development fee ordinance.

5. Notices. A notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by national overnight courier with delivery confirmation, or by facsimile transmission (evidenced by printed confirmation of receipt specifying the receiving telephone number) or delivered personally (with written acknowledgment of receipt) to the parties at the following respective addresses or facsimile numbers:

If to the New Jersey Meadowlands Commission, to:

Attn: Sharon Mascaro
Chief Engineer
New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

and if to Developer, to:

Mr. Clark Hamilton
Advance Residential Communities
One Gateway Center – Suite 230
11-43 Raymond Plaza West
Newark, New Jersey 07102

with a copy to:

Scarinci & Hollenbeck, LLC
1100 Valley Brook Avenue
P.O. Box 790
Lyndhurst, NJ 07071-0790
Attention: Kenneth J. Hollenbeck, Esq. and Patrick J. McNamara, Esq.

Either party may from time to time by written notice given to the other pursuant to the terms of this section change the address, facsimile number or persons to which notices shall be sent.

6. Amendment; Waiver. No alteration, amendment or modification of this Agreement shall be valid unless executed by an instrument in writing by the parties hereto with the same formality as this Agreement. The failure of the NJMC or Developer to insist in any one or more instances upon the strict performance of any of the

covenants, agreements, terms, provisions or conditions of this Agreement or to exercise any election contained in this Agreement shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by the NJMC, Developer of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of Developer and the NJMC.

7. Consents. Unless otherwise specifically provided herein, no consent or approval by the NJMC or Developer permitted or required under the terms of this Agreement shall be valid or be of any force whatsoever unless the same shall be in writing, signed by an authorized representative of the party by or on whose behalf such consent is given.
8. Captions. The captions of this Agreement are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of the articles, sections, exhibits, definitions, or other provisions hereof.
9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, without giving effect to any principal of choice of laws.
10. Severability. If any article, section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining article, section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that no such severance shall serve to deprive either party of the enjoyment of its substantial benefits under this Agreement.
11. Binding Effect. Except as may otherwise be provided in this Agreement to the contrary, this Agreement and each of the provisions hereof shall be binding upon and inure to the benefit of Developer, the NJMC and their respective successors and assigns. The Parties represent that each has the power to enter into this Agreement, and constitutes a binding and valid obligation on the Parties as well as any respective successors and assigns. This Agreement is not prohibited by and does not conflict with any other agreements to which the Parties have entered into concerning the proposed development of the aforesaid property.
12. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Developer and the NJMC, their relationship being solely as Parties under this Agreement.

13. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute, in connection with each of such agreements, one and the same instrument.
14. Prior Agreements Superseded. This Agreement, in concert with CZC-03-749 issued 1/12/04, supersedes any prior understanding or written or oral agreements (express or implied) between the parties respecting the within subject matter. This Agreement, together with any other documents executed by the parties contemporaneously herewith or therewith, contains the entire understanding between the parties with respect thereto.
15. Assignment. Should the Developer elect to assign the approvals set forth in CZC-03-749, and as also articulated herein, the Developer and Assignee shall notify the NJMC in writing of the assignment within five (5) business days of said assignment. The Developer shall provide a copy of this Agreement to any potential Assignee. Upon such assignment it shall be the responsibility of the Assignee to notify the NJMC in writing, within five (5) business days of the assignment, that Assignee accepts the terms and conditions as set forth in this Developers Agreement and agrees to be bound hereto. Upon tender of same by the Assignee to the NJMC, the Developer shall then be released by NJMC from its obligations under this Developers Agreement.
16. Termination. This Agreement shall expire upon installation of the required improvements and the issuance of a final Certificate of Completion from the NJMC.

IN WITNESS WHEREOF, the Developer and NJMC have executed this Agreement to be effective as of Effective Date.

NEW JERSEY MEADOWLANDS COMMISSION

By: 
Sharon Mascaró, Chief Engineer

ADVANCE RESIDENTIAL COMMUNITIES

By: 
Clark Hamilton



New Jersey Meadowlands Commission

1 DeKorte Park Plaza Lyndhurst, NJ 07071 Phone: 201-460-1700 Fax: 201-372-0161
www.njmeadowlands.gov

CONDITIONAL ZONING CERTIFICATE

March 31, 2005

File # 04-720, AvalonBay Communities/ Apartment Building
Block 228, Lot 3
1301 Wall St West
Township of Lyndhurst

OWNER

Jon Vogel
AvalonBay Communities, Inc.
Route 1 South, Suite 5500
Iselin, NJ
08830

APPLICANT/CONTACT

Jon Vogel
AvalonBay Communities, Inc.
Route 1 South, Suite 5500
Iselin, NJ
08830

- | | | | | |
|--|---------------------------------|--|---|--|
| <input checked="" type="checkbox"/> New Building | <input type="checkbox"/> Tanks | <input type="checkbox"/> Recycling Areas | <input type="checkbox"/> Towers | <input type="checkbox"/> Interior Alteration related to Use Change |
| <input type="checkbox"/> Additions | <input type="checkbox"/> Fences | <input type="checkbox"/> Antenna | <input checked="" type="checkbox"/> Site Improvements | |

This Office has recently completed its review of your zoning certificate application and related plans for a 4-story building containing 328 residential units, a 6-story parking garage and related site improvements.

Based on our review, we have determined that the application conditionally complies with the Commission's Block 228, Lot 3 Redevelopment Area regulations, and we are therefore approving your Conditional Zoning Certificate with the condition(s) listed in Attachment A.

This letter shall serve as your Conditional Zoning Certificate, designated CZC-04-720, and shall be valid for a period of one year.

THIS IS NOT AN APPROVAL TO START CONSTRUCTION. Applications must be made to the Township of Lyndhurst for a building permit.

Please find enclosed a copy of the approved plan(s). A description of the approved plan(s) are listed in Attachment B.

The applicant is hereby advised of his responsibility to investigate and obtain all federal, state and local permits which may pertain to his proposal or project. The New Jersey Meadowlands Commission will not be held liable for any damage which may result from the applicant's failure to obtain the approvals from all respective agencies having jurisdiction. This Office must receive copies of all federal, state, and local permits which may pertain to the proposal before it will issue a Certificate of Completion. If this file is related to the construction of new buildings and additions, please find enclosed a partially completed Elevation Certificate which must be completed by a Professional Land Surveyor and returned to this Office together with a signed and sealed as-built plan before a Certificate of Completion is issued.

Any person who claims to be aggrieved by this decision may request an appeal pursuant to N.J.A.C. 19:4-4.19. A written request for such an appeal must be filed, by certified mail, with the Executive Director within fifteen (15) days of the date of this decision. The request for an appeal shall specify the grounds therefore. Upon grant of the request for an appeal, the Executive Director or his designee shall transmit the matter to the Office of Administrative Law for a hearing.

If there are any questions regarding this approval, please contact Brandon Alviano of this Office at (201) 460-4616.

If you should have any questions regarding the building permit process, please contact Ralph Venturini of this Office at (201) 460-4639.

RECOMMENDED BY:

Brandon Alviano
Staff Planner

APPROVED BY:

Sharon A. Mascaró, P.E.
Chief Engineer

cc: Mark Sadonis, Lyndhurst
Construction Official

HMMC
Kara A. Kaczynski, Esq., Scarinci & Hollenbeck, LLC
Michael B. McNally, P.E.
G.Niles Bolton, AIA
Bartholomew Lipinski, L.A.



New Jersey Meadowlands Commission

1 DeKorte Park Plaza Lyndhurst, NJ 07071 Phone: 201-460-1700 Fax: 201-372-0161
www.njmeadowlands.gov

ATTACHMENT A

March 31, 2005

File # 04-720, AvalonBay Communities/ Apartment Building
Block 228, Lot 3
1301 Wall St West
Township of Lyndhurst

1. The applicant shall adhere to the terms and conditions set forth in the Developer's Agreement between the New Jersey Meadowlands Commission and Advanced Residential Communities, LLC, dated April 5, 2004, and accepted and agreed to by AvalonBay Communities on May 19, 2004, as enclosed herewith.



New Jersey Meadowlands Commission

1 DeKorte Park Plaza Lyndhurst, NJ 07071 Phone: 201-460-1700 Fax: 201-372-0161
www.njmeadowlands.gov

ATTACHMENT B

March 31, 2005

File # 04-720, AvalonBay Communities/ Apartment Building
Block 228, Lot 3
1301 Wall St West
Township of Lyndhurst

Please find enclosed a copy of the approved plan(s) as follows:

Plans prepared by Michael B. McNally, P.E., dated 12/17/04, titled and revised as follows:

1. "Title Sheet", Drawing No. TS-1, revised through 2/16/05.
2. "Site Plan", Drawing No. SP-1, revised through 3/21/05.
3. "Grading Plan", Drawing No. GP-1, revised through 3/21/05.
4. "Drainage & Utility Plan", Drawing No. UP-1, revised through 3/21/05.
5. "Courtyard Details 1, 2&3 (Grading)", Drawing No. CY-1, revised through 2/16/05.
6. "Courtyard Details 4, 5&6 (Grading)", Drawing No. CY-2, revised through 2/16/05.
7. "Courtyard Details 1, 2&3 (Drainage & Utilities)", Drawing No. CY-3, revised through 2/16/05.
8. "Courtyard Details 4, 5&6 (Drainage & Utilities)", Drawing No. CY-4, revised through 2/16/05.
9. "Profiles and Cross Sections", Drawing No. PS-1, revised through 2/16/05.
10. "Soil Erosion and Sediment Control", Drawing No. SE-1, revised through 3/21/05.
11. "Retaining Wall Plan", Drawing No. WP-1, revised through 3/21/05.
12. "Retaining Wall Plan & Detail", Drawing No. WS-1, revised through 3/21/05.
13. "Construction Details", Drawing No. CD-1, revised through 3/16/05.
14. "Construction Details", Drawing No. CD-2, revised through 2/16/05.

Plans prepared by G. Niles Bolton, AIA, titled and dated as follows:

1. "Site Plan", Drawing No. A1.1 (for open space) dated 12/17/04.
2. "Building Section", Drawing No. A2.1, dated 12/17/04.
3. "Building Elevations", Drawing No. A4.1, dated 12/17/04.
4. "Building Elevations", Drawing No. A4.2, dated 12/17/04.
5. "Building Elevations", Drawing No. A4.3, dated 12/17/04.
6. "Building Elevations", Drawing No. A4.4, dated 12/17/04.
7. "Ground Level Building Plan", Drawing No. A5.1, dated 3/23/05.
8. "Level 2-4 Building Plan", Drawing No. A5.2, dated 3/23/05.
9. "Level 5 Building Plan", Drawing No. A5.3, dated 3/23/05.
10. "Level 6 Building Plan", Drawing No. A5.4, dated 3/23/05.
11. "Parking Deck Sections & Details", Drawing No. A5.5, dated 3/23/05.
12. "Parking Deck Level 1 Photometrics", Drawing No. A5.06A, dated 3/23/05.
13. "Parking Deck Levels 2-4 Photometrics", Drawing No. A5.06B, dated 3/23/05.
14. "Parking Deck Level 5 Photometrics", Drawing No. A5.06C, dated 3/23/05.
15. "Parking Deck Level 6 Photometrics", Drawing No. A5.06D, dated 3/23/05.

Plans prepared by Bartholomew J. Lipinski, L.A., dated 12/17/04, titled and revised as follows:

1. "Landscape Plan", Sheet L1, revised through 3/23/05.
2. "Lighting Analysis and Details", Sheet L2, revised through 3/23/05.
3. "Planting Details", Sheet L3, revised through 3/23/05.
4. "Details and Notes", Sheet L4, revised through 3/23/05.

**FIRST AMENDMENT TO THE DEVELOPERS AGREEMENT
ASSIGNMENT AGREEMENT**

THIS FIRSTAMENDMENT TO THE DEVELOPERS AGREEMENT dated as of March 28, 2008 (this "Amendment"), by and among AVALON BAY COMMUNITIES, INC., (the "Avalon Bay") and NEW JERSEY MEADOWLANDS COMMISSION, a state agency formed under the laws of New Jersey ("NJMC").

WHEREAS, Advanced Residential Communities, LLC, with offices at One Gateway Center ("Advanced Residential" or "Developer"), and the NJMC are parties to that certain Developers Agreement entered into on April 5, 2004 (the "Agreement"); and

WHEREAS, Advanced Residential and Avalon Bay executed an Assignment of Rights on May 19, 2004 ("Assignment of Rights"), in connection with any and all agreements, permits, and approvals related to the contemplated purchase and sale of by Advanced Residential to Avalon Bay of property in Lyndhurst, New Jersey designated as Block 228, Lot 3 (the "Property") including the Conditional Zoning Certificate issued by the NJMC on January 12, 2004, and the Agreement; and

WHEREAS, Advanced Residential and the NJMC executed a letter agreement dated May 19, 2004 ("Assignment Letter"), acknowledging Advanced Residential's acceptance of the terms and conditions as set forth in the Agreement and notifying NJMC of the same; and

WHEREAS, the Assignment of Rights, attached hereto as Exhibit A to this Amendment, and the Assignment Letter, attached hereto as Exhibit B to this Amendment constitute the assignment of rights and obligations contemplated under Section 15 "Assignment" of the Agreement; and

WHEREAS, the parties to the Agreement wish to amend it pursuant to the terms of this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendments to Agreement. The Agreement is hereby amended by deleting Section 3 in its entirety and substituting in lieu thereof the following:

3. Roadway Improvements. The applicant shall install all NJDOT required and approved traffic signalization at the intersection of Wall Street West and the Route 3 Service Road and construct all NJDOT required and approved traffic infrastructure improvements. The Developer shall, as part of the improvements to this area, include the necessary underground infrastructure for the future installation of such a traffic light. Should the NJDOT determine that, after evaluation of the aforesaid application referenced above in Sections 2A and 2B of the Agreement, that the installation of a traffic light at the intersection of Wall Street West and the Route 3 Service Road is not warranted, then the Developer shall pay, within thirty (30) calendar days of the signing of this Amendment, the sum of \$200,000.00 to the NJMC to be held in trust for the sole purpose of contributing toward the cost of a shuttle bus service to run within the Lyndhurst Area between major nodes of public transportation.

Section 2. Assignment. The parties hereto acknowledge and agree that the Assignment of Rights, attached hereto as Exhibit A to this Amendment, and the Assignment Letter, attached hereto as Exhibit B to this Amendment shall constitute the assignment of rights and obligations contemplated under Section 15 "Assignment" of the Agreement and that the Assignment of Rights and the Assignment Letter shall be binding upon and shall inure to the benefit of the parties hereto, and that as a result of the foregoing Avalon Bay is bound by the entire Agreement to the same extent as the Developer and that all references in the entire Agreement to the Developer shall be deemed to references to Avalon Bay.

Section 3. No Waiver; References to the Agreement. Except to the extent inconsistent herewith, nothing contained herein shall be deemed to constitute a waiver of compliance with any term or condition contained in the Agreement. The Developer and the NJMC reserve all rights, privileges and remedies under the Agreement.

Section 4. Benefits. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

Section 5. Severability. In case any provision of or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or

of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 6. Headings. Headings and captions used in this Amendment are included for convenience of reference only and shall not be given any substantive effect.

Section 7. Governing Law. The interpretation and performance of this Amendment and each of its provisions shall be governed and construed in accordance with the laws of the State of New Jersey, excluding any choice of law of any other jurisdiction. The Parties hereby submit to the exclusive jurisdiction of the courts of the courts of the State of New Jersey.

Section 8. Counterparts; Integration. This Amendment may be executed and delivered via facsimile with the same force and effect as if an original were executed and may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures hereto were upon the same instrument. This Amendment constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Developers Agreement to be executed as of the date first above written.

NEW JERSEY MEADOWLANDS COMMISSION

By: Nicholas Ayre
Name: Nicholas Ayre
Title: Chief Engineer
Deputy Director LUM

AVALONBAY COMMUNITITES, INC.

By: Samuel S. Lull
Name: Samuel S. Lull
Title: Vice President

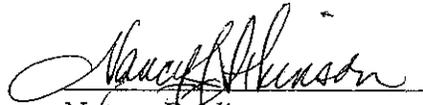
ACKNOWLEDGMENT

STATE OF NEW JERSEY)

COUNTY OF Middlesex :

ss.:

BE IT REMEMBERED that on this 28th day of March, 2008, before me, the subscriber, a Notary Public, personally appeared Ronald S. Ladell, who I am satisfied, is the Vice President of AvalonBay Communities, Inc., the corporation named in and which executed the foregoing instrument and he is the person who signed this instrument for and on behalf of said corporation, and he acknowledged that said instrument was made by said corporation and sealed with its corporate seal as the voluntary act and deed of said corporation.


Notary Public

NANCY J. ATKINSON
Notary Public of New Jersey
My commission expires May 16, 2008

Exhibit A

ASSIGNMENT OF RIGHTS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in connection with the closing of the purchase and sale contemplated by the Purchase and Sale Contract between Advance Residential Communities, LLC ("Assignor") and AvalonBay Communities, Inc. ("Assignee") of property in Lyndhurst, New Jersey designated as Block 228, Lot 3 (the "Property"), Assignor hereby assigns, transfers and sets over unto Assignee, without representation, warranty or recourse (except as provided for below), all of the Assignor's right, title and interest in and to any and all permits, approvals, licenses, authorizations, warranties, guarantees and other rights in which Assignor has any interest and which benefit or are appurtenant to the Property, including, without limitation, the Conditional Zoning Certificate, dated January 12, 2004, issued by the New Jersey Meadowlands Commission ("NJMC") (File No. 03-749), the Developers Agreement, dated April 5, 2004, entered into between NJMC and Assignor, and the Permit to Construct and Operate Treatment Works (Permit No. 04-0178), issued on April 6, 2004 by the New Jersey Department of Environmental Protection.

Assignor warrants and represents to Assignee that it has not encumbered any of the property, or property rights assigned hereby.

IN WITNESS WHEREOF, the Assignor has signed this Assignment by its duly authorized parties on this 19th day of May, 2004.

ADVANCE RESIDENTIAL COMMUNITIES, LLC

By: Advance Realty Group, LLC

By: _____
Gregory N. Senkevitch
Chief Operating Officer

Exhibit B

ADVANCE RESIDENTIAL COMMUNITIES, LLC
One Gateway Center -- Suite 230
11-43 Raymond Boulevard West
Newark, New Jersey 07102

AVALONBAY COMMUNITIES, INC.
517 Route One South -- Suite 5500
Iselin, New Jersey 08830

May 19, 2004

New Jersey Meadowlands Commission
One DeKorte Plaza
Lyndhurst, New Jersey 07071

Re: Developers Agreement dated April 5, 2004
between the New Jersey Meadowlands Commission ("NJMC")
and Advance Residential Communities, LLC
Block 228, Lot 3, Lyndhurst, New Jersey

Gentlemen:

This will advise that the aforesaid Developers Agreement has been assigned, on this date, by Advance Residential Communities, LLC ("Advance") to AvalonBay Communities, Inc. ("Avalon").

Advance has provided to Avalon a copy of the Developers Agreement.

Avalon hereby notifies NJMC that it accepts the terms and conditions set forth in the Developers Agreement and agrees to be bound thereto.

Sincerely,

ADVANCE RESIDENTIAL COMMUNITIES, LLC
By: Advance Realty Group, LLC

By: 

Gregory N. Senkevitch, COO

AVALONBAY COMMUNITIES, INC.

By: 

Ronald S. Galt, Vice President - Development

413434

(40132871 1)