

FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAM[®]
AFFORDABLE HOUSING PROGRAM
RETENTION DOCUMENTS

Declaration of Restrictive Covenant

FOR USE WITH FHA LOANS ONLY

REMOVE THIS NOTICE AND THE INSTRUCTION PAGE BEFORE RECORDING THIS DOCUMENT

The Federal Home Loan Bank of New York requires that the following documents, in form fillable pdf format, be executed at the closing of an FHA-insured loan receiving a Federal Home Loan Bank of New York Affordable Housing Program Set-aside (“AHP”) subsidy. The Declaration of Restrictive Covenant replaces the Subordinate Mortgage that otherwise applies for an AHP subsidy.

- Declaration of Restrictive Covenant
- Certification of Intent to Record

PARTICIPATING MEMBER INSTITUTIONS ARE REQUIRED TO COMPLETE AND RECORD THE ATTACHED DECLARATION OF RESTRICTIVE COVENANT.

BY PROVIDING MEMBER INSTITUTIONS WITH THE ATTACHED DOCUMENT, THE FEDERAL HOME LOAN BANK OF NEW YORK IS NOT PROVIDING LEGAL ADVICE TO PARTICIPATING MEMBER INSTITUTIONS. THE FEDERAL HOME LOAN BANK OF NEW YORK STRONGLY SUGGESTS THAT MEMBER INSTITUTIONS CONSULT LEGAL COUNSEL TO ENSURE FULL COMPLIANCE WITH RECORDING REQUIREMENTS AND ALL OTHER APPLICABLE LAWS, INCLUDING FHA-HUD REQUIREMENTS.

NO MODIFICATIONS TO THIS DOCUMENT ARE PERMITTED WITHOUT THE PRIOR WRITTEN CONSENT OF THE FEDERAL HOME LOAN BANK OF NEW YORK.



Federal Home Loan Bank
NEW YORK

**FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAM[®]
AFFORDABLE HOUSING PROGRAM**

INSTRUCTIONS

1. Complete the “Certification of Intention to Record” the Declaration of Restrictive Covenant.
2. Declaration of Restrictive Covenant:
 - a. Top of First Page: Fill in Member Name, Address, and name of person to whom the document should be directed.
 - b. Fill in Introductory Paragraph.
 - c. Fill in information required by the third “Whereas” clause.
 - d. Fill in Member Institution name, address and contact information in section 1.b.
 - e. Type in Declarant(s)’ Name(s) under the signature lines.
 - f. Complete Notary Acknowledgement.
 - g. Attach Legal Description of the subject property.

NMLS ID #: _____

NMLS NAME: _____

**FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAM[®]
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**CERTIFICATION OF INTENTION TO RECORD
DECLARATION OF RESTRICTIVE COVENANT**

MEMBER: _____

DECLARANT: _____ **FHC or HDP #** _____

PROPERTY ADDRESS: _____

Title Number: _____

Title Company: _____

Attached is a copy of a Declaration of Restrictive Covenant that encumbers the above-referenced property.

The original of this Declaration of Restrictive Covenant is being taken from the closing for public recording on

Date

**Name of Title Company, Law Firm or
Federal Home Loan Bank of New York Member**

Signature of Authorized Representative

Printed Name

Date

After Recording, Return to:

FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAM[®]

AFFORDABLE HOUSING PROGRAM

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (“Declaration”) for the Federal Home Loan Bank of New York (“FHLBNY”) Affordable Housing Set-aside Program (“AHP”) funds is made on _____ (the “Closing Date”) by _____ (the “Declarant”), residing at _____, in favor of _____ (the “Member”), organized and existing under the laws of _____, with an office located at _____.

WITNESSETH

WHEREAS, Declarant is a participant in one of the Affordable Housing Programs (“AHP”), the First Home ClubSM (“FHC”) or the Homebuyer Dream Program[®] (“HDP”), of the FHLBNY whereby the FHLBNY provides, through its Members, a subsidy for down payment and closing cost assistance to an eligible first-time homebuyer purchasing a home;

WHEREAS, the FHLBNY is providing AHP funds to the Declarant through the Member for the purchase of a home by the Declarant, which shall be used as the Declarant’s primary residence;

WHEREAS, Declarant is indebted to the Member in the amount of \$_____, which are subsidy funds (the “Subsidy”) under the FHLBNY AHP Set-aside Program provided through the Member, for the purchase of certain real property located in the County of _____, City of _____, State/Commonwealth of _____, and Zip Code _____ which property is designated as Block _____, Lot _____ on the Tax Map for such County and is also known by the street address of _____, as more particularly described in Exhibit A attached hereto (such real property together with all improvements now or hereafter erected thereon, being hereinafter referred to as the “Property”);

WHEREAS, the FHLBNY has agreed to provide the Subsidy to the Declarant through the Member pursuant to the AHP Implementation Plan, AHP policies, procedures, guidelines, and instructions, and the Federal Housing

Finance Agency's Affordable Housing Program Regulations (12 CFR Part 1291), as may be amended from time to time (the "AHP Regulations," and collectively, the "AHP Requirements");

WHEREAS, the Member has determined that the Declarant meets the definition of an eligible home buyer as defined by FHLBNY and as provided by the AHP Requirements;

NOW, THEREFORE, Declarant agrees to maintain ownership and reside in the Property as a primary residence for a period of five (5) years ("Retention Period") from the Closing Date and further agrees as follows:

1. The FHLBNY and the Member shall be given prompt written notice of a sale, refinancing, or transfer of the Property during the Retention Period.

a. Notice to the FHLBNY shall be provided by first-class mail to the following address:

Federal Home Loan Bank of New York

Attention: General Counsel

101 Park Avenue

New York, New York 10178

b. Notice to the Member shall be provided by first-class mail to the following address:

2. Pursuant to the AHP Requirements, if an owner-occupant decides to sell, transfer, assign the title or deed, or refinance his or her AHP-assisted unit during the retention period, a portion of the Subsidy may need to be repaid to the FHLBNY. If any one of the following conditions provided in the AHP Requirements are met, the household will have fulfilled the conditions of the Declaration of Restrictive Covenant and a portion of the Subsidy may not need to be repaid:

- a. The Property was assisted with a permanent mortgage loan funded by an AHP subsidized advance.
- b. The subsequent purchaser, transferee, or assignee is a low-or moderate- income household, as determined by the FHLBNY pursuant to the AHP Requirements.
- c. The portion of the AHP Subsidy required to be repaid under the AHP Requirements is \$2,500 or less.
- d. Following a refinancing, the Property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism in compliance with the AHP Requirements.
- e. Following an event of foreclosure, transfer by deed-in-lieu of foreclosure, an assignment of a Federal Housing Administration first mortgage to HUD, or death of the AHP-assisted homeowner.

3. The Declarant and the Member each agree that the FHLBNY is an intended third party beneficiary of this Declaration and is entitled to rely upon all rights, representations, warranties, and covenants made by Declarant herein to the same extent as if FHLBNY were the Member hereunder.
4. This Declaration shall become effective upon execution by Declarant and shall terminate upon expiration of the 5-year Retention Period unless the Declaration is otherwise terminated.
5. All provisions of this Declaration are hereby declared covenants running with the land and are fully binding on Declarant and its successors, heirs, assigns, legal representatives, lessees and transferees, including, without limitation, any owners and/or users of the Property.

[SIGNATURE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year set forth above.

By: _____ By: _____
(Declarant) (Declarant)

(Print Name) (Print Name)

STATE/Commonwealth of _____ ss.:
COUNTY OF _____

On the _____ day of _____ in the year _____ before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

WITNESS my hand and official seal,

Notary Expires: _____

State of _____ County of _____

EXHIBIT A

LEGAL ADDRESS OF PROPERTY:

**LEGAL DESCRIPTION OF PROPERTY
(SEPARATE ATTACHMENT)**