



AGENDA REPORT

Meeting Date: October 20, 2015
Item Number: E-17
To: Honorable Mayor & City Council
From: James R. Latta, Human Services Administrator
Subject: APPROVE AN APPROPRIATION IN THE AMOUNT OF \$63,000 FROM THE GENERAL FUND FOR THE HOUSING UNIT RESTRICTED BY THE CITY OF BEVERLY HILLS FOR THE HOMELESS

Attachment: 1. Conditions, Covenants and Restrictions (the CC&Rs) executed by The Tammy Apartments, LLC for 1146-1148 Tamarind Avenue in Los Angeles.

RECOMMENDATION

Staff recommends that the City Council appropriate \$63,000 from the General Fund balance to the Community Assistance Grant Funding Program for a grant to Step Up On Second Street, Inc. in exchange for the Covenants, Conditions and Restrictions in attachment 1.

INTRODUCTION

In February 2012, City Council approved in concept, the sale of the City's unexpended CDBG funds for \$63,000 to another municipality seeking to purchase these funds. At that time, the City had identified an opportunity to apply the resulting unrestricted funds to support Step Up On Second's Hollywood-based affordable housing development for formerly homeless individuals.

DISCUSSION

The sale of the unexpended CDBG funds to the City of Hawaiian Gardens provided \$63,000 to the General Fund to purchase the dedicated unit of housing for the City's homeless program. These funds have been set aside for this purpose and the appropriation request will allow advancing that amount to Step Up On Second, Inc.

At the October 6, 2015 meeting, City Council approved a grant of \$63,000 to The Tammy Apartments, LLC in exchange for the Conditions, Covenants and Restrictions

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(CC&Rs) enclosed hereto in attachment 1. The CC&Rs is required to be executed, acknowledged and recorded as a condition to Step Up On Second receiving \$63,000. The apartment is owned by The Tammy Apartment LLC, but is managed by an affiliate, Step Up On Second Street, Inc.

FISCAL IMPACT

\$63,000	From General Fund	To Community Assistance Grant Fund 00108803-734000
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Steve Zoet, Dir. Of Comm. Svcs
Approved By



Attachment 1

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attn: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This document is exempt from the payment of a recording fee
pursuant to Government Code Section 27383

AGREEMENT NO.

524-15

CONDITIONS, COVENANTS AND RESTRICTIONS
(Housing Unit Restricted by the City of Beverly Hills for the Homeless)

THESE CONDITIONS, COVENANTS AND RESTRICTIONS (the "CC&R'S") are dated as of October 6, 2015, and are entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation (the "City") and THE TAMMY APARTMENTS, LLC, a California limited liability company (the "Owner").

RECITALS

A. Owner has acquired the land and improvements commonly known as 1146 – 1148 Tamarind Avenue in the City of Los Angeles (the "Project"). The land is described on Exhibit "A".

B. In exchange for a payment from City of Sixty Three Thousand Dollars (\$63,000.00), Owner has agreed to execute, acknowledge and record these CC&R's in order to restrict the apartment currently known as apartment number 2 in the Project (the "Unit") for a specified period to occupancy by a Homeless Individual, as hereinafter defined. The Unit is depicted on Exhibit "B"

NOW, THEREFORE, City and Owner hereby agree as follows:

1. **Payment by City.** Within ten (10) business days after these CC&R'S and the subordination agreement(s) described in Section 18 below have been recorded in the Official Records of Los Angeles County, California, and copies of such recorded documents showing recording information have been delivered to the City, the City shall pay the sum of Sixty-three Thousand and No Dollars (\$63,000.00) to Owner (by check delivered to 1328 Second Street, Santa Monica, CA 90401, Attn: Mr. Tod Lipka).

2. **Selection of Homeless Individual.** Subject to Owner's approval, which shall not be unreasonably withheld, conditioned or delayed (and shall be deemed given if not withheld in writing specifying the reasons for disapproval within ten (10) days after City delivers its written selection to Owner), City shall have the right to select the occupant of the Unit, who shall be a Homeless Individual (as hereinafter defined) with a mental illness who shall have been homeless

for more than one (1) calendar year and who otherwise qualifies for a governmental issued housing voucher, as reasonably determined by City.

The capitalized term "Homeless Individual" shall mean: (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is - (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized; (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; (d) who are sharing the housing of other persons ("doubling up" or "couch surfing") due to loss of housing, economic hardship, or similar reason" or are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; or (e) is fleeing a domestic violence housing situation and no subsequent residence has been identified and lacks the resources and support networks needed to obtain housing.

If a Homeless Individual occupying the Unit dies, or the Homeless Individual's lease expires and is not renewed or is terminated, Owner shall notify City in writing and shall deliver reasonable evidence of the death (such as a death certificate), expiration or termination, as applicable, to City and City shall thereafter have ninety (90) days to select a new Homeless Individual for the Unit, subject to Owner's approval which shall not be unreasonably withheld, conditioned or delayed and shall be deemed given if not withheld in writing, specifying the reason for disapproval, within ten (10) days after City delivers its written selection to Owner. If Owner requires the Homeless Individual to execute a lease or other occupancy agreement for the Unit ("Lease"), Owner shall first deliver a copy of the lease to City for City's reasonable approval, and Owner shall not amend the Lease or enter into any other agreements with the Homeless Individual without the prior written approval of City, which will not be unreasonably withheld.

3. **Rent and Other Charges; Services.** The Owner covenants that all tenant units at the Project shall be rented to and occupied by Lower Income Households, as such term is defined in the California Health and Safety Code Section 50079.5. In addition, Owner shall not charge the Homeless Individual in the Unit rent that exceeds 30% of the income of the Homeless Individual for the use and occupancy of the Unit (which shall be used as a residence). Owner shall at all times make reasonably available to the Homeless Individual a property management service for the Project to address issues relating to the occupancy and maintenance of the Unit and/or the Project. Owner shall also provide, at no cost to the Homeless Individual, continuing enrollment in Owner's "Life Skills Program" (or comparable successor program, if applicable), and the Homeless Individual shall be given support through such program to access mental health services and mental health service providers on an as-needed basis.

4. **Duration.** The Project and Unit shall be subject to the requirements of these CC&R'S for twenty-five (25) years from the date that these CC&R's are recorded in the Official Records of Los Angeles County, California, or the expiration (or earlier termination) of the lease for the Unit with a Homeless Individual, whichever is later.

5. **Maintenance; Repair.** Owner shall maintain the Project in a decent, safe and sanitary manner, and in compliance with applicable laws. If at any time Owner fails to maintain the Project in accordance with the foregoing and such condition is not corrected within fifteen (15) days after written notice from the City (or such longer period as may be reasonably necessary to remedy the condition, provided Owner commences to cure the failure within the fifteen (15) business day period), then the City, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the Project and perform all acts and work necessary to protect, maintain, and preserve the Project and the costs thereof shall be promptly paid by Owner to the City upon written demand by City.

6. **Recordkeeping.** Until the third anniversary after the expiration of these CC&R'S, Owner shall maintain records relating to Owner's compliance with these CC&R'S (including copies of all leases and any other agreement with the Homeless Individual) at Owner's address specified in Section 12 below. Representatives of the City shall be entitled to enter the Project to monitor compliance with these CC&R'S and to inspect the records at Owner's offices. The Owner agrees to fully cooperate with the City in making the Project and such records available for inspection.

7. **Compliance With Laws.** Owner shall maintain, improve, repair, and operate the Project in conformity with all applicable laws, including all applicable state labor standards, zoning and development standards, building, plumbing, mechanical and electrical codes, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., the Unruh Civil Rights Act, Civil Code Section 51, et seq., and Labor Code Section 1720 et. seq.

8. **Successors and Assigns; Runs With the Land.** These CC&R'S shall run with the land, and all of the terms, covenants and conditions of these CC&R'S shall be binding upon the Owner and the successors and assigns of the Owner and all subsequent owners of any portion of or interest in the Project.

9. **Taxes and Assessments.** Owner shall pay prior to delinquency all property taxes and assessments on the Project (unless Owner is exempt), subject to the Owner's right to contest in good faith any such taxes.

10. **Remedies.** The occurrence of any default by Owner under these CC&R'S shall give the City the right to proceed with any and all remedies available at law or equity, including specific performance and/or injunctive relief.

11. **Attorneys' Fees.** If either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit, including without limitation expert witness fees and reasonable attorneys' fees.

12. **Notices.** Any notice which either party may desire to give to the other party under these CC&R'S must be in writing and may be given either by (i) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of

delivery, or (ii) mailing by certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by a notice given under this Section:

City: City of Beverly Hills
455 North Rexford Drive, 4th Floor
Beverly Hills, CA 90210
Attn: City Manager

With a copy to: City of Beverly Hills
455 North Rexford Drive, Suite 230
Beverly Hills, CA 90210
Attn: City Attorney

Owner: The Tammy Apartments, LLC
1328 Second Street,
Santa Monica, CA 90401
Attn: Mr. Tod Lipka

13. **Partial Invalidity.** If any provision of these CC&R'S shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

14. **Governing Law.** These CC&R'S and the documents and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

15. **Amendments.** These CC&R'S may not be changed orally, but only by agreement(s) in writing signed by Owner and the City that are acknowledged and recorded in the Official Records of Los Angeles County.

16. **Time of Essence.** Time is of the essence of each and every provision hereof in which time is a factor.

17. **City Manager Authority.** The City Manager of the City is hereby authorized to give any consents or other notices on behalf of the City under these CC&R'S.

18. **Owner Representation and Warranty.** Owner hereby represents and warrants to City that the Project is not encumbered by any liens or other monetary encumbrances except for (i) liens for property taxes and assessments not yet due; and (ii) that certain Deed of Trust and Assignment of Rents dated October 11, 2011 executed by Step Up on Second Street, Inc., as trustor, in favor of Aileen Getty, as beneficiary, which was recorded on October 14, 2011 as Document No. 20111391704 in the Official Records of Los Angeles County, California (the "Deed of Trust").

IN WITNESS WHEREOF, the parties hereto have executed these CC&R'S effective as of the date and year set forth above.

OWNER:

THE TAMMY APARTMENTS, LLC,
a California limited liability company

By: Step Up On Second Street, Inc.,
a California nonprofit public benefit
corporation

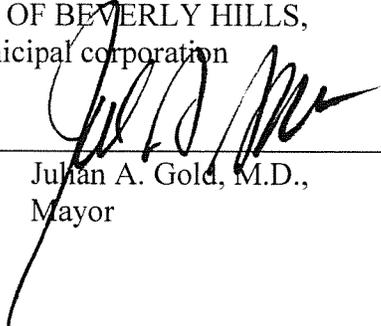
Its sole member:

By: 

Tod Lipka, President & Chief
Executive Officer

CITY:

CITY OF BEVERLY HILLS,
a municipal corporation

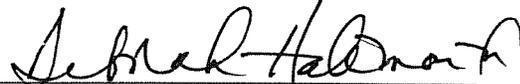
By: 

Julian A. Gold, M.D.,
Mayor

ATTEST:


Byron Pope, City Clerk

APPROVED AS TO FORM:



Laurence S. Wiener
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

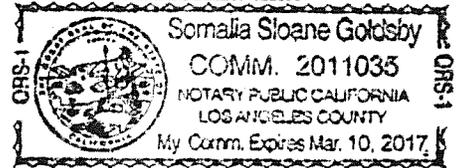
On 09/25/2015, before me, Somalia Sloane Goldsby *Notary Public*
(insert name and title of the officer)

Notary Public, personally appeared TOD LIPKA,
who proved to me on the basis of satisfactory evidence to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Somalia Sloane Goldsby*



(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

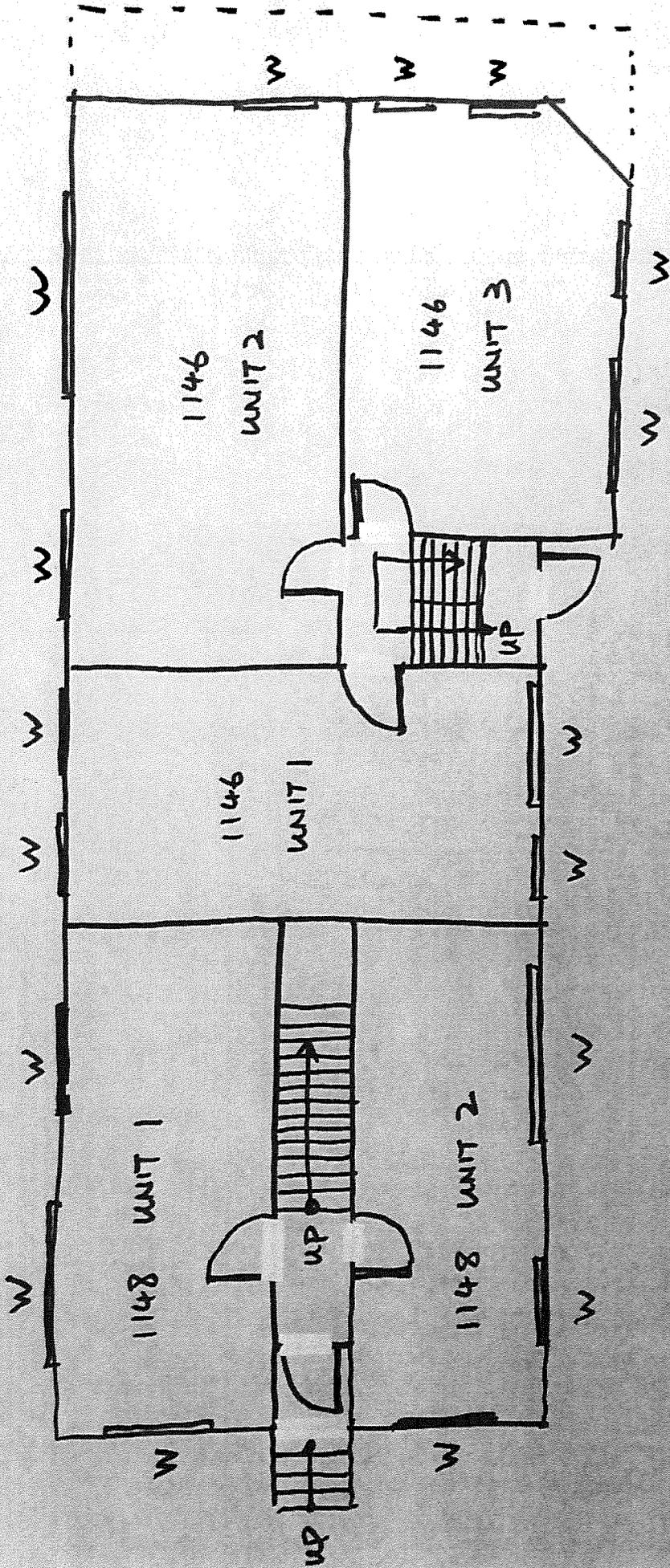
LEGAL DESCRIPTION OF LAND

LOT 58 OF GRIDER AND HAMILTON'S HOLLYWOOD TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDING IN BOOK 9 PAGE 12 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

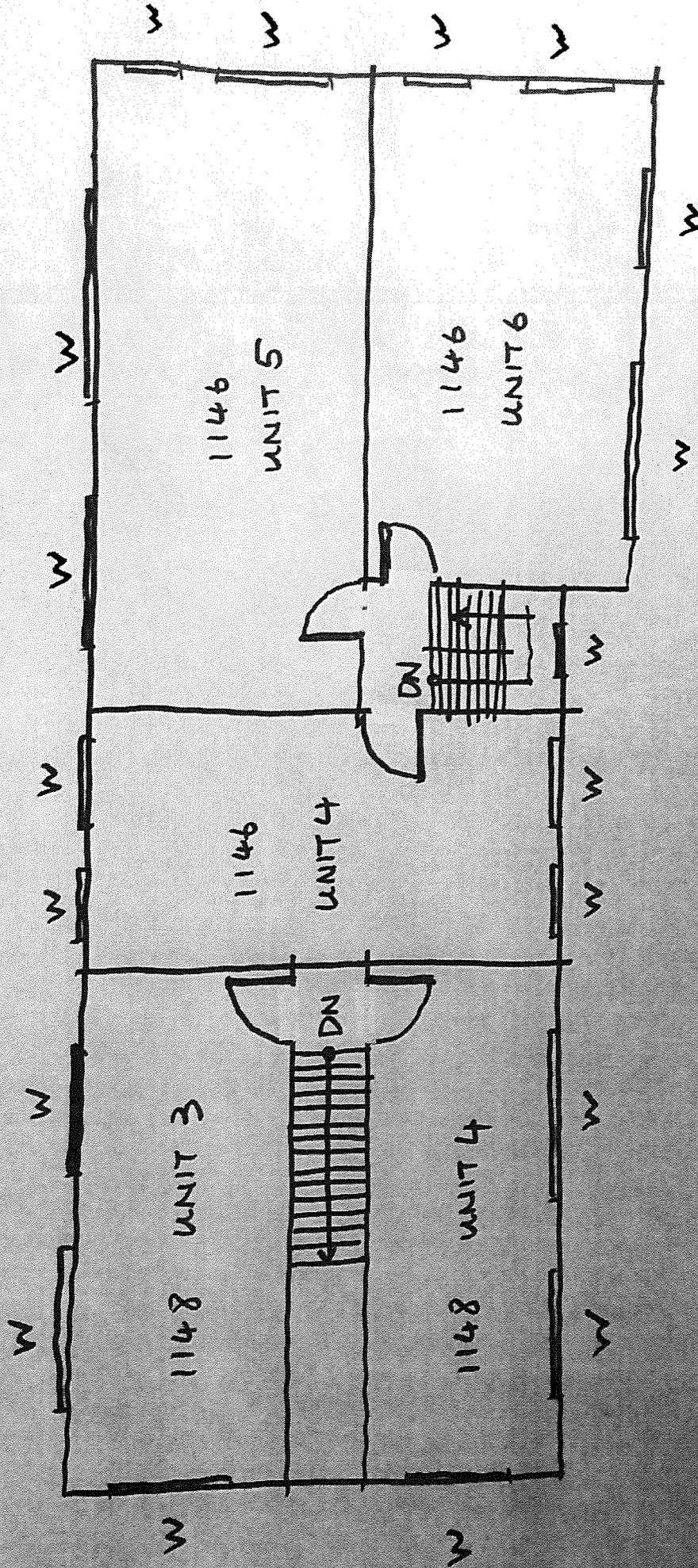
EXHIBIT "B"

DIAGRAM/DEPICTION OF THE UNIT

(Attached.)



1146 - 1148 TAMARIND FIRST FLOOR



1146-1148 TAMARIND SECOND FLOOR