

LAW OFFICE OF ZUTIN

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LAW OFFICES OF
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facsimile transmittal

To: Board of Zoning Adjustment Fax: 202-727-6072

From: Andrea Ferster Date: September 13, 2010

Re: BZA Appeal # 18103 Pages: 16

CC:

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Attached please find Exhibits 2 and 3 to the Request for Party Status, which we electronically filed today by Brian Townes, Tonette Sivells, and Shayla Edgerton, in BZA Appeal # 18103. Please contact Andrea Ferster if you have any questions or need any additional information.

Andrea C. Ferster
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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO.

18103

EXHIBIT NO.

14

Board of Zoning Adjustment
District of Columbia
CASE NO. 18103
EXHIBIT NO. 14

- Exhibit 2 = B2A Appeal #18103



LT1-5-2009046712-1

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When Recorded Please Return to:

Julia H. Wiley, Esq.

Office of the Attorney General for the District of Columbia

1800 Martin Luther King Jr. Avenue, S.E.

Washington, D.C. 20020



LT2-0-0-12

DHCD CONTRACT NO. 2008-86

**DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
HOUSING PRODUCTION TRUST FUND PROGRAM
DECLARATION OF COVENANTS
AND RENT REGULATORY AGREEMENT**

THIS Declaration of Covenants and Rent Regulatory Agreement ("Declaration" or "Covenant") is made this 7 day of September, 2009 ("Commencement Date"), by **PEACEHOLICS, INC.**, a District of Columbia non-profit corporation (the "Grantor" or "Declarant"), its heirs and assigns, for the benefit of the District of Columbia, acting by and through the Department of Housing and Community Development, a municipal corporation (the "Department" or "Beneficiary").

WITNESSETH: THAT

WHEREAS, pursuant to the Housing Production Trust Fund Act of 1988, D.C., Code §§ 42-2801 *et seq.* and the District of Columbia Municipal Regulations Title 10, Chapter 41, both as may be amended from time to time (the "HPTF law and regulations"), the Department is authorized to make loans for the production of low, very low and extremely low-income housing and related facilities; and

WHEREAS, the Department has entered into the Loan Agreement, of even date herewith pursuant to which it has agreed to lend an amount, not to exceed, **Four Million Four Hundred Thousand Dollars (\$4,400,000.00)** (the "Loan") of HPTF monies to Grantor to fund the acquisition, related closing costs and site developments costs of the Land and Improvements located at 1300 Congress Street, S.E., 400 Oklahoma Avenue, N.E. and 1271 - 1275 Meigs Place, N.E., Washington, DC, more specifically described in Exhibit A (the "Property"), annexed hereto, and made a part of this Declaration; and

WHEREAS, the Loan is evidenced by that certain Deed of Trust Note dated as of the date hereof ("Note") and secured by that certain Deed of Trust, Assignment of Leases and Rents and Security Agreement dated as of the date hereof ("Deed of Trust" and, collectively with the Note and the Loan Agreement and the other documents referenced in each of them, the "Loan Documents"); and

WHEREAS, the HPTF law and regulations require that HPTF-funded rental housing projects shall be "continuously affordable" and rented, leased or occupied by income-targeted populations, to include, Low Income Households, Very Low Income Households and Extremely Low Income Households for a period of not less than forty (40) years, as such terms are defined herein, regardless of transfer of ownership of the Property to any of the Grantor's successors, assigns and mortgagees.

NOW THEREFORE, for and in consideration of the Loan provided by Beneficiary, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor covenants that:

1. The recitals above shall be incorporated herein by reference.
2. The Grantor shall operate the Property as affordable rental housing in full compliance with the provisions of the HPTF law and regulations, as may be amended from time to time, for a period of not less than forty (40) years ("Affordability Period") commencing upon the Placed in Service Date. "Placed in Service Date" means the date on which the first unit in the Property receives a Certificate of Occupancy or is otherwise certified or approved, by the District of Columbia in accordance with District law, as being suitable for occupancy.
3. For the duration of the Affordability Period, Grantor shall comply fully with the following HPTF Program affordability requirements:
 - (a) Grantor shall maintain one hundred percent (100%) of the Property supportive housing units in the Property as Reserved Units¹ that shall be affordable to and occupied by, rented/leased exclusively to, occupants with total household incomes at the time of initial occupancy that are less than or equal to the income of Extremely Low Income Households, as such are defined in the HPTF law and regulations and as further specified herein. (i) "Extremely Low Income Households" means a household with total income at the time of initial occupancy equal to or less than 30% of the Area Median Income ("AMI") in the Washington Metropolitan Statistical Area, as set forth in the periodic calculation provided by the U.S. Department of Housing and Urban Development ("HUD"), adjusted for family size without regard to any adjustments made by HUD for the purposes of the programs it administers. (ii) The term "Rent" as used herein shall mean the rent or occupancy charge for each unit in the Property pursuant to a proprietary lease or occupancy agreement between the tenant and/or member of Grantor, on the one hand, and Grantor, on the other hand.
 - (b) From the date of initial occupancy, priority consideration in renting the Reserved Units will be given first to Extremely Low-Income at-risk youths referred by the District of Columbia Child and Family Services Agency. Should the Grantor be unable to lease any vacant Reserved Unit to an Extremely Low Income at-risk youth, despite its best marketing efforts, the

¹ "Reserved Units" are defined as Property dwelling units that are to be rented/leased exclusively to tenants in Extremely Low-Income Households for the duration of the Affordability Period. All of the Property dwelling units shall be Reserved Units.

next priority in renting the vacant Reserved Unit will be given to Low Income households referred by the District of Columbia Housing Authority.

- (c) Not later than thirty (30) days after each anniversary of the Placed in Service Date, Grantor shall certify in writing to the Department that, for the prior fiscal year, all Reserved Units have been rented or occupied exclusively by Extremely Low Income Households, as specified in this Covenant and the HPTF law and regulations.
 - (d) In accordance with the HPTF Program regulations, the maximum allowable monthly rent for a Reserved Unit, including utilities, shall be thirty percent (30%) of one-twelfth (1/12) of the annual top income limit for Low, Very Low and Extremely Low Income Households, as published periodically by the Department. Grantor shall use the formulas established in the HPTF regulations at 10 DCMR 4107.3, as may be amended from time to time, to adjust rent levels according to household size (based upon the maximum household size that can reasonably occupy a specific type of Reserved Unit) and to include an allowance for utilities, if they are not included in the Rent. Any rent increase for a Reserved Unit shall not exceed the maximum allowable monthly Rent as calculated in keeping with the formula above and in accordance with 10 DCMR 4112.8.
 - (e) Whenever a Reserved Unit becomes vacant and is rented or occupied pursuant to an occupancy agreement during the Affordability Period, the Rent shall not exceed the maximum amount allowable, as calculated above, and the Grantor shall certify pursuant to Section 3(c) that the new tenant or occupant meets the income eligibility requirements in keeping with the this Agreement and the HPTF law and regulations.
- 4. This Covenant shall remain in full force and effect and shall bind the Grantor and benefit the Department, and their respective heirs, personal representatives, successors, and assigns for the full term of the Affordability Period (as defined herein).
 - 5. This Covenant shall run with the land for the benefit of the Department in consideration for the Loan provided by the Department to the Grantor. The Department shall be entitled to enforce this Covenant until such time as this Covenant is terminated, through the exercise of all remedies available to it in law or equity. The terms of this Covenant are for the benefit of the Department and no other person shall have any right or cause of action on account thereof.
 - 6. No delay or omission by the Department to exercise any right or remedy available hereunder shall be construed as a continuing waiver by the Department or a waiver of the Department's rights, privileges or remedies hereunder.
 - 7. This Covenant constitutes the full and complete understanding between the parties and all agreements and/or contracts either oral or written, are hereby superseded.

8. This Covenant shall be governed by the laws of the District of Columbia without reference to choice of principles thereof. If any term hereof is deemed invalid and unenforceable, such term shall be stricken from this Covenant and all other terms shall remain valid, binding and enforceable against the parties hereto.
9. Grantor shall at all times maintain accurate books of account and records reflecting the operation of the Property and an updated rent roll, and household income certifications as required herein. Such books and records and the Property shall be open to inspection by the Department during normal business hours and upon reasonable notice. Financial statements shall be kept in a manner consistent with generally accepted accounting principles and shall be audited by a certified public accountant on an annual basis. Grantor shall keep all books and records for a period of five (5) years from the date that such records are generated. Grantor shall submit to the Department, within 120 days after the end of Grantor's fiscal year, annual audited financial statements for the operation of the Property. The above requirements are in accordance with the HPTF regulations at 10 DCMR 4112.2 and 4112.4.
10. Grantor shall comply with the HPTF law and regulations, as well as any applicable District or federal laws and regulations with regard to the operation of the Property and the Reserved Units, including but not limited to:
 - a. Maintaining the Property and the Reserved Units in habitable condition, as required by applicable District and federal laws, and in compliance with all District of Columbia building codes as may be amended,
 - b. Prohibiting discrimination as required by the D.C. Human Rights Act of 1977, as amended, (D.C. Official Code § 2-1401.01 *et seq.*)
 - c. Adhering to licensing requirements for independent living programs for adolescents and young adults as established by the District's Child and Family Services Agency. *See* 29 DCMR Chapter 63.
11. Grantor covenants that no person who is an employee, agent, consultant, officer, elected or appointed official of the District Government, District of Columbia independent agency, or of Grantor shall obtain a personal or financial benefit for themselves or for those with whom they have family or business ties, in connection with the rental of the Reserved Units.
12. Failure of the Grantor to fully comply with the covenants described herein shall constitute a default. If a default is not cured within thirty (30) days after Grantor's receipt of written notice from the Department of occurrence of default, or upon written approval of the Department such longer period as may be reasonably necessary to cure said default if the default can not be cured within said thirty (30) day period, and Grantor is diligently pursuing said cure, the Department shall have the right to seek any and all remedies available to it in law or equity. The Department's remedies shall include, at the option of the Department, the right to seek specific performance, the right to accelerate the repayment of all unpaid principal and interest due under the Loan, or the right to demand the payment of liquidated damages in the amount of \$125,714.29 for each

Reserved Unit (or if the total Reserved Units do not equal 35, such other proportional amount calculated on the basis of the total Loan amount divided by the actual number of Reserved Units) not in compliance with the covenants herein. All payments of liquidated damages, if any, shall be credited toward a reduction of the principal amount of the Loan.

13. In accordance with 10 DCMR § 4112.13, the Department may release this Covenant in whole or in part prior to the expiration of the Affordability Period, upon the written request of Grantor. This Covenant shall automatically terminate at the end of the Affordability Period unless it has been previously released by the Department.
14. Notices required herein shall be deemed to have been given and received, three (3) business days after having been sent to the appropriate party listed below, by regular and certified mail, or one (1) business day after having been sent by messenger or overnight delivery service with a receipt for delivery or refusal of delivery. The below addresses may be changed by written notice to the appropriate party:

TO THE DEPARTMENT:

District of Columbia Department
of Housing and Community
Development
1800 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20020
Attn: Director

With a copy to:

Office of the Attorney General
for the District of Columbia
1800 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20020
Attn: Economic Development Section

TO THE GRANTOR:

Peaceoholics, Inc.
606 Raleigh Place, S.E.
Washington, D.C. 20032
Attn: Jauhar Abraham

15. Grantor hereby appoints Jauhar Abraham, Chief Executive Officer of Peaceoholics, Inc. to be attorney-in-fact for Grantor and in Grantor's name to execute, acknowledge and deliver this Covenant as Grantor's act and deed.
16. Notwithstanding anything to the contrary in this Covenant, no owner, partner, shareholder, officer, director, tenant or employee of Grantor shall be personally liable under this Covenant.

17. Capitalized terms used but not otherwise defined in this Covenant shall have the meanings given to them in that certain Loan Agreement, dated as of even date hereof, between the Grantor and the Department.

[Signatures on following next pages]

IN WITNESS WHEREOF, Grantor or Grantor's duly authorized representative has executed this Declaration of Covenants and Rent Regulatory Agreement as its act and deed.

WITNESS/ATTEST

Peaceholics, Inc.
a District of Columbia non profit
corporation

By: _____

Secretary

By: _____

Jauhar Abraham
Chief Executive Officer

I HEREBY CERTIFY THAT the foregoing Declaration of Covenants and Rent Regulatory Agreement was executed and delivered pursuant to, and in strict conformity with, the provisions of the organizational documents of the Grantor and the authorization of the management of Grantor.

By: _____

Secretary

ACKNOWLEDGEMENT

~~x District of Columbia, ss:~~ State of Maryland: Prince George's County

I, Frank J. Goldenberg Notary Public in and for the above jurisdiction, hereby certify that Jauhar Abraham, Chief Executive Officer, the Grantor in the foregoing Declaration of Covenants and Rent Regulatory Agreement, bearing the date of April 7, 2009 personally appeared before me in said jurisdiction, and as said attorney-in-fact, acknowledged and delivered said Declaration of Covenants and Rent Regulatory Agreement to be the act and deed of the Grantor.

Witness my hand and official seal this 7th day of April, 2009.

[SEAL]

My Commission Expires

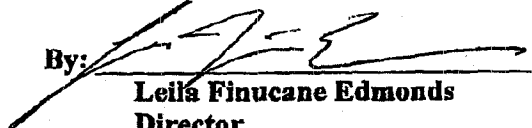


Notary Public
FRANK J. GOLDENBERG
Notary Public, State of Maryland
County of Montgomery
My Commission Expires February 25, 2012

[Signatures continued on the next page]

IN WITNESS WHEREOF, the District of Columbia, as Beneficiary, acting by and through the Department of Housing and Community Development, does hereby appoint Leila Finucane Edmonds, Director, as its true and lawful attorney-in-fact to execute, acknowledge and deliver this Declaration of Covenants and Rent Regulatory Agreement as the act and deed of the District of Columbia.

DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the D.C. Department of Housing and Community Development

By: 

**Leila Finucane Edmonds
Director**

ACKNOWLEDGEMENT

District of Columbia, ss:

I, ~~Mr. S. White-Stanley~~, a Notary Public in and for the above jurisdiction, hereby certify that, Leila Finucane Edmonds, Director of the Department of Housing and Community Development in the foregoing Declaration of Covenants and Rent Regulatory Agreement, bearing the date of 4/9/09, 2009 personally appeared before me in said jurisdiction, and as said attorney-in-fact, acknowledged and delivered said Declaration of Covenants and Rent Regulatory Agreement to be the act and deed of the District of Columbia.

Witness my hand and official seal this 6th day of April, 2009.

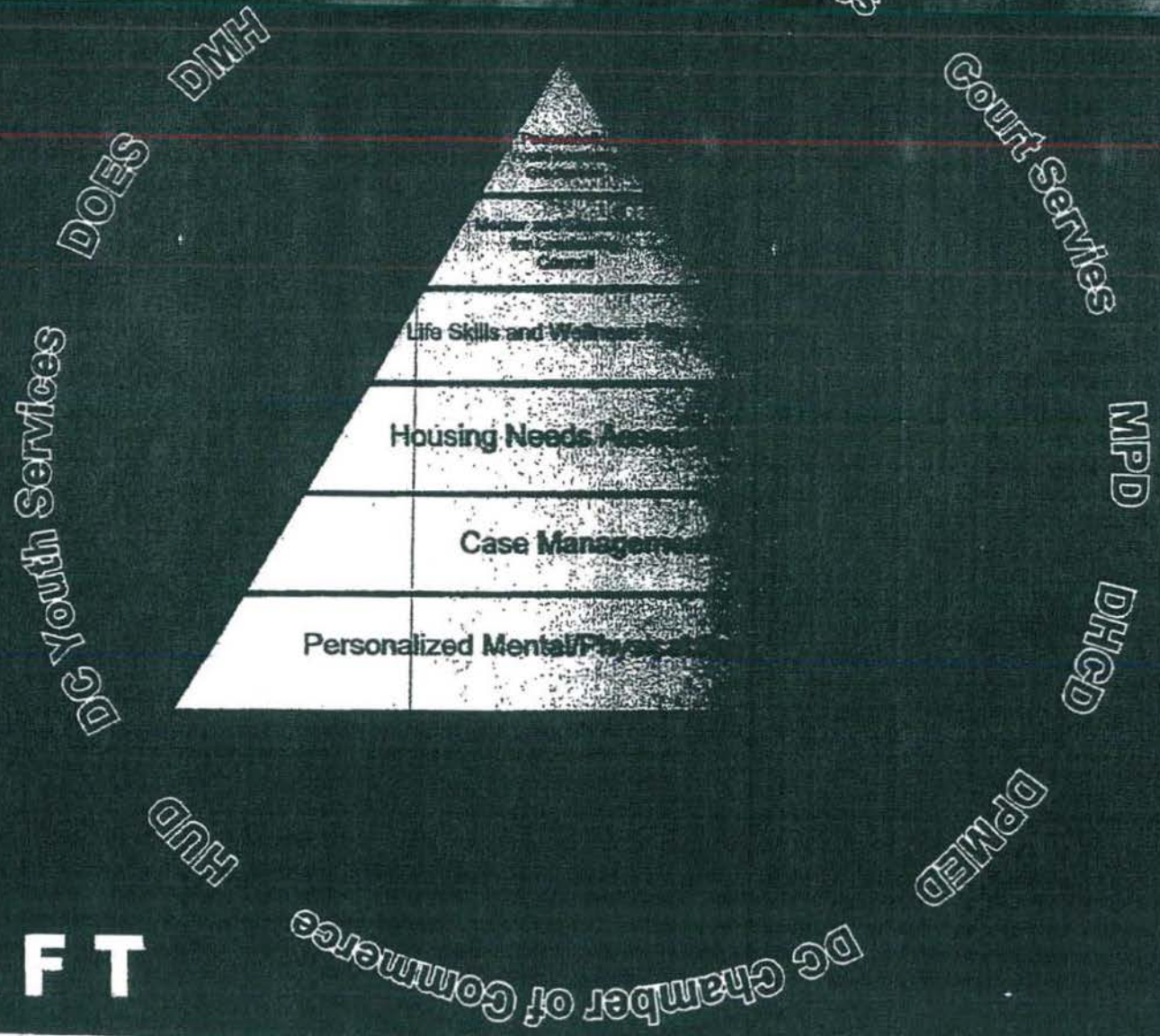
[SEAL]


Notary Public

My Commission Expires November 30, 2010

Peacecoholics - Strategic Housing Intervention Program (SHIP)

Volunteers - Peacecoholics

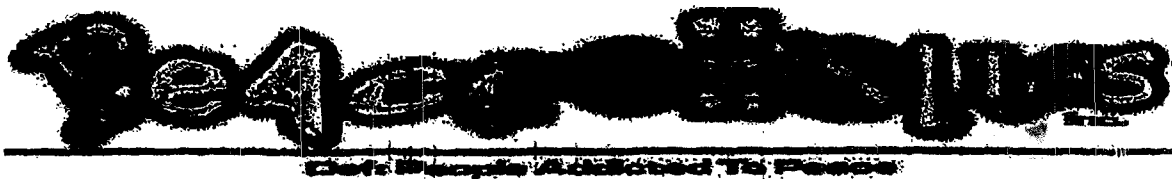


DRAFT

What is SHIP and The Next Steps?

Mission Statement

- ✓ A national agent establishing and imposing positive behavior management for at risk male youth in a structured housing environment.
- ✓ A voluntary and non-profit organization systematically changes lives of our clients and stakeholders and creates a community of members of society elevating expectations and crime reduction years going forward.
- ✓ A national parole enhancement agent for at risk persons and their families promised by the community. Administration is delivered by S.H.P and the Peacekeepers.



A DHCD Demonstration Housing Initiative

Strategic Housing Intervention Program ("SHIP")

through some form of sweat equity and labor during construction. The wrap around services will include case management persons, faith-based institutions, social workers, mentors, educators and many more. Upon completion of the programs each residence would minimally have a living wage paying job; social and medical evaluations; conflict resolution and family wellness skills; completed High School or GED; enrolled in junior college, technical school or a four year academic institutions and life long support system.

Led by Jauhar Abraham and Ronald L. Moten, The Peaceholics have touched the lives of over 10,000 individuals and families since 2004 through serving as one of the District of Columbia premier crime crisis intervention organization for the last three years. SHIP will nurture these young male adults by providing intensive interventions aimed at improving the outcomes for sustained, healthy adult development. The Peaceholics' leadership believes that until these young men are given the necessary support to literally pull them out of poverty, the cycle of destruction for them and the general welfare of the public and their children will continue and the indirect cost to the public will continue to escalate.

Background

Data and extensive research prove that structural intervention in a controlled environment can have a significant impact on the outcomes of the lives of the young men who are slated to participate in this Initiative. Peaceholics proposes a model that will have a major change to life outcomes of both the young men and in some cases their children. The program has a two-fold approach 1) providing the young men with a strong foundation through educational development, health maintenance and strong mentoring, and 2) providing a home for the young men, with an end goal of having many stakeholders (i.e. Government; religious institutions; educators; mentors etc.) having a hand in this life altering intervention that will be duplicated in many neighborhoods across Washington, D.C. Graduates of this program will not just be residents living in a community but will be home owners and citizens that will have a vested interest in maintaining their "Peace agent" status obtained through the Peace Academy.

The general process of the Initiative is as follows:

- Identify, assess and select youth who are either wards of the District of Columbia's foster care system and/or high-risk youth between the ages of 15-21 who are under the supervision of the Department of Youth Rehabilitation Services (DYRS) or youth under the supervision of Court Social Services (CSS);



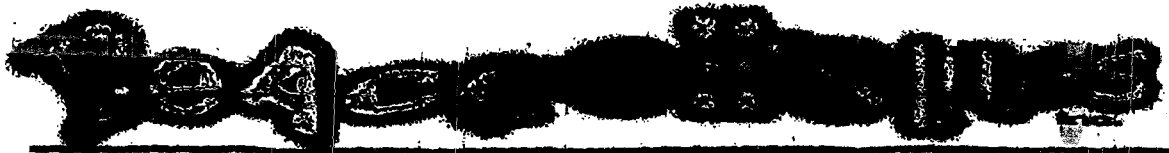
Shift People Addressed To Peace

A DHCD Demonstration Housing Initiative Strategic Housing Intervention Program ("SHIP")

- Develop proficiency of Initiative participants in five key areas: non-denominational spirituality, financial management, emotional/physical/medical stability, parenting and academic support;
- Link each young man to an Life Coach, Career Mentor, and Budget Buddy ;
- Provide each young man business training and entrepreneurship opportunities;
- ORIENTATION-During the first week, the assigned case manager will meet with new residents for orientation, which will include a thorough overview of the program goals, expectations and expected outcomes. In addition, each resident will be introduced to the 8 core principals of Peaceholics. Each resident will embrace their Culture, know History, exude Dignity and Respect, value Education, honor Family and the Community, and value their Character.
- An Individual Service Plan will be developed for each resident. This personalized service plan will be developed with the assistance of the resident outlining their specific goals and needs.
- The staff team will meet with each resident weekly to evaluate the effectiveness of the services received. The resident is expected to take an active part in this evaluative process. Residents should use their weekly counseling time to seek to resolve any problem which could affect their independent living success.
- Any youth upon initial screening with substance abuse issues, must be actively engaged in treatment and/or maintenance and provide proof of participation.
- Peaceholics SHIP shall establish behavior management strategies to provide rewards and praise for appropriate behavior as well as sanctions to address inappropriate behavior. Behavior management strategies will include youth input.

All of these specific activities merge into the overall goal of economic independence for participants in the Initiative. To this end, within approximately 2 years, the youth selected to participate in the Initiative will be expected to achieve milestones, structured to demonstrate their acceptance of personal responsibility for their lives and their capacity for designing a healthy future for themselves and their family.

We believe that through this process we would have addressed the dysfunction and disconnect found in many of the communities these youth represent. Further, the elements of Faith: the proof that we have, and are able to connect with a higher power and find a way out of



Let People Address To Peace

A DHCD Demonstration Housing Initiative Strategic Housing Intervention Program ("SHIP")

no way, Hope; the reinforcing motivational drive that inspires and sustains our resilient nature, to endure and overcome challenges in life and Love; the greatest healing and unifying force known to man, a sufficient power, able to transform the lives of our residents and provide for their long lasting sustainability.