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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

Label: WOLF3
Disk No.: 100

September 5, 1986

Mr. James D. Wolfensohn
President
James D. Wolfensohn, Inc.
425 Park Avenue
New York, NY 10022

Dear Jim:

I am enclosing a copy of the letter and attachments I sent to Charlie Brown and Frank Taplin on faculty mortgages for them to review prior to their meeting scheduled for 16 September 1986 at 9:00 a.m.

I have completed a study of faculty benefits at the Institute and six other institutions. A copy of this study is also enclosed.

In addition, as requested, I have enclosed copies, in very rough draft form, of discussion papers that I have prepared for review and consideration by the Director, on sabbatical leaves at the Institute and consulting by Institute faculty members.

If you have any questions, or if you need additional information, please let me know.

Sincerely,

Allen I. Rowe

jfc

enc.

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Label: BROWN
Disk No.: 100

September 5, 1986

Mr. Charles Brown
116 Hunt Drive
Princeton, NJ 08540

Dear Charlie:

In anticipation of your Housing Committee meeting on 16 September 1986 at 9:00 a.m., I am enclosing a discussion paper entitled "Faculty Mortgages" (with attachments).

You might want to consider discussing, in addition to the faculty mortgage program, the advisability of real estate acquisitions in and around the Institute. We should also include on the agenda Professor Morton White's request to purchase half of the former Adler house.

The attendees at the meeting, in addition to yourself, will be: Frank Taplin, Harry Woolf, Patricia Labalme, Donna Manning, and myself.

Sincerely,

Allen I. Rowe

jfc

enc.

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Label: TAPLIN
Disk No.: 100

September 5, 1986

Mr. Frank E. Taplin
One Palmer Square
Princeton, NJ 08542

Dear Frank:

In anticipation of the Housing Committee meeting on 16 September 1986 at 9:00 a.m., I am enclosing a discussion paper entitled "Faculty Mortgages" (with attachments).

The attendees at the meeting, in addition to yourself, will be: Chairman Charles Brown, Harry Woolf, Patricia Labalme, Donna Manning, and myself.

Sincerely,

Allen I. Rowe

jfc

enc.

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Prepared by: ....
(N.J.S.A.46:15-13) Kim A. Otis, Esquire (Print signer's name below signature)

AGREEMENT

AGREEMENT made between INSTITUTE FOR ADVANCED STUDY - LOUIS BAMBERGER AND MRS. FELIX FULD FOUNDATION, a corporation not for pecuniary profit, incorporated under the laws of the State of New Jersey, having its principal office at Olden Lane, in the Township of Princeton, County of Mercer and State of New Jersey ("Institute"); and
husband and wife, about to be residing at , in the Township of Princeton, County of Mercer and State of New Jersey ("Grantees");

W I T N E S S E T H:

WHEREAS, the Grantees herein are about to take title to certain premises located at , in the Township of Princeton, County of Mercer and State of New Jersey; and

WHEREAS, the Institute is advancing funds for the purchase of said premises and, on the happening of certain events is entitled to recover the property at a purchase price described herein:

NOW, THEREFORE, the parties agree as follows:

1. The Grantees, for themselves, their heirs and assigns, hereby give and grant to the Institute the right, privilege and option to purchase the same and hereby assume the obligation to sell the same to the Institute, and the Institute, for itself, its successors and assigns, hereby reserves the right privilege and option to purchase the above-described premises and hereby assumes the obligation to purchase the same from the Grantees, upon the occurrence of any one of the following events whichever shall first occur, namely:

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(a) The termination of the official connection of both the Grantees with the Institute during the joint lives of the Grantees. A Grantee shall be deemed to have an official connection to the Institute when he or she is employed by it, is on a Sabbatical leave, has retired from it, has been awarded an emeritus by it, or has survived another Grantee while he or she was employed by, retired from, on Sabbatical leave from, or granted emeritus status by it;

(b) The death of the survivor as between both of the Grantees;

(c) The earliest date when neither of the Grantees uses the premises as their domicile;

2. The purchase price upon the occurrence of any of the above events shall be determined as follows:

(a) If the then appraised fair market value of the property is equal to or less than the fair market value of the property at the time of the original purchase, the purchase price shall be equal to the "original purchase price" as herein defined, plus the value of any "capital improvements" as defined in (c) below, except, however, that the purchase price shall be limited to the appraised fair market value of the property, less any subsidy by the Institute, to the extent that the decrease in value shall be attributable to the failure of the Grantees to follow normal and reasonable maintenance practices. ("Original purchase price" is the price paid by the Grantees at the original closing, including any mortgage obligation to the Institute. The Grantees must repay any mortgage obligation to the Institute at the time of purchase by the Institute.)

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(b) If the then appraised fair market value of the property exceeds the fair market value of the property at the time of the original purchase, then the purchase price shall be equal to the "original purchase price" as defined in (a) above, plus the value of any "capital improvements" as defined in (c) below, plus a portion of appreciation, computed under the following formula: $\frac{(A+B)}{C}$ x (D-C), where:

(1) A is the consideration paid by the Grantees at the time of the original purchase (excluding any mortgage funds furnished by the Institute).

(2) B is the total of principal reductions on any mortgage given by the Institute, computed as shown on the mortgage amortization schedule as of the date of the event givin[g] rise to the repurchase option.

(3) C is the fair market value of the property at the time of the original purchase.

(4) D is the appraised fair market value of the property at the time of the event giving rise to the purchase option (excluding for this purpose the appraised value of any "capital improvements" as defined in (c) below, added by the Grantees).

(c) For both (a) and (b) above, "capital improvements" are defined as any improvements and renovations made by the Grantees each of which, at the time made, adds the greater of $10,000.00 or two (2%) percent of the then fair market value of the property, and which have been agreed upon in advance by the Institute and Grantees. The cost of such "capital improvements" which are normally depreciated in the accounting sense over a period of ten years or less shall be adjusted in accordance with a schedule to be established when such improvements

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are agreed upon. The purchase price under both (a) and (b) above shall be increased by the cost to Grantees of such "capital improvements" as adjusted. The purchase price computed under (b) above shall be further increased to include the share of the Grantees, if any, of appreciation in value of "capital improvements", which appreciation is defined as the excess of the fair market value of the "capital improvements" over the original cost to the Grantees of the "capital improvements".

3. The appraised value of the premises shall be determined by an impartial appraiser designated by mutual agreement of the parties within ninety (90) days after the occurrence of the event which gives rise to the purchase option and obligation. If the parties cannot or do not agree upon the appraiser within the time specified, then he shall be designated, upon application of either party, by the Judge then sitting in the Superior Court of New Jersey, Chancery Division, Mercer County, New Jersey. The designated appraiser shall submit his appraisal of the premises in writing to both parties within twenty (20) days after notice to him of him designation. The cost of appraisal shall be borne equally by both parties.

4. All capital improvements upon the premises made by the Grantees shall be certified to the Institute by a notarized written statement.

5. Closing settlement shall take place on the purchas within thirty (30) days after submission of the appraisal. Conveyance of the premises on purchase shall be by bargain and sale deed, with covenants against grantors' acts, free and clear of all liens and encumbrances, except for easements and building and use restrictions.

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6. This agreement shall be binding on the parties hereto, their heirs, executors, administrators, assigns and successors.

IN WITNESS WHEREOF, the parties hereby have interchangeably set their hands and seals, caused their duly authorized officers to sign and seal on this day of 1986.

Attest:

INSTITUTE FOR ADVANCED STUDY-
LOUIS BAMBERGER AND
MRS. FELIX FULD FOUNDATION

By: ______________________

____
PATRICIA H. LABALME, Secretary

JAMES D. WOLFENSOHN, Chairman

Witness:

____

____

____

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STATE OF NEW JERSEY, COUNTY OF MERCER) ss.

BE IT REMEMBERED, that on
before me, the subscriber, an Attorney at Law of the State of New Jersey, personally appeared PATRICIA H. LABALME, who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction, that she is the Secretary of INSTITUTE FOR ADVANCED STUDY-LOUIS BAMBERGER AND MRS. FELIX FULD FOUNDATION, the Corporation named in within Instrument; that JAMES D. WOLFENSOHN is the Chairman of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument was signed and delivered by said Chairman as and for the voluntary act and deed of said Corporation, in the presence of deponent, who thereupon subscribed her name thereto as attesting witness.

PATRICIA H. LABALME, Secretary

Sworn to and Subscribed
before me the date aforesaid.

Kim Otis
Attorney at Law
State of New Jersey

STATE OF NEW JERSEY, COUNTY OF MERCER) ss.

BE IT REMEMBERED, that on
before me, the subscriber, an Attorney at Law of the State of New Jersey, personally appeared and ,
who I am satisfied, are the Grantees mentioned in the within Instrument, and thereupon they acknowledged that they signed, sealed and delivered the same as their act and deed, for the uses and purposes therein expressed.

KIM OTIS
Attorney at Law
State of New Jersey

PREPARED BY:

Kim Otis
HAVESON AND OTIS
194 Nassau Street
Princeton, New Jersey 08542
(609)921-0090

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

Deloitte
Haskins+Sells

685 College Road East
Princeton Forrestal Center
Princeton, New Jersey 08540
(609) 520-2300
Cable DEHANDS

March 27, 1986

Mr. Allen Rowe
Institute for Advanced Study
Olden Lane
Princeton, New Jersey 08540

RE: Faculty Housing Program

Dear Allen:

You requested that we assist you in developing an alternative faculty housing program for the Institute for Advanced Study ("Institute").

The Institute has found it increasingly expensive to provide housing to new faculty members as a result of escalating real estate prices in the Princeton area. The current housing program is based on low interest fixed term mortgages and/or no interest "subsidies" which enable faculty members to purchase residences located near their place of employment. The homes are generally purchased from the Institute, which is obligated to repurchase the property upon the occurrence of one of the following events:

- cessation of employment; however a surviving spouse of an employee may continue to own the property
- death of the surviving mortgagor
- cessation of the use of the premises by both members as their principal residence.

Based on the above, there is latitude on the part of the Institute in determining the time of repurchase.

The repurchase price is generally based on the higher of the current fair market value or the original purchase price. When based on current fair market value, the Institute shares in the appreciation in proportion to the ratio of the subsidy and "outstanding mortgage" to the Institute over the original purchase price. The "outstanding mortgage" is the amount of the mortgage one year prior to the specified event. There is potential for abuse under this provision. An employee who terminates employment can obtain a greater percentage of appreciation by refinancing his home one year prior to the sale of the property.

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The cost of the present housing program to the Institute is twofold:

- Foregone income stream measured as the difference between the rate of interest received by the Institute on mortgages and subsidies and the yield on the Institute's investment portfolio. For the 1985 fiscal year, the Institute's investment portfolio return was approximately 26 percent. The average has been 18% over three years.

- Repurchase of the homes at escalated prices for new faculty members. Since wages have not risen at the same rates as housing costs, the Institute must allow higher subsidies and low interest mortgages to attract new employees. This compounds the problem of foregone income.

Current Housing Program

There are numerous tax aspects relating to your current housing program, including:

- Below market loan considerations
- Contingent interest
- Treatment of subsidies
- Deductibility of interest and taxes

Below market loan considerations:

Under your current housing program or any program which contemplates below market interest rates, IRC section 7872 may require additional interest to be imputed on loans bearing interest at less than a statutory rate. These provisions apply to term loans made after June 6, 1984 and demand loans outstanding after that date.

A demand loan includes, in addition to any loan payable on demand, any loan which is not transferable and the benefits of the interest arrangements of which are conditioned on the future performance of substantial services by an individual whether or not such loans have a fixed maturity date. All other loans are deemed to be term loans for the purposes for IRC section 7872.

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The mortgages between the Institute and its employees would be considered term loans under IRC section 7872 since the loans are not conditioned on the performance of substantial services by the employee. For below market term loans issued after June 6, 1984, IRC section 7872 provides:

- The employee would be required to include in income in the year of the loan the difference between the principal amount of the loan and the present value of the loan payments at the statutory rate,
- The Institute would be required to report the amount as income subject to FICA and FUTA. Income tax withholding would not be required, and
- The employee would be entitled to deduct a portion of the imputed income each year over the life of the loan.

To illustrate, assume on January 1, 1986 the Institute made a mortgage loan to an employee in the amount of $300,000. Assume further that the mortgage is for a 30 year period at a 5% interest rate so that monthly payments are approximately $1,600. At a Federal statutory rate of 10%, the present value of all the loan payments would be $183,000. In 1986, the Institute would include $117,000 ($300,000-$183,000), representing the imputed interest amount, on the employee's W-2 as compensation. The employee would be entitled to deduct approximately $15,000 of imputed interest amount as interest expense in the same year. The balance of the imputed income would be deductible over the life of the loan.

Since the income tax effects of such a transaction are severe in the first year of the loan, the imputed interest rules of IRC section 7872 for term loans should be avoided. If the above $300,000 loan were a demand loan rather than a term loan for purposes of section 7872, the results to the employee would be substantially different. In year one of the loan, the employer would impute $15,000 in income and include this amount on the employee's W-2 and the employee would be entitled to a $15,000 interest expense deduction in addition to interest actually paid.

Treatment as demand loan would be preferable

The Institute can avoid designation of these loans as "term" loans by conditioning the loans on the performance of substantial services by the employee. This can be accomplished by making the loans due upon termination of employment, or more practically, providing that the mortgage rate changes at termination of employment to the statutory rate in effect at that time.

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Under Reg. 1.7872-5(b), certain transactions are exempt from the imputed interest requirements. Transactions exempted are not subject to reporting requirements, thus alleviating the administrative burdens imposed by IRC section 7872 and also FICA and FUTA taxes on imputed income, if applicable. Included in this category are employee relocation loans which meet the following criteria:

1. The new principal residence must have been acquired in connection with a transfer of the employee to a new principal place of work, which meets the 35 mile distance test for moving expenses.

2. The interest benefits that arise from the loan are nontransferable by the employee, and the benefits must be conditioned upon the future performance of substantial services by the employee.

3. The employee certifies to the employer that he reasonably expects to itemize deductions for each year the loan is outstanding, and

4. The loan proceeds can only be used to purchase the new principal residence.

Exempted loans also include those which do not have a significant tax effect on the Federal tax liability of the lender or the borrower. Factors to be considered in determining whether the interest arrangements have a significant tax effect include whether items of income and expense offset one another, the amount of such items, the cost to the taxpayer in complying with section 7872, and nontax reasons for structuring the transaction as a below market loan. Prop. Reg. 1.7872-5(c)(3). Presumably, items of income and deduction would offset one another assuming:

- the loan is a demand loan
- the borrower itemizes deductions
- FICA and FUTA limits are exceeded without regard to imputed income
- imputed interest expense does not represent investment interest expense

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Changing the current housing program to condition the below market rate on the performance of substantial services by the employee would provide more favorable tax consequences to the employee, as discussed previously. In addition, it may also qualify the loan as a relocation loan or, alternatively, one without significant tax effect. These loans would then be exempt from the imputed interest and reporting requirements of IRC section 7872 and thus alleviate the administrative recordkeeping requirements otherwise imposed by IRC section 7872.

Contingent interest:

Contingent interest is interest which will be paid and determined in the future upon the occurrence of certain events. The Institute's current housing program provides that it will share in the appreciation of the property upon resale to the Institute based on the "outstanding mortgage." This appreciation could be deemed contingent interest.

IRC section 7872 does not address the treatment of contingent interest when determining the imputed interest amount. Per Ms. Sharon Hall, IRS representative responsible for drafting the Regulations under IRC section 7872, regulations will be issued in the near future to address the contingent interest issue. Ms. Hall is of the opinion that contingent interest should be ignored in calculating imputed income until guidance is provided by the Service in this area.

Treatment of subsidies:

Another consideration of the Institute's current program is the subsidy arrangement. It is not clear how this arrangement should be construed for tax purposes. It could be considered a no interest loan; however, since the Institute receives the appreciation attributable to the amount financed by the subsidy, it could also represent:

- a shared appreciation mortgage ("SAM"), or
- a shared equity arrangement

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A shared appreciation mortgage ("SAM") is a loan in which the lender contracts to receive a percentage of the appreciation in value of the mortgaged property in exchange for providing a below market interest rate. If the subsidy qualifies as a SAM:

- Upon the sale of the property, the employee would be deemed to receive the entire proceeds, including the appreciation received by the Institute and

- The employee would, upon the sale of the property, be entitled to an interest deduction in the amount of the appreciation paid to the Institute.

The primary tax issue with regard to a SAM is the deductibility of the contingent interest payment, representing the lender's share of the appreciation in the property. In Rev. Rul. 83-51, 1983-1 CB 48, a cash basis taxpayer received a residential SAM from a financial institution. A fixed interest rate of 12 percent was provided (the market rate was 18 percent) and contingent interest equal to 40 percent of the appreciation was payable upon the SAM termination date. The IRS concluded that the appreciation constituted "interest" under IRC section 163 so that the taxpayer was allowed a deduction for the full amount of the contingent interest in the year of payment. However, the conclusions were limited to the facts set forth in the ruling:

> Accordingly, such conclusions should not be considered to apply to all SAM agreements, particularly in situations in which the loan proceeds are used for commercial or business activities, in which the lender acquires greater rights with respect to the borrower or the mortgaged property than are described in the facts section of this ruling; in which the parties evidence an intention to create a relationship other than that of debtor and creditor; or if other circumstances indicate that the SAM loan represents in substance an equity interest in the mortgaged property.

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If the lender is viewed as having an equity interest in the property, a contingent interest deduction would be disallowed. In the Institute's case, the Service could potentially assert that a debtor-creditor relationship does not exist with respect to the contingent interest since the lender receives greater rights with respect to the mortgaged property due to its exclusive right and obligation to repurchase the property.

Another problem with the SAM arrangement is IRC section 7872, which requires interest to be imputed on below market loans. As mentioned earlier, current regulations do not address contingent interest under IRC section 7872.

The subsidy could also be viewed as a shared equity arrangement. A shared equity arrangement is one in which an investor makes a down payment on a home for a buyer and in return receives part equity in the property. If the Institute holds an equity interest in the property, it is presumably entitled to rental income on the proportionate interest. For example, if the Institute provides a $100,000 subsidy for a house with a fair market value of $500,000, it would be entitled to rental income representing one fifth of the actual fair market rental. The actual fair market rental value would take into consideration the occupants' responsibilities for major repairs, maintenance and payment of real estate taxes and insurance.

Since the Institute is not charging rent to employees in the subsidy arrangement, the foregone rent could be considered additional taxable compensation to the employee.

Deductibility of interest and taxes:

Under the current housing program, the Institute protects its employees against depreciation of property values by providing that the repurchase price is based on the higher of fair market value or original purchase price.

Since the risk of depreciation never passes to the employee, the Service could assert that the original sale is not bona fide and that the Institute is the true owner of the property.

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In Rev. Rul. 83-47, 1983-1 CB 63, investors were not entitled to deductions for depreciation and other expenses incident to ownership of townhouses. They had been purchased and immediately leased back with the stipulation that they would be resold to the original seller a year and a day following the original sale at the original purchase price less commissions. The Service concluded that, in substance, the investors never owned the property because they never benefited from appreciation and were protected against decline in the property value. The benefits and burdens of ownership were never transferred.

Arguably, the Service could assert that the Institute's present housing program does not confer the benefits and burdens of home ownership to the employees since they are protected in the event of depreciation in the property. If the Service were to make such an argument and prevail, employees would not be entitled to deduct their interest payments and the payments would be recharacterized as "rent". However, since property taxes are assessed directly against the employees, they would still be deductible based on Rev. Rul. 73-531, 1973-2 CB 45, which is discussed later.

Housing Alternatives

We considered the following alternative housing programs:

- Rental arrangements
- "Condo" conversion where land and building are separated into components and land is retained by the Institute.
- Negative amortization mortgages.
- Sale of property at market with an option to repurchase at a fixed amount or index.
- Below market sale with an option to repurchase property below market.

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Where appropriate, the above would be in conjunction with below market demand loans, i.e. mortgages which provide for the applicable Federal rate of interest upon termination of employment.

Rental arrangements:

A rental program would solve the problem of repurchasing the property at escalated prices. In lieu of making interest and real estate payments, the employees would pay rent. However, the rent is not tax deductible. Additionally, to the extent the fair market value of the rental exceeds the rent charged, the Institute may be required to impute income to the employee with no corresponding tax deduction to the employee.

"Condo" conversion:

Another alternative is a "condo" type of conversion of the property by separating the land and building components. The building would be sold to faculty members with a long term land lease.

Although such an arrangement would insulate the Institute against repurchase of the land at an appreciated amount, there are several drawbacks to this alternative:

- The Institute would be required to charge fair market rental for the land lease or impute income to the employee.
- The employee would not be entitled to tax deductions for the cost of the land lease.
- Legal costs incurred to achieve such an arrangement may be prohibitive.

The same result could be achieved in a simpler and more cost efficient manner with a shared equity mortgage arrangement.

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Negative amortization mortgages:

A negative amortization mortgage is a mortgage in which the interest payment rate is less than the interest accrual rate in the initial years of the mortgage. During the period that the accrued interest is greater than the interest paid, the unpaid interest would be added to principal. For example, assume that the Institute loans an employee $300,000 at an interest accrual rate of 10% and an interest payment rate of 5% for the first few years. At the end of year one, the principal amount of the loan will have increased to $315,000.

Sometime in the future, the employee would be required to make interest payments at the 10% accrual rate as well as principal payments. This alternative would be feasible if the employee would be receiving substantially greater income in future years, which is not the case in the Institute's situation.

A negative amortization mortgage could be feasible if the accrued but unpaid interest were added to the principal of the loan indefinitely. However, at the time of repurchase, the principal amount of the debt could very well exceed the fair market value of the property. In addition, based on Rev. Rul. 73-531, interest may not be deductible when principal payments are not required. In this ruling a professor acquired a terminable life estate in a parcel of land and a house from his employer university under an agreement in which:

- the university was required to repurchase the property for an amount equal to the original mortgage,
- the professor was not required to make principal payments but was required to make periodic payments termed "interest", and
- real estate taxes were assessed directly against and paid by the professor.

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The Service concluded that interest was not deductible to the professor since no valid indebtedness existed because principal payments were not required to be made. Interestingly, however, real estate taxes were deductible since the taxes were assessed directly against the professor.

Although a negative amortization loan does not appear viable as a sole method of financing for employees, the Institute may wish to consider a negative amortization mortgage in conjunction with other alternatives. An example would be a negative amortization mortgage which converts to a low interest loan. Assume the Institute grants an employee a 30 year $300,000 negative amortization mortgage with an interest accrual rate of 10% and interest payment rate of 5%. Assume further that after five years the mortgage converts to a 5% accrual and payment rate. After the five year period, the mortgage principal would be approximately $383,000. The monthly payment would increase from $1,600 to $2,200. Assuming that the employee could manage this higher monthly payment at that time, the Institute would benefit by such a program. If the Institute had merely granted a 5% mortgage at the onset, it would have foregone the additional $83,000 ($383,000-$300,000) interest payment as well as the interest that is subsequently paid on this amount.

Sale of property at market with an option to repurchase at a fixed amount or index:

A sale with an option to repurchase the property at a fixed amount or index could reduce the problem of repurchase at escalated prices.

Under such a program, the repurchase would take the form of an option only and be based on a fixed or indexed amount rather than the fair market value of the property. Other alternatives would be to base the repurchase on any combination of the indexed amount, a fixed amount, or the current fair market value at the time of repurchase. The primary issue with regard to this type of program is whether there is a bona fide sale when a repurchase option exists and the repurchase price is not based on fair market value of the property.

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In Joe M. Evans, Jr., 25 TCM 663 (1966) the taxpayer sold property in exchange for $130,000 and an option to repurchase the premises from the buyers within a five year period for a repurchase price of $150,000. The court held that the transaction resulted in a sale of property with an option to repurchase retained by the taxpayer and that ownership of an option, standing alone, does not constitute a holding of the property itself.

In Max H. Wyman, 33 TC 622 (1959), the taxpayer transferred 5,000 shares of stock to purchaser in exchange for $5,000 and an oral agreement to reacquire the shares upon payment of $10,000. Three years later, the taxpayer repurchased the shares when the book value of the shares were considerably in excess of $10,000. The court found that the original sale constituted a sale of stock with an option to repurchase. The option to purchase stock did not constitute a present interest in the stock.

Based on the conclusions reached in these cases, the fact that a repurchase option exists does not destroy the completed sale to the purchaser regardless of the repurchase price, nor does such an agreement alone revest any title in the original seller. With a repurchase option, the Institute would have no obligation to repurchase the property and presumably would do so only if the option is favorable or at fair market value. The employee would not be protected against downside risk, thereby subject to the benefits and burdens of ownership.

Assuming the Institute adopts this type of housing program and the indexed or fixed amount is less than the fair market value at the repurchase date, the program would be favorable to the Institute. The spread between fair market value and repurchase price on the repurchase date would mitigate the low yield that the Institute received on the mortgage of the property. Of course, there is no guarantee that the repurchase amount would be less than the fair market value. An index or amount would have to be carefully selected to minimize risk. The negative amortization mortgage which converts to a low interest mortgage, discussed earlier, could also be used in conjunction with a repurchase at a fixed amount or index.

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Below market sale with an option to repurchase property below market:

Under this type of an arrangement the Institute would sell property to its employees at a selling price below fair market value. The Institute would require restrictions on the use of the property and receive an option to repurchase the property at a price below fair market value.

There are several private letter rulings ("PLRs") which deal with such housing arrangements. Althouth PLRs cannot be cited as a precedent and apply only to the taxpayer who requested them, they provide guidance on the Service's position.

In PLR 7943070, a company proposed to implement a housing program whereby eligible employees would purchase homes subject to restrictive covenants that the property could only be used for single family residential purposes, that the property must be adequately maintained and insured, that no major change could be made in the dwelling without the consent of the employer and that the property could not generally be rented while owned by the employee. Additionally, the purchaser would be required to grant the company an option to repurchase the property, exercisable upon the occurrence of certain events. The price of the house would be determined by securing an outside appraisal of the price at which the house would trade in a "normal" market sale, without considering restrictions and reducing the amount by 15% to consider factors not present in a "normal sale", i.e.

- special restrictions on use and improvements
- absence of broker's commission
- the repurchase option, which would be determined in the same manner as the initial purchase (15% discount).

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The purchasers would be treated as owners of the property for local tax purposes.

The Service held that the employees would be entitled to interest and real estate taxes on the property. Additionally, the difference between purchase price and "normal" fair market value would not constitute income to the employee since fair market value should consider the restrictions to be placed on the property.

This latter conclusion was based on IRC section 83, which provides that property transferred to an employee in connection with the performance of services should be valued by considering restrictions which never lapse. Furthermore, the price determined under a formula price will generally be considered to be the fair market value of the property unless established to the contrary by the Commissioner. The burden of proof would be on the Commissioner with respect to the value. Reg. 1.83-5.

It is not clear how much greater of a discount would be accepted by the Service on the purchase and repurchase. However, in PLR 8049068, a plan providing for a 20% reduction was permitted. The facts are the same as PLR 7943070 except that the plan permitted the company to repurchase the housing unit upon three years written notice. Presumably, the greater the number of nonlapse restrictions, the greater the discount that the Service would accept.

A below market sale and repurchase of property would make housing more affordable to the Institute's employees. Assuming a 20% discount rate, a $500,000 home could be sold to an employee for $400,000. If the "normal" fair market value at repurchase is $700,000, the Institute would pay the employee $560,000 ($700,000 x 80%). The net savings to the Institute would be $40,000, which is the appreciation attributable to the original discount of $100,000 to the employee at time of purchase.

This type of program would achieve the same results that the subsidy arrangement is currently attempting to achieve. The difference between this program and the subsidy arrangement becomes apparent in assuming depreciation in the property. Using the example above, assume the "normal" fair market value at time of repurchase is $300,000. Under the current housing program, the employee would receive $400,000. Under the program discussed above, the employee would receive $240,000 ($300,000 x 80%).

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This type of program could be used in lieu of the current subsidy arrangement to avoid the problems discussed earlier relating to the subsidy arrangement and the deductibility of interest and taxes. Presumably, however, the Institute would still find it necessary to provide the employee with below market loans thus foregoing the higher yield earned on its investment portfolio. In order to mitigate this problem a negative amortization mortgage which converts to a low interest loan, as discussed earlier, may be considered.

Recommendation

Until regulations are issued under IRC section 7872 relating to contingent interest, we recommend that the Institute's housing program consist partially of low interest demand mortgages. Negative amortization mortgages could be used in conjunction with the low interest mortgages. The mortgages should meet the employee relocation loan or no significant tax effect loan exemption under Temp. Reg. 1.7872-5T in order to avoid application of the imputed interest rules and reporting requirements. In accomplishing this objective, we recommend that the interest rate on the loan be adjusted to the Federal statutory rate upon termination of employment.

The Institute's housing program should incorporate a repurchase option in the purchase agreement. Since the repurchase would be an option rather than an obligation, the benefits and burdens of ownership would rest with the employee so that the purchase by the employee would constitute a bona fide sale by the Institute.

We recommend that the two latter housing alternatives discussed, i.e. below market sale with an option to repurchase below market and sale of property at market with an option to repurchase at a fixed amount or index, be considered. The latter alternative would prove more beneficial to the Institute assuming that a proper index or fixed amount can be determined.

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The benefits of the above arrangements are as follows:

- The Institute would subsidize faculty housing by providing low interest loans to faculty making otherwise unaffordable housing available to them.

- No imputed income to the employee since the loan would be exempted from the provisions of IRC section 7872.

- The Institute would be relieved of the administrative burden of reporting imputed income and withholding FICA and FUTA taxes.

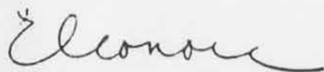
- The repurchase price of the residence would be reduced so that the cost of the housing program would have less of a financial impact on the Institute.

- Faculty members would be able to deduct interest and real estate taxes and receive a portion of the appreciation in the property.

We suggest that once you develop a housing program, you request a ruling on the program from the Internal Revenue Service regarding the repurchase provision to insure that the Internal Revenue Service agrees that the agreement constitutes a bona fide sale, entitling the faculty members to the interest and real estate tax deductions.

Please call if you have any questions.

Sincerely,



Eleonore B. McCabe

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

4/1/86/RED/k

SUMMARY DESCRIPTION OF GRAY FARM

This letter outlines for eligible members of the Faculty and Staff of Princeton University the terms and conditions of the Gray Farm Purchase Program. In order to be eligible to purchase a home under this program, you must be a tenured member of the Faculty of the University, Administrative Grade 7 or above or have a rank equivalent to these categories.

The purchase price of a Gray Farm home is established in the following manner: The University obtains an appraisal from an independent expert who determines the current market value of the property. This figure is reduced by 15%, reflecting the reduction in value of the property on account of the restrictions, option and special terms described below, to provide the purchase price of the property. The University conveys the property to the purchaser in fee simple, subject to restrictive covenants that the property may be used only for residential purposes, requiring University approval of major changes in the structure or exterior of the houses, and including other similar use covenants set forth in all Gray Farm deeds. Owners are solely responsible for all costs connected with the house, including maintenance, utilities, insurance, and payment of real estate taxes.

The purchaser grants to the University an assignable option to repurchase the property upon the occurrence of any of the following events: The death of both the purchaser and his or her spouse; the purchaser leaves the employ of the University (other than by retirement); the purchaser ceases to make the house his or her principal residence; or there is a change in title to the property. The price for repurchase under the option would again be the appraised unrestricted value at the time of repurchase determined by an independent appraisal process, less 15% of such appraised value. The University will have 60 days in which to exercise or assign the option after which the purchaser is free to sell it to any person at any price.

The purchase of a home under the Plan is normally financed by a University loan with standard University mortgage terms, including personal liability and procedures for foreclosure in the event of nonpayment. The note secured by the mortgage is at an interest rate of 10½% per year or 1½% below the conventional residential mortgage interest rate at United Jersey Bank/NA at the time, whichever is lower, and is amortized over a term of up to forty years. The purchaser makes level monthly payments to retire the debt at the stated interest rate [in 40 years]. Payments are applied first to interest and then to principal, with the result that the portion applied to principal generally increases with each payment. The mortgage is an enforceable first lien on the property. Subsequent changes in the value of the property do not, of course, affect a purchaser's obligation under the mortgage; purchasers are not guaranteed that the resale price of a home will exceed the original price or the outstanding principal on the mortgage.

The University has obtained a Ruling from the Internal Revenue Service regarding the above-outlined formula. In general, this Ruling (copy of which is available upon request) provides that the Plan will not be challenged in regard to its legal framework. The IRS will not, however, commit itself to accept factual assertions by taxpayers. Therefore, the correctness of appraisals obtained under the above-described plan are subject to challenge by the IRS (for a three year period after the year of purchase, generally speaking). If a purchaser were determined by the IRS to have paid too little for a home, the "underpayment" might be treated by IRS as taxable income.

This is a summary description of the program. The deed and mortgage documents should be reviewed for full details. The University will not be liable for any tax or other consequences that may result from changed circumstances in the future, such as changes in the law, changed positions on the part of the IRS or the like. Those who wish to pursue the possibility of a purchase under the Plan should therefore obtain their own legal advice. The Real Estate Department will make available to potential purchasers and to their attorneys all relevant documents and other [illegible]

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

Department of the Treasury

Phone Contact: Mr. E. L. Kennedy
Telephone No.: (202) 964-4751

Internal Revenue Service

RECEIVED
APR 9 1975
CAPLIN & DRYSDALE

Date: APR 8 1975 | In reply refer to T:I:I:3:3

Mr. Walter B. Slocombe
Mr. Thomas A. Troyer
Caplin & Drysdale
1101 - 17th Street, N. W.
Washington, D. C. 20036

Gentlemen:

This is in reply to your ruling request dated August 1, 1974, submitted on behalf of Princeton University (the "University"), concerning the application of section 83 of the Internal Revenue Code to the transaction outlined below.

The University owns a tract of land near its campus known as Gray Farm, which has been developed as a residential area for members of the University community. Under a plan for development of the area, the University transferred terminable life estates in lots in the tract to faculty members (and certain senior administrative personnel) who agreed to build houses on the lots, at a cost not in excess of an agreed amount. The University loaned each faculty member part of the funds necessary to build a house on the property under a mortgage requiring regular payment of interest but with no required amortization of principal. The University and each faculty member agreed to an arrangement whereby, in effect, when the estate was terminated either voluntarily or involuntarily, the University was required to repurchase the house at its construction cost (up to the agreed maximum), plus the cost of certain capital improvements, less any remaining principal outstanding on the University loan.

The University has proposed certain changes in the current arrangements, which would now provide the residents a choice of two plans for the future. This letter is in regard to the plan entitled Plan A.

Under the proposed Plan A, a current resident will reconvey his present interest in the property to the University. He will then repurchase the house in which he now resides under a deed which will convey a fee interest in the property, subject to restrictive convenants that the property can be used only for single-family residential purposes and requiring University approval of major changes in the structure or exterior of the house.

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In connection with the transaction, the purchaser will grant the University an assignable option to repurchase the property, exercisable in the event that the purchaser dies, leaves the employ of the University (other than in retirement), ceases to make the house his principal residence, or gives notice to the University of his desire to sell. The option will include provisions permitting the surviving spouse of an owner to continue to own the house for his or her lifetime or until remarriage. The University will have 60 days in which to exercise or assign the option after which the purchaser will be free to sell it to any person at any price.

The price of the houses at the time of repurchase from the University will be determined by securing an expert, outside appraisal of the price at which the house would trade in a normal market sale, using a broker, without the restrictions or option, and reducing the amount by 15 percent to take account of the factors present in this transaction but not in the normal market sale, i.e., the special restrictions on use and improvements, the absence of a broker's commission, and the option given the University to repurchase if the owner leaves the University or ceases to live in the house.

The price at which the University will be required to purchase the property under the option will be determined in the same manner as for the initial purchase by the faculty members.

Section 83(a) of the Code provides, in part, that if, in connection with the performance of services, property is transferred to any person other than the person for whom such services were performed, the excess of the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over the amount (if any) paid for such property, shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable.

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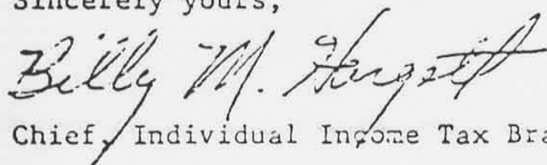
Section 83(d)(1) of the Code provides that in the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell such property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Secretary or his delegate with respect to such value.

Based solely upon the documents and information submitted, and provided the facts are as outlined above, it is held that the property which is sold by the University to the faculty members (and certain senior administrative personnel) under Plan A will be transferred subject to a restriction which by its terms will never lapse. Accordingly, it is further held that for purposes of section 83(a) of the Code, the restriction will be taken into account in order to determine the fair market value of the property. Finally, under section 83(d)(1) of the Code it is held that the price is determined under a formula and, to the extent that the expert's appraisal is an accurate estimate of the fair market value of the property without the restrictions or option, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary upon an examination of the taxpayers' returns by the District Director.

Sincerely yours,



Chief, Individual Income Tax Branch

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The applicant is required to pay an application fee at the time he/she submits a completed application to the Real Estate Department. This application fee covers processing costs to the University in connection with the subject application.

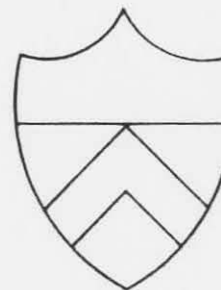
Assistance in Purchasing a Home

The Real Estate Department will be happy to answer any questions concerning the Princeton University Mortgage Loan Program, including loan eligibility, current interest rates, and the maximum mortgage loan that may be obtained for a particular employee. The Real Estate Department will be pleased to consult with prospective participants, whether they are current employees or are applicants for a position at the University, in order to provide them with some information concerning the processes involved in determining whether or not a mortgage can be prudently granted in a given situation. In addition, the Real Estate Department recognizes that many interested persons are looking to purchase a home for the first time and find themselves experiencing unanticipated difficulties in negotiating a transaction. The Department generally is in a better position to assist employees and prospective employees in avoiding such problems when it is consulted before or at the outset of the search process.

All of the foregoing reflect the terms and conditions or credit under the Program which the University usually and customarily extends, arranges or will accept. However, the University reserves the right at any time without notice to terminate altogether or modify in any respect the Princeton University Mortgage Loan Program. Of course, no such termination or modification will affect mortgage loans previously made under the Program.

For additional information, please call the Princeton University Real Estate Department (2-3123).

Guide to the University Mortgage Loan Program



Real Estate Department
MacMillan Building
(609) 452-3123

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Eligibility

University personnel of the following ranks are immediately eligible to apply for a mortgage loan through the Program:

- Faculty (three year appointments or longer)
- Senior Research Scientists
- Research Scientists
- Senior Technical Staff
- Professional Library Staff (L-III and above)
- Administrators (Administrative Officer and above)

Personnel of the following ranks are eligible after one year of service with a letter of recommendation from their department chairman or office head:

- Administrative Associate
- Research Staff
- Technical Staff
- Librarian II

Mortgage Amount

Application will be considered for mortgage loans in an amount not to exceed ninety percent (90%) of the appraised value of the property or the purchase price, whichever is lower, up to the maximum loan allowable at the time application is made.

The size of a mortgage loan granted is also limited by the applicant's ability to assume reasonably the burdens of shelter costs for a specific property within the confines of his or her University income, as determined by University guidelines. It is recommended that interested parties (both current employees and applicants for employment) contact the Real Estate Department of the University (2-3123) as soon as possible to determine the maximum mortgage loan which may be provided to them under the current guidelines.

Length of Mortgage Term

Mortgages are granted for terms of up to forty years.

Interest Rate

It has been the general policy of the University to offer mortgage loans at annual percentage rates approximately one and one-half percent (1½%) below the prevailing local commercial interest rate for home mortgage loans at the time written application is made. The interest rate remains fixed for the entire term of the mortgage loan.

Payment Schedule

A constant payment schedule is established to provide for level payments of principal and interest combined in an amount sufficient to retire the loan at the end of the term. Monthly payments on these loans are deducted from an employee's salary, either on a ten (10) or twelve (12) month basis.

Restrictions

The Mortgage Loan Program was established to make it easier for faculty and senior level staff to purchase housing in the Princeton vicinity. The program provides only first mortgage loans for the purpose of purchase of homes to be occupied as a principal residence by an eligible person and his/her family. It does not provide for refinancing of existing mortgage loans. It also does not provide for issuance of mortgage loans on properties owned by eligible employees prior to their employment by Princeton University or prior to their becoming eligible for the mortgage program. It does not provide for second mortgage loans or home improvement loans of any kind. The program provides for favorable interest rates and terms for first mortgage loans.

The property purchased must be located within an eight (8) mile radius of the University's central campus. This eight (8) mile limit serves an important goal of the Program by insuring that Princeton remains a residential University. Further, outside this eight (8) mile radius housing prices generally decline to a level where conventional mortgage financing is sufficient to enable faculty and staff to purchase homes using such financing.

Mandatory Prepayment of Mortgage

Mortgage loans granted under the Program fall due and payable when the participating borrower is no longer employed by Princeton University (except in cases of retirement) or no longer uses the mortgaged property as his or her principal residence. In such case, the mortgage loan must then be repaid or converted to a conventional mortgage within 90 days per established procedures. In the event of the death of a participant holding a mortgage loan not subject to cancellation for the reasons cited in this paragraph, the University mortgage loan will continue in effect for the benefit of the surviving spouse so long as he or she remains unmarried, but if the surviving spouse remarries, the University mortgage loan must be fully paid.

Procedures for Obtaining a University Mortgage Loan Under the Program

The first step in obtaining a mortgage loan under the Program is to contact the University Real Estate Department to complete and file an application. The Real Estate Department administers the Program and should be able to answer any questions concerning it as well as provide additional advice and information concerning the purchase of a home and the prevailing conditions in the local real estate market.

The application form used by the Real Estate Department is generally similar to those used by home mortgage lending institutions. It contains questions relating to personal financial information in order to confirm that those who apply for mortgage loans under the Program will be able to meet the costs of home ownership. This information is treated as confidential.

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY
PRINCETON, NEW JERSEY 08540
Telephone: (609) 734-8000 Telex: 229 734 IAS UR

SCHOOL OF NATURAL SCIENCES

April 18, 1986

Memo to: Dr. Harry Woolf

From: Steve Adler

Dear Harry,

Enclosed is a summary of thoughts of the Advisory Committee on mortgage policy. While we have shown this memo to many of our colleagues, we have not attempted a complete canvass of the Faculty.

Sincerely yours,

Steve Adler

SLA:vn
Encl.
cc: R. Langlands
I. Lavin
J. Scott
✓A. Rowe

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY

PRINCETON, NEW JERSEY 08540

Telephone: (609) 734-8000 Telex: 229 734 IAS UR

SCHOOL OF NATURAL SCIENCES

9 April 1986

MEMORANDUM

To: Dr. Harry Woolf, Director
From: Steve Adler

Dear Harry:

The four Faculty members of the Advisory Committee (with Langlands substituting for Borel) met informally on April 8th to discuss the mortgage policy. To avoid the kind of confusion which arose in Piet Hut's case, we propose that a uniform policy be adopted for the short term, roughly along the following lines:

1. The Institute should have a set down payment requirement, in the range of 15-20%. A Faculty member meeting this requirement would get a straight 6% mortgage, with recovery of full capital gains on resale. There could be a dollar cap on the amount of mortgage money available at 6%, with amounts above the cap carrying a higher interest rate, to prevent inequities from arising through people buying houses of greatly differing costs.

2. A Faculty member not able or willing to put up the down payment could get an Institute subsidy to cover the difference, which however would be regarded as permanent Institute equity in the house, to be reflected in a proportionate splitting of gains on resale. Thus, if a house were purchased with no down payment, assuming a 20% down payment requirement, the gains would be split on resale with the Faculty member getting 80% and the Institute getting 20%.

3. If a new Faculty member wishes to make the down payment but needs a reasonably short amount of time to raise the funds (say, up to a year), the Institute could make a short term loan of the required funds at an interest rate possibly higher than the mortgage rate, without this entailing an Institute equity in the house.

We understand that over the longer term, the whole mortgage issue may have to be rethought in view of relevant IRS rulings, and their effect on the structuring of Faculty compensation into fringe benefits versus straight salary. But for the time being, we think that a uniform policy as close as feasible to past practice would be the best.

Sincerely yours,

Stephen L. Adler

SLA:vn
Copies to:
R. Langlands
I. Lavin
J. Scott
√A. Rowe

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From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

REAL ESTATE

SCHEDULE D

Properties in Which the Institute has a Repurchase Right
as of June, 1986

ADDRESS OF PROPERTY	CURRENT OWNER	PURCH DATE	ORIG VALUE	IAS SUBSIDY	PURCH PRICE	INITIAL MORTG	MORTG BALANCE	INT RATE
60 Battle road	Langlands, R	10/72	96,000	32,000	64,000	39,000	15,658	0.04
89 Battle Road	Morse, L					0	0	
95 Battle Road	Harish-Chandra	01/64	65,000	21,667	43,333	21,666	0	0.04
97 Battle Road	Panofsky, G	06/38	17,500	0	17,500	17,500	0	0.04
98 Battle Road	Chreniss, H	08/50	39,000	0	39,000	27,000	0	0.04
102 Battle Rd Cir	Beurling, A	05/56	24,000	0	24,000	24,000	0	0.04
103 Battle Rd Cir	IAS							
105 Battle Rd Cir	Dyson, F	12/56	30,000	0	30,000	25,000	0	0.04
106 Battle Rd Cir	Borel, A	12/57	28,000	0	28,000	28,000	0	0.04
28 Haslet	Woolf, H	12/83	294,000	35,000	259,000	208,895	196,098	0.04
111 Lambert Dr	Scott, J	08/85	425,500	33,000	392,500	267,000	262,974	0.06
103 Linwood Cir	Walzer, M	07/80	174,900	30,000	144,900	102,664	97,969	0.06
7 Maxwell Lane	Selberg, A	01/53	36,000	0	36,000	24,000	0	0.04
10 Maxwell Lane	Bowersock, G	01/81	152,424	33,300	119,124	96,000	85,006	0.06
30 Maxwell Lane	Clagett, M	06/78	140,047	33,000	107,047	38,000	0	0.06
43 Maxwell Lane	Meiss, M					0	0	
56 Maxwell Lane	Lavin, I	05/74	110,000	33,333	76,667	76,667	46,831	0.04
63 Maxwell Lane	Paret, P	08/86	500,000		500,000	100,000	100,000	0.06
134 Mercer St	Thompson, H	04/68	60,000	0	60,000	54,000	0	0.04
266 Mercer St	Gilbert, F	12/64	46,000	0	46,000	31,000	0	0.04
284 Mercer St	Constable, G	09/85	300,000	0	300,000	165,000	159,694	0.06
5 Newlin Road	Geertz, C	04/71	88,500	29,500	59,000	49,000	26,475	0.04
14 Newlin Road	Elliott, J	12/74	70,000	23,333	46,667	46,667	30,667	0.04
16 Newlin Road	Hirschman, A	05/75	127,000	33,000	94,000	35,000	0	0.04
16 Ober Road	Milnor, J	03/81	136,900	33,000	103,900	87,900	73,593	0.06
5 Springdale Rd	White, M	08/71	75,000	25,000	50,000	45,000	4,338	0.04
42 Veblen Circle	Weil, A	05/59	42,284	0	42,284	50,000	0	0.04
45 Veblen Circle	Bombieri, E	12/81	141,500	33,000	108,500	104,000	91,001	0.06
			3,219,555	428,133	2,791,422	1,762,959	1,190,304	

Mortgages on Properties in Which
the Institute has no Repurchase Rights

ADDRESS OF PROPERTY	CURRENT OWNER	PURCH DATE	ORIG VALUE	IAS SUBSIDY	PURCH PRICE	INITIAL MORTG	MORTG BALANCE	INT RATE
287A Nassau St	Adler, S	06/84	210,000		210,000	175,000	168,577	0.06
21 Adams Drive	Bahcall, J	07/74	105,000		105,000	100,000	73,643	0.04
3 Lake View Ct Lawrenceville	Barbour, J	04/84	199,253		199,253	100,000	95,800	0.065
75 Hardy Drive	Dashen, R	06/71	133,000		133,000	133,000	104,321	0.04
163 Pa Ave Trenton	Gaines, B	07/77	33,000		15,200	21,000	15,409	0.06
273 Western Way	Habicht, C	04/76	80,000		80,000	80,000	47,555	0.04
401 Park Ave Trenton	Harris, J	05/74				12,000	2,063	0.04
32 Wilton St	Heckscher, R	08/73	60,000		60,000	30,000	10,751	0.04

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76.5 Linden Lane	Hut, P	02/86	177,500		177,500	177,500	176,788	0.06
1623 12th St Trenton	Inverso, P	12/76				9,000	957	0.06
	Kaysen, K	07/72	57,000		57,000	55,000	15,843	0.04
194 Penn View Dr Pennington	Rowe, A	03/78	110,000		110,000	85,000	73,052	0.06
120 Centre St.	Shore, E	02/86	117,500		117,500	99,875	99,474	0.06
58 Green St Lawrenceville	Soeller, J	09/68	26,000		26,000	13,448	297	0.04
			1,308,253		1,290,453	1,090,823	884,530	

Rental Properties Owned by the Institute

ADDRESS OF PROPERTY	CURRENT TENANT	DATE ACQIRED	ORIG VALUE OR COST	MONTHLY RENTAL INCOME	BOOK COST	GIFT VALUE	
63 Battle Road	Duvivier, D	05/82	425,000	880	295,492	129,508	
272 Mercer St	Alfoldi, E	12/81	182,000	0	GIFT	182,000	
97 Olden Lane	Woolf, H	06/48	28,991	0	275,951		
330 Olden Lane	Deligne, P	06/73	71,326	800	83,828		
474 Quaker Road	Abbott, R & V			700	1,846		
A474 Quaker Road	Salbego, R	06/79	79,710	1,100	79,710		
504 Quaker Road	Otis, K	04/79		600			
506 Quaker Road	Luers, W	04/79	387,267	2,000	387,267		
508 Quaker Road	Moehn, F	04/79		500	27,800		
150 Stockton St	Marquand House	11/79	862,000	DAILY RATE	GIFT	862,000	
9 Veblen Circ	Irmen, P	10/84	420,000	2,200	423,501		
103 Batl Rd Circ	Unoccupied	06/86	170,000		146,500		
			2,626,294	8,780	1,721,895	1,173,508	0

DESCRIPTION OF PROPERTY		BOOK COST	DEPRE-CIATION	BOOK VALUE
LAND		1,834,557		1,834,557
LAND IMPROVEMENTS		515,475		515,475
ACADEMIC BLDGS	FULD HALL, A & B	2,279,637	(765,258)	1,514,379
	C & D	315,508	(272,931)	42,577
	E	418,582	(187,476)	231,106
	ECP	257,869	(215,694)	42,175
	WEST	2,980,595	(1,030,372)	1,950,223
	310 S OLDEN	82,394	(13,819)	68,575
	320 S OLDEN	90,274	(15,798)	74,476
	LIBRARIES	2,300,685	(1,097,196)	1,203,489
	DINING HALL	1,563,782	(546,183)	1,017,599
TOTAL		10,289,326	(4,144,727)	6,144,599
MEMBERS' HOUSING	EINSTEIN	3,887,969	(1,832,384)	2,055,585
	VON NEUMANN	2,267,552	(624,557)	1,642,995
	109 OLDEN	68,934	(68,281)	653
TOTAL		6,224,455	(2,525,222)	3,699,233

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY

PATRICIA H. LABALME
Associate Director

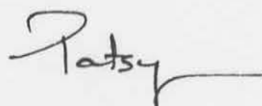
September 26, 1986

Mr. James D. Wolfensohn
President
James D. Wolfensohn, Inc.
425 Park Avenue
New York, NY 10022

Dear Jim,

Here, for your information, are the notes I took at the meeting on September 16 discussing faculty housing and mortgage policy.

Sincerely yours,



Patricia H. Labalme

Princeton, New Jersey 08540 Telephone 609-734-8201 Telex 837 680

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY

PATRICIA H. LABALME
Associate Director

September 16, 1986

Memo: to the Files
From: Patricia H. Labalme PHL
Re: Meeting to discuss housing and mortgage policy

A meeting was held this morning with the Trustee members of the Housing Committee, but not the Faculty members.

Present were Charles L. Brown, Frank Taplin, Harry Woolf. Also Patricia H. Labalme, Donna Manning and Allen Rowe.

Under discussion was the material prepared by Allen Rowe, a copy of which is attached. This material included a description of the "Gray Farm Purchase Program" which Princeton University makes available to eligible members of its Faculty and Staff, and which was being proposed as a model on which the Institute might base its own real estate and mortgage policy.

Allen Rowe briefly outlined this program:

> Princeton University sells a house to the eligible member at 20% less than the market price which discount reflects restrictions placed on these homes such as the University's option to repurchase. It must be his or her principal residence.
>
> Any improvements made on the house require the University's approval.
>
> When the owner vacates the house, it is resold to the University at 80% of the market appraisal.

Allen Rowe and Donna Manning had consulted Walter Slocombe (of the firm, Caplin & Drysdale in Washington, D.C.) who had secured from the Internal Revenue Service a letter approving this program.

Mr. Rowe thought that we could leave our present program in place for those with whom it had already been arranged and that we should use the Gray Farm arrangement for the future. We would hope the IRS would approve it as it has for the University. Mr. Slocombe's help could be obtained for this.

Mr. Rowe then presented his recommendations as listed in his circulated paper on "Faculty Mortgages."

1. "The interest rate on future mortgages should be increased to a rate closer to market." This would follow University policy.

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2. "The downside protection for Faculty members should be eliminated." No disagreement was voiced.

3. "The subsidy should be reflected as a reduction in the market value of the property by 20% or 25% due to restrictions placed on the property. The repurchase price would be at 20% or 25% of market value also." The opinion was that here we should adhere to the 20% figure used by the University.

4. "Mortgage term should not go beyond date of retirement." The need for further discussion was felt here. Dr. Woolf suggested that the moment of retirement was not a good time to require full payment of the mortgage.

5. "A mortgage should be paid off no later than the date of retirement or when the property is no longer the principal residence of the faculty member." See #4 above.

6. "Upon termination of the property in category one as the principal residence of the faculty member, he must resell it to the Institute. In the case of divorce, a spouse remaining in the house would be given a period of time (i.e. two years) before being obligated to resell it to the Institute." It was suggested that in place of "divorce," the concept of principal residence be substituted, so that the second sentence should read "In the case of the faculty member moving out...." Dr. Woolf's preference here was for a three-year rather than a two-year period of time, but the issue was not decided.

7. "Mortgage insurance should be required so that if the faculty member dies prior to retirement, the mortgage will be paid off." Donna Manning said that this kind of insurance was fairly common, and Dr. Woolf thought that a favorable group rate could be obtained.

8. "A minimum down payment should be established." No disagreement.

9. "If a faculty member cannot meet the required down payment, the Institute may wish to consider loaning the money at a rate equivalent to the current market rate for mortgages." No disagreement.

10. "Capital additions, if approved by the Institute, would be paid for by the faculty member. The Institute would then reimburse the faculty member 20% or 25% of the cost of the capital additions, depending on the subsidy percentage finally adopted." We should use the 20% figure.

11. "Capital improvements (major maintenance), if approved by the Institute, would be paid for by the faculty member and depreciated over 15 years. The subsidy percentage would be applied to any amount remaining undepreciated at the time of repurchase by the Institute and added to the amount due the faculty member at closing." Approved.

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12. "All aspects of the policy on faculty housing should be consistently applied. No special deals should be struck with prospective faculty members to attract them to the Institute." Approved, although Dr. Woolf pointed out that in his university experience, while parity was always the rule, in actuality special arrangements were often made by University authorities.

13. "No second mortgages." Add "on the same house."

It was thought advisable to add on a clause referring to an 8-mile radius limit for this plan.

Mr. Taplin then raised the question as to whether we had an adequate housing inventory for our needs. Should we reconsider the building of a condominium for emeriti, widows, and new faculty who required less space than most of the current Institute houses provide?

Mr. Brown thought we might look at another study of the condominium plan designed by Venturi.

As for the inventory, Dr. Woolf pointed out that he had long recommended purchasing houses which are contiguous to Institute land.

Mr. Taplin suggested that we might request a real estate agent to let us know what is coming on the market. We could also inform the owners of properties contiguous to the Institute that we were interested in being notified if they were going to sell the property, and this might, in some cases, lead them to make a gift of the property to us.

Dr. Woolf referred to the previous and aborted plan of building on the Quakerbridge Road farmland. Mr. Taplin thought that was still a sensitive issue in the community and that the land should be left undeveloped. He suggested that the land could be sold to an environmental group which would pay us less than a commercial firm but would guarantee keeping the land in its undeveloped state.

The rental properties were reviewed, Mr. Brown pointed out that since we are not making money on these rental properties, we should be cautious about acquiring more of them. For example, the Einstein house, recently willed to the Institute, should be looked at from the economic point of view first before a decision was made about what to do with it.

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FACULTY MORTGAGES

BACKGROUND

A mortgage on the home of a faculty or senior staff member falls into one of the following categories:

1. Properties contiguous to Institute land. The Institute wishes to maintain as much control as possible over the residential properties in its neighborhood. At present the policy is that the Institute will provide a subsidy of up to $33,000 to a faculty member who purchases one of these properties. The Institute upon repurchasing these properties shares in the appreciation in the property based on the percentage of subsidy to the total cost of the property. The faculty member is obliged to sell to the Institute, and the Institute is obligated to repurchase, the property at market value but for no less than the original purchase price plus the cost of any capital improvements financed by the faculty member. If the Institute does not sell the property immediately, it is held as rental property. However, the Director could decide not to repurchase a property or to sell a property to a third party outside the Institute.

2. Properties not contiguous to the Institute but for which the Institute grants a subsidy. These properties are treated the same as those in category one.

3. Properties not contiguous to, and not subsidized by, the Institute. If the Institute does not give, or if the faculty member chooses not to accept, a subsidy, a mortgage is granted on these properties without a subsidy, repurchase arrangement or any protection from loss in value when the property is resold.

In each of the above categories the Institute provides mortgages at an interest rate below the mortgage rate charged by the local banks and savings and loans. Currently the rate charged by the Institute is 6%. Eight years ago the rate was 4%.

Any appreciation in the value of the property at the time of repurchase by the Institute is divided between the faculty member and the Institute based on a predetermined formula. The formula takes into consideration the subsidy by the Institute and the balance of the mortgage that is still outstanding at the time of repurchase.

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THE PROBLEM

Changes in the federal tax code have brought into question the possible taxability to the faculty of certain aspects of the Institute's current housing program. They are:

Below market interest rates
Contingent interest
Treatment of subsidies
Deductibility of interest and taxes

Housing in Princeton is expensive. The location close to the Institute is exceptionally attractive and, as a consequence, homes around the Institute have increased in value at a faster rate than in some other areas in and around Princeton.

In addition, certain accounting questions exist. The subsidies granted to the faculty and currently outstanding, are not recorded on the books and records of the Institute. This frustrates asset accountability and understates the assets of the Institute. The mortgages are carried as an investment of the endowment fund. The interest earned by the endowment fund on these mortgages is far below the current yield on endowment fund investments. Since the endowment fund investments were pooled in June of 1967, the mortgage amount outstanding has been included in the market value calculations (used to calculate the value of units entering and leaving the fund) at par value. Because of their low interest rate, the mortgages are worth less than par resulting in an overstatement of the value of a "unit" in the endowment fund.

RECOMMENDED ISSUES FOR DISCUSSION BY THE COMMITTEE

1. The benefit to the Institute of a mortgage program. Is a mortgage program necessary? What do similar institutions offer?
2. The current mortgage and housing arrangements.
3. Tax considerations.
4. The need for and form of a subsidy.
5. The amount, term, interest, etc. of a mortgage.
6. Repurchase arrangement (downside protection?).
7. Events giving rise to repurchase.
8. Treatment of capital improvements to mortgaged property (should the Institute contribute to the purchase of these improvements?)
9. Determination of purchase/sale price.

RECOMMENDATIONS

1. The interest rate on future mortgages should be increased to a rate closer to market.
2. The downside protection for faculty members should be eliminated.
3. The subsidy should be reflected as a reduction in the

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market value of the property by 20% or 25% due to restrictions placed on the property. The repurchase price would be at 20% or 25% of market value also.

4. Mortgage term should not go beyond date of retirement.
5. A mortgage should be paid off no later than the date of retirement or when the property is no longer the principal residence of the faculty member.
6. Upon termination of the property in category one as the principal residence of the faculty member, he must resell it to the Institute. In the case of a divorce, a spouse remaining in the house would be given a period of time (ie: two years) before being obligated to resell it to the Institute.
7. Mortgage insurance should be required so that if the faculty member dies prior to retirement, the mortgage will be paid off.
8. Minimum down payment should be established.
9. If a faculty member cannot meet the required down payment, the Institute may wish to consider loaning the money at a rate equivalent to the current market rate for mortgages.
10. Capital additions, if approved by the Institute, would be paid for by the faculty member. The Institute would then reimburse the faculty member 20% or 25% of the cost of the capital additions, depending on the subsidy percentage finally adopted.
11. Capital improvements (major maintenance), if approved by the Institute, would be paid for by the faculty member and depreciated over 15 years. The subsidy percentage would be applied to any amount remaining undepreciated at the time of repurchase by the Institute and added to the amount due the faculty member at closing.
12. All aspects of the policy on faculty housing should be consistently applied. No special deals should be struck with prospective faculty members to attract them to the Institute.
13. No second mortgages.

I have enclosed for your review, prior to the meeting at the Institute on 16 September 1986, the following documents:

* Copy of a mortgage agreement.
* Letter from Deloitte Haskins & Sells, re: Faculty Housing Program.
* Copy of Princeton University's "Gray Farm" description.
* Copy of Princeton University's letter ruling from the IRS on "Gray Farm" faculty housing.
* Guide to the University Mortgage Loan Program from Princeton University.
* Memorandum from Steve Adler to Harry Woolf.
* List of properties on which the Institute holds a mortgage indicating those in which the Institute has a repurchase right.

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

File: Housing Comm.

THE INSTITUTE FOR ADVANCED STUDY

HARRY WOOLF
Director

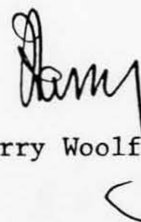
May 21, 1985

Mr. Charles L. Brown
Chairman of the Board
AT&T
550 Madison Ave
New York, NY 10022

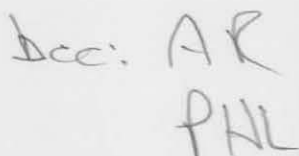
Dear Charlie:

Thank you for your letter of 3 May 1985. We are undertaking the inventory of housing that you describe and we shall also append to it a statement of upcoming needs. Thank you for those useful suggestions.

Sincerely yours,



Harry Woolf



bcc: AR
PHL

Princeton, New Jersey 08540 Telephone 609 734-8200

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

copy to: PHL
A. Rowe

AT&T

Charles L. Brown
Chairman of the Board

550 Madison Avenue
New York, NY 10022
212 644-1000

May 3, 1985

Dear Harry:

The attached from Frank Taplin is for your information and file.

In thinking about the housing matter it occurs to me that the members of the Housing Committee and eventually the Board members may wish to see an "inventory" of what housing we have and/or have under first refusal rights. Perhaps it could be composed of a list of properties with appropriate notes giving a brief description of the situation. An example might be:

xx Beta Street Princeton
Occupied by XYZ
General description- x years old, large 5 BR, etc.
Financial arrangements - purchased 19xx
- Mortgage subsidy arrangements
- Appropriate market value
- etc.

A brief description of upcoming needs would also be helpful. No hurry.

Sincerely,

Charlie

Dr. Harry Woolf
Director
Institute for Advanced Study
Olden Lane
Princeton, New Jersey 08540

Attachment

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

FRANK E. TAPLIN
ONE PALMER SQUARE
PRINCETON, N.J. 08542

May 1, 1985

Dear Charlie:

At the recent meeting of our Institute Housing Committee, I was asked to get information on Princeton's arrangements for faculty housing. I reported to Harry in advance of our recent board meeting that they are substantially as follows (I have some additional printed material from Princeton University which I can pass along to you if you wish.):

The University has a pool of some 120 houses which they make available to members of the faculty at a figure either 15 per cent or 20 per cent below market value, based upon an independent appraisal. The IRS has accepted this reduction in market value as valid because of restrictions placed upon the transferability of these houses, among other things. The faculty member then can take a 40-year mortgage from the University at 10-1/4 per cent, or 1-1/2 per cent under prime, whichever is lower. When the time comes to transfer the house back to the University (through death, transfer or the faculty member to a new position, etc.), a new appraisal is made and the property is repurchased from the member by the University at a market price, based upon a new appraisal, either 15 per cent or 20 per cent below the market value, depending upon which discount factor was used when the house was sold to the faculty member.

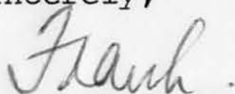
I had a good meeting with Tom Wright, general counsel of Princeton University, who will be happy to answer any questions you might have on any aspect of this. He can be reached

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

in his office at Nassau Hall at 452-5560.

I realize that the University's plan may not be compatible with what you were suggesting in terms of trying to stabilize the market, but I think we ought to look at as many alternatives as possible. If I can be helpful in any further way, please let me know.

Sincerely,



Frank E. Taplin

Mr. Charles Brown
116 Hunt Drive
Princeton, N. J. 08540

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

Housing Cmte

THE INSTITUTE FOR ADVANCED STUDY

HARRY WOOLF
Director

May 10, 1985

Mr. Charles L. Brown
Chairman of the Board
AT&T
550 Madison Avenue
New York, NY 10022

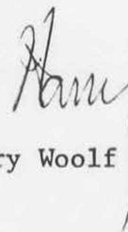
Dear Charlie,

Many thanks for sending me Frank Taplin's useful memo.

I think your suggestion of an inventory is first-rate. We have the material assembled, and we can easily put it into the sort of shape you suggest. I will get back to you when it is ready.

With all good wishes,

Sincerely yours,



Harry Woolf

Princeton, New Jersey 08540 Telephone 609 734-8200

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

copy to PHL ✓

Charles L. Brown
Chairman of the Board

550 Madison Avenue
New York, NY 10022
212 644-1000

May 3, 1985

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In thinking about the housing matter it occurs to me that the members of the Housing Committee and eventually the Board members may wish to see an "inventory" of what housing we have and/or have under first refusal rights. Perhaps it could be composed of a list of properties with appropriate notes giving a brief description of the situation. An example might be:

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Sincerely,

Charlie

Dr. Harry Woolf
Director
Institute for Advanced Study
Olden Lane
Princeton, New Jersey 08540

Attachment

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

FRANK E. TAPLIN
ONE PALMER SQUARE
PRINCETON, N.J. 08542

May 1, 1985

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in his office at Nassau Hall at 452-5560.

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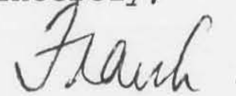
Sincerely,



Frank E. Taplin

Mr. Charles Brown
116 Hunt Drive
Princeton, N. J. 08540

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY

HARRY WOOLF
Director

December 5, 1984

Mr. Charles L. Brown
Chariman of the Board
AT&T Company
550 Madison Ave., Room 3400
New York, NY 10022

Dear Charlie:

I am writing to inform you that the joint Faculty/Trustee Committee on Housing has now been formed. The two Trustees are you and Frank Taplin, and I am hoping you will chair the committee. The two members of the Faculty are Professor Atle Selberg of the School of Mathematics and Professor Albert Hirschman of the School of Social Science.

I'll call you in a few days to discuss what is involved and arm you with whatever material is necessary for the task.

Sincerely yours,

Harry Woolf

bcc: PHL

Princeton, New Jersey 08540 Telephone 609 734-8200

Board of Trustees Records: Committee Files: Box 2: Faculty - Trustee Committee on Housing
From the Shelby White and Leon Levy Archives Center, Institute for Advanced Study, Princeton, NJ, USA

THE INSTITUTE FOR ADVANCED STUDY

HARRY WOOLF
Director

November 20,1984

Memorandum to the File file

re: Housing Committee - Board of Trustees

call Christian Habicht (No)

Atle Selberg (Yes)

ask them to serve on committee.

C. Brown (Yes)
A. Hirschman (Yes)
F. Taplin (Yes)
(returns 30 Nov)