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ATTORNEY AT LAW  
1510 TWISTED OAK DRIVE  
CHAPEL HILL, NORTH CAROLINA 27516  
Phone (919) 967-3800

June 6, 2019

Mr. Jerry Kontos  
Assistant City Attorney  
City of Winston Salem  
PO Box 2511  
Winston-Salem, NC 27102

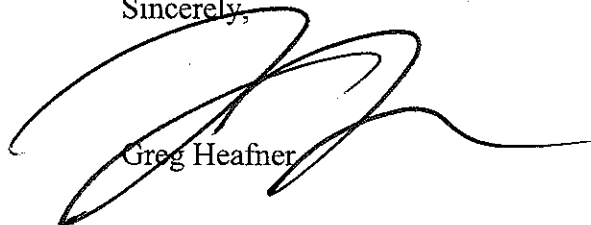
RE: *1520 Doune Street, Winston Salem*

Dear Mr. Kontos:

This follows and supplements my May 24, 2019 letter and Oxford House's request for a reasonable accommodation contained therein. Pursuant to the City's Unified Development Ordinance, enclosed is Oxford House's Statement of Justification for its request for a reasonable accommodation to allow eight persons in recovery to live at 1520 Douine Street.

A copy of this letter, and the Statement of Justification, have been sent USPS First Class Certified Mail to the two adjoining property owners of 1520 Doune Street. Copies of the Certified Mailing Receipts are enclosed. I trust this complies with the City's requirements for a request for a reasonable accommodation. Should anything else be necessary, please do not hesitate to contact me.

Sincerely,



Greg Heafner

cc: Paul Molloy, Esq., CEO Oxford House, Inc.

## **STATEMENT OF JUSTIFICATION**

Oxford House, Inc. requests a Reasonable Accommodation pursuant to the Federal Fair Housing Act, and the City of Winston Salem's Unified Development Ordinance, for a reasonable accommodation from the City to allow eight disabled persons, all men recovering from drug addiction or alcoholism, to live at the Oxford House located at 1520 Doune Street in Winston Salem. The Oxford House at 1520 Doune Street has been open since 2016, without incidence. The house is a six bedroom, three full bathroom, approximately 3950 square foot single family dwelling. 1520 is located at the end of Doune Street. The property is bordered by Doune Street on the front, a commercial business at the rear, a commercial parking lot to the left, and another single family home to the right.

This Statement of Justification describes Oxford House, and explains why the requested accommodation is reasonable and necessary to afford handicapped persons the opportunity to use and enjoy housing.

### **WHAT IS AN OXFORD HOUSE**

Oxford Houses are homes for persons recovering from alcoholism and or drug addiction, who are no longer using alcohol or drugs. Oxford House is a self-run, self-supported recovery home concept and standardized system of operation that served as the model for the self-run, self-supported group recovery homes authorized for start-up loans under §2036 of the Federal Anti-Drug Abuse Act of 1988, PL 100-690. This legislation required each state to set aside \$100,000 in a revolving loan fund to make loans to recovering addicts and alcoholics to assist in the

establishment of housing that is financially self-supported, democratically run, and immediately expels anyone who relapses.

Many of the nearly two thousand Oxford Houses in the United States were started with loans pursuant to this Act through contracts with state governments. Most of the over two-hundred Oxford Houses in North Carolina were started with loans pursuant to this Act through an ongoing contract with the State of North Carolina. Since 1990, the State of North Carolina, through the Department of Health and Human Services, has entered into annual contracts with Oxford House, Inc., the umbrella organization of the national network of Oxford Houses, to help establish and assist in the maintenance of a statewide network of Oxford Houses.

Each Oxford House is chartered by Oxford House, Inc., a 501(c)(3) nonprofit umbrella organization. Three basic conditions are required to obtain a charter: 1). The house must be democratically self-run following the standard system of operation set forth in the Oxford House Manual; 2). The house must be financially self-supporting by the individual residents paying equal shares of household expenses in a timely manner, and; 3). The house must immediately expel any resident who returns to using alcohol or drugs inside or outside of the house.

Oxford House, Inc.'s by-laws preclude it or its chartered houses from owning residential property, thus all Oxford Houses are rented. A group wanting to start an Oxford House behaves in the household rental market just like an ordinary family. It finds an available, suitable house and rents it by paying the first month's rent and security deposit to a willing landlord. Usually, these funds come from the above referenced start-up loans. Oxford House residents are encouraged to rent single family dwellings in good neighborhoods.

The houses operate autonomously, but must follow the procedures in the Oxford House Manual and adhere to the conditions of its charter. Each Oxford House has its own bank account.

There are no dues or fees to Oxford House, Inc. by individual houses, but having a charter gives the houses technical assistance and support by Oxford House, Inc., including defense of the civil rights of every Oxford House.

Oxford Houses are not substance abuse centers or halfway houses. No treatment, counseling, therapy, or any kind of health care is provided. There is no house manager, paid staff, or other type of institutional personnel involved in the supervision or management of the house. All decisions relating to the functioning of the house are made democratically. Each house manages its own finances. There is no required random testing for alcohol or drug use, nor are there any required rules relating to curfews. In an Oxford House residents live there by choice.

Oxford House residents are considered to be the functional equivalent of a family for several reasons. First, all the residents have access to the entire house. Second, all the residents participate equally in the housekeeping functions of the house, such as chores and finances. Each resident, however, is responsible for his own food and cooking. Third, the quality of the relationship among the residents is one of emotional and mutual support and bonding giving each resident support in their recovery from alcoholism and providing an ameliorative therapeutic benefit toward recovery to each resident. Fourth, the living arrangement is not based upon a profit motive. Finally, there are no limits as to how long a resident can stay in Oxford House. The average length of stay, nationally, is about thirteen months. For more detailed information about Oxford House and its recovery program and the benefits thereof, see the Oxford House Manual enclosed herewith and incorporated herein by reference, and the Oxford House website at [www.oxfordhouse.org](http://www.oxfordhouse.org).

Oxford House residents are a protected class under the Federal Fair Housing Act, and the American with Disabilities Act. See the Fair Housing Act (FHA), 42 U.S.C. 3600 et. seq.

Recovering addicts and alcoholics are specifically included within the definition of “handicapped individual” under these Acts. See 42 U.S.C. 3602(h), and *City of Edmonds, WA v. Oxford House, Inc.* 514 U.S. 725 (1995); *Oxford House v. City of St. Louis*, 77 F.3d 249 (8th Cir. 1996); *United States (on behalf of Oxford House) v. Village of Palatine*, 37 F.3d 1230 (7th Cir. 1994); *United States (on behalf of Oxford House) v. Village of Audubon*, 797 F. Supp. 353, aff’d without opinion, 968 F.2d 14 (3d Cir. 1992); *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179 (E.D.N.Y. 1993); *Oxford House v. Township of Cherry Hill*, 799 F. Supp. 450 (D.N.J. 1992); *Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1197 (D.N.J. 1991), and; *Tsombanidis, and Oxford House, Inc. v. City of West Haven, Connecticut*, 180 F. Supp. 262 (Ct. 2001).

As members of a protected class under the FHA, Oxford Houses are protected against discriminatory zoning practices. As such, the issue of whether an Oxford House is in violation of local zoning ordinances is not relevant to the question of federal law. See *United States (on behalf of Oxford House) v. Village of Audubon*, supra. The FHA prohibits discriminatory land use decisions by local governments, even when such decisions are “ostensibly authorized by local ordinance.” See *Oxford House Evergreen v. City of Plainfield*, supra; also 42 U.S.C. Section 3615 (“any law of a State, a political subdivision, or other jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid under the Fair Housing Act”).

The aforementioned prohibition under the FHA against zoning discrimination by local governments includes the requirement that local governments make reasonable accommodations in their zoning ordinances to allow the operation of Oxford Houses. Specifically, 42 U.S.C. 3604(f)(3)(B), defines discrimination to include a “refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such

handicapped person equal opportunity to use and enjoy a dwelling.” See *Oxford House v. City of St. Louis*, supra; *Oxford House v. City of Plainfield*, supra; *Oxford House v. Township of Cherry Hill*, supra, and; *Oxford House, Inc. v. Town of Babylon*, supra.

## **REASONABLE AND NECESSARY ACCOMADATION**

Reasonable and Necessary is defined under both the Fair Housing Act and the City of Winston Salem’s UDO as follows:

1. “Reasonable”. An accommodation will be determined reasonable if it would not constitute a substantial of fundamental alteration or undermine the legitimate purposes and effects of the City’s zoning regulations, and if it would not impose significant financial and administrative burdens upon the City; and
2. “Necessary”. An accommodation will be determined necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to enjoy.

The reasonableness and necessity Oxford House’s request for 1520 Doune Street are set forth below.

## **THE REQUEST IS REASONABLE**

### **No Burden**

There is no evidence of any financial or administrative burden on the City by the existence of the Oxford House. In fact, the Oxford House provides a free benefit to the City by providing housing and aiding in the recovery of those recovering from alcoholism and drug addiction.

## **Zoning Scheme Not Undermined or Fundamentally Altered**

The Oxford House does not undermine the purposes of the City's zoning ordinance. The ordinance also allows for housing of person in recovery from alcoholism or drug addiction at this particular location. The UDO allows Family Group Homes with up to six residents as a matter of right in R-9 zoning districts such as in which 1520 Doune Street is located. Moreover, Family Group Homes are initialized dwellings per the UDOC's definition which requires on-site staff and services. As set forth above, Oxford Houses are not such facilities, but are more akin to families. Further, the ordinance provides for a reasonable accommodation for the request made herein. The ordinance itself is proof that the Oxford House does not undermine the City's ordinance or fundamentally alter its zoning scheme.

## **THE REQUEST IS NECESSARY**

### **Therapeutically Beneficial**

By its very nature the Oxford House model's therapeutic benefit is derived solely from its residents. As described above, in an Oxford House there are no counselors, managers, care providers or outside personnel that provide any therapeutic services. Oxford Houses are not like traditional group homes, halfway houses, or family care homes - all of which have managers and provide some services to their residents. In such traditional homes a lesser number of residents will not have any therapeutic impact. Not so in an Oxford House. The quality of the relationship among the residents in an Oxford House is one of mutual support and bonding, providing an ameliorative therapeutic benefit which aids each resident in their recovery from alcoholism or drug

addiction. As a result of this therapeutic benefit, those living in an Oxford House are more likely to remain clean and sober than those living on their own.<sup>1</sup>

The average number of residents in an Oxford House in North Carolina is eight (8). The average vacancy rate for Oxford Houses in North Carolina is one (1), meaning that with an allowed maximum capacity of 8, the 1205 Dotson Court Oxford House will usually have just 7 residents. If the house is not granted the requested exception, then it would be limited to 6 residents. With the average vacancy rate, a 6 person Oxford House would usually have only 5 residents. As set forth above the oxford House model requires a minimum of 6 residents at all times to hold all required offices (president, vice president, secretary, treasurer, comptroller, and coordinator). A house that falls below six residents on a regular basis can lose its charter from Oxford House, Inc. Without the requested accommodation, the Oxford House at 1520 Doune Street would be in jeopardy of failing for lack of enough residents. Failure of the house means it would close, causing its residents to lose their home and support in their recovery. Invariably some would relapse. Relapse could be permanent and fatal. The ameliorative therapeutic benefit of the requested exception here is a threshold, make or break degree of amelioration.

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<sup>1</sup> DePaul University study that followed 897 residents in 219 Oxford Houses across the country for 27 months found that only 13% relapsed. A peer-reviewed published report of that study in *Addictive Behaviors* 32 (2007) can be downloaded at the Oxford House, Inc. website under "Publications/Evaluations/DePaul." In another study 150 individuals getting out of primary treatment were divided into two groups of 75 each with one group going to Oxford Houses and the other group going to normal living situations, each group was followed for two years after treatment and the Oxford House group did substantially better in staying clean and sober – 66% v. 33%. *American Journal of Public Health*, Oct 2006; Vol. 96, pp1727–1729.



## **An Equal Opportunity to Use and Enjoy Housing of Their Choice**

Finally, an Oxford House is home to its residents. The requested accommodation provides the residents an equal opportunity to use and enjoy housing of their choice<sup>2</sup>.

Without the requested accommodation the house would close as noted above. Closing of the house cause some residents to relapse, with potentially fatal consequences as noted above. Additionally, finding another house to rent to potentially relocate the Oxford House would be extremely difficult. Finding landlords willing to rent to Oxford House is difficult because of the stigma of alcoholism and drug addiction, the fear of zoning problems, neighbor ignorance and opposition, and finally because Oxford House requires long-term leases into which many landlords simply will not often enter.

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<sup>2</sup> The City's ordinance falls short of what federal law requires as to equal opportunity. The law requires not just an equal opportunity to enjoy and use housing, but requires equal opportunity for disabled person to enjoy and using housing *of their choice*. Several courts have held the FHA protects the rights of disabled persons to use and enjoy *the particular dwelling of their choice*. See, e.g., *Hovson's, Inc. v. Township of Brick*, 89 F.3d 1096, 1103-06 (3rd Cir. 1996); *United States v. City of Jackson*, 318 F.Supp.2d 395, 416 (S.D. Miss. 2002) (FHA "guarantee[s] that the disabled be afforded equal opportunity to live, not in *some* residence in the community, but rather in the residence of their choice"); *ARC of New Jersey, Inc. v. State of New Jersey*, 950 F. Supp. 637, 645 (D. N.J. 1996) ("Such ceiling quotas [imposed via group home spacing rules] improperly limit the ability of handicapped persons 'to live in the residence of their choice in the community,' House Report at 24, even if imposed in the name of integration or 'declustering'"); *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1185 n.10 (E.D. N.Y. 1993) (FHA "dictates that a handicapped individual must be allowed to enjoy *a particular dwelling, not just some dwelling somewhere in the town*"); *Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1329, 1344 (D. N.J. 1991) (defense based on existence of alternative locations in the city for group home held "without merit").

**AFFIDAVIT OF SERVICE**

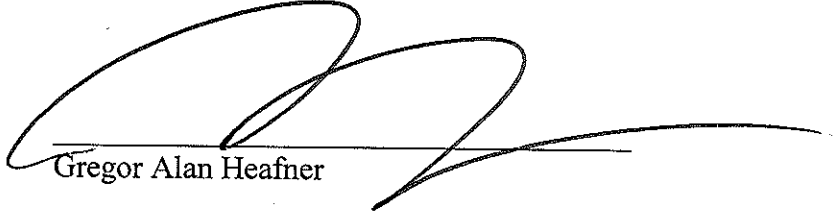
I, Gregory Alan Heafner, the attorney for Oxford House, Inc. in the matter of its Request for a Reasonable Accommodation for the Oxford House located at 1520 Doune Street Winston Salem North Carolina, being first duly sworn, deposes and says:

I have mailed copies of Oxford House, Inc.'s request for a reasonable Accommodation being my June 6, 2019 letter to Winston Salem City Attorney Jerry Kontos, and the Statement of Justification referred to therein, to the two adjoining property owners of 1520 Doune Street on June 6, 2019 by mailing same United State Postal Service Certified Mail First Class as evidenced by the certified mail receipts attached hereto and incorporated herein collectively by reference as Exhibit A addressed as follows:

Laura E. Markland  
1522 Doune Street  
Winston Salem, NC 27127

Dize Company, Inc.  
1512 S. Main St.  
Winston Salem, NC 27127

IN WITNESS WHEREOF, this 6th day of June, 2019.



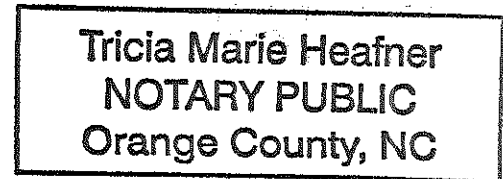
Gregor Alan Heafner

STATE OF NORTH CAROLINA  
COUNTY OF ORANGE

Sworn and subscribed before me this 6th day of June 2019.

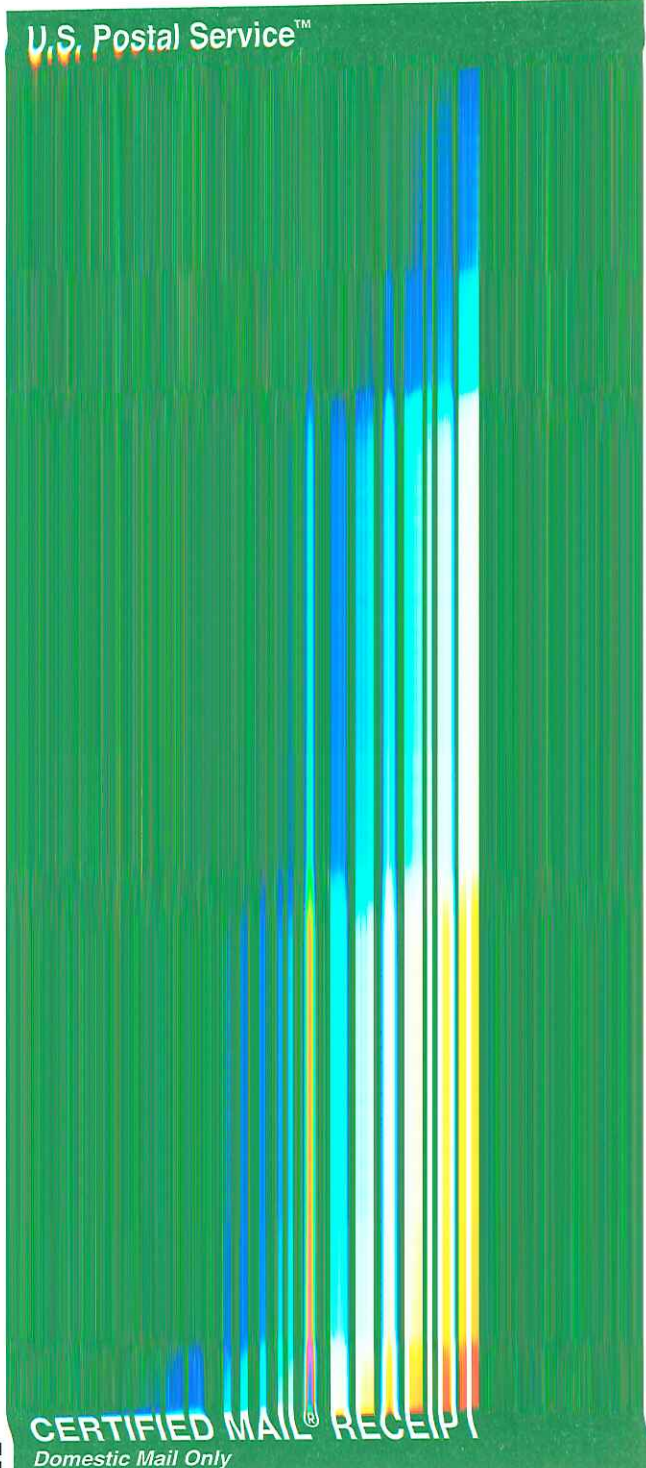


Notary Public



My Commission expires September 25<sup>th</sup>, 2021

EXHIBIT A



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