

Filing Fee: See Instructions

ID Number: 60209



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Office of the Secretary of State
Corporations Division
148 W. River Street
Providence, Rhode Island 02904-2615

2009 MAY -8 AM 9:38
RECEIVED
SECRETARY OF STATE
CORPORATIONS DIVISION

ARTICLES OF MERGER OR CONSOLIDATION INTO

ROLAND M. BOUCHER APARTMENTS, INC.

(Insert full name of surviving or new entity on this line.)

SECTION I: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES

Pursuant to the applicable provisions of the General Laws of Rhode Island, 1956, as amended, the undersigned entities submit the following Articles of ☒ Merger or ☐ Consolidation (**check one box only**) for the purpose of merging or consolidating them into one entity.

- a. The name and type (for example, business corporation, non-profit corporation, limited liability company, limited partnership, etc.) of each of the merging or consolidating entities and the state under which each is organized are:

Name of entity	Type of entity	State under which entity is organized
SADWIN APARTMENTS INC. <u>28966</u>	Non-Profit Corporation	Rhode Island
SUTHERLAND APARTMENTS INC. <u>27691</u>	Non-Profit Corporation	Rhode Island
ROLAND M. BOUCHER APARTMENTS, INC. <u>60209</u>	Non-Profit Corporation	Rhode Island

- b. The laws of the state under which each entity is organized permit such merger or consolidation.
- c. The full name of the surviving or new entity is ROLAND M. BOUCHER APARTMENTS, INC.
which is to be governed by the laws of the state of Rhode Island
- d. The attached Plan of Merger or Consolidation was duly authorized, approved, and executed by each entity in the manner prescribed by the laws of the state under which each entity is organized. (**Attach Plan of Merger or Consolidation**)
- e. If the surviving entity's name has been amended via the merger, please state the new name:
N/A
- f. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, and such surviving or new entity is not qualified to conduct business in the state of Rhode Island, the entity agrees that it: (i) may be served with process in Rhode Island in any proceeding for the enforcement of any obligation of any domestic entity which is a party to the merger or consolidation; (ii) irrevocably appoints the Secretary of State as its agent to accept service of process in any action, suit, or proceeding; and (iii) the address to which a copy of such process of service shall be mailed to it by the Secretary of State is:

- g. These Articles of Merger or Consolidation shall be effective upon filing unless a specified date is provided which shall be no later than the 90th day after the date of this filing _____

SECTION II: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A BUSINESS CORPORATION PURSUANT TO TITLE 7, CHAPTER 1.2 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, such surviving or new entity hereby agrees that it will promptly pay to the dissenting shareholders of any domestic corporation the amount, if any, to which they shall be entitled under the provisions of Title 7, Chapter 1.2 of the General Laws of Rhode Island, 1956, as amended, with respect to dissenting shareholders.

FILED

MAY 08 2009

By 088953 9:38

b. Complete the following subparagraphs i and ii only if the merging business corporation is a subsidiary corporation of the surviving corporation.

i) The name of the subsidiary corporation is _____

ii) A copy of the plan of merger was mailed to shareholders of the subsidiary corporation (such date shall not be less than 30 days from the date of filing) _____

c. As required by Section 7-1.2-1003 of the General Laws, the corporation has paid all fees and franchise taxes.

.....
SECTION III: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A NON-PROFIT CORPORATION PURSUANT TO TITLE 7, CHAPTER 6 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If the members of any merging or consolidating non-profit corporation are entitled to vote thereon, attach a statement for each such non-profit corporation which sets forth the date of the meeting of members at which the Plan of Merger or Consolidation was adopted, that a quorum was present at the meeting, and that the plan received at least a majority of the votes which members present at the meeting or represented by proxy were entitled to cast; OR attach a statement for each such non-profit corporation which states that the plan was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- b. If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such non-profit corporation attach a statement which states the date of the meeting of the board of directors at which the plan was adopted, and a statement of the fact that the plan received the vote of a majority of the directors in office.

.....
SECTION IV: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A LIMITED PARTNERSHIP PURSUANT TO TITLE 7, CHAPTER 13 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED

- a. The agreement of merger or consolidation is on file at the place of business of the surviving or resulting domestic limited partnership or other business entity and the address thereof is:

- b. A copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate.

.....
SECTION V: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES

Under penalty of perjury, we declare and affirm that we have examined these Articles of Merger or Consolidation, including any accompanying attachments, and that all statements contained herein are true and correct.

ROLAND M. BOUCHER APARTMENTS, INC.

Print Entity Name

By: _____
Name of person signing Title of person signing

By: _____
Name of person signing Title of person signing

Print Entity Name

By: _____
Name of person signing Title of person signing

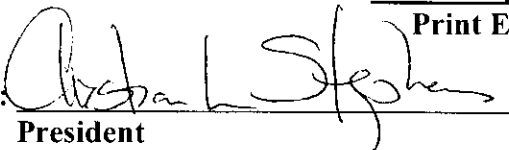
By: _____
Name of person signing Title of person signing

SECTION V: To be completed by all merging or consolidating entities:

Under penalty of perjury, we declare and affirm that we have examined these Articles of Merger or Consolidation, including any accompanying attachments, and that all statements contained herein are true and correct.

Sadwin Apartments Inc.

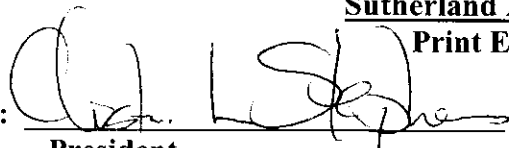
Print Entity Name

By: 
President

By: 
Secretary

Sutherland Apartments Inc.

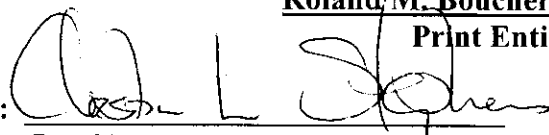
Print Entity Name

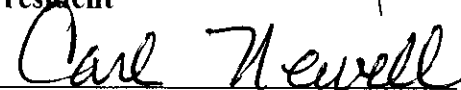
By: 
President

By: 
Secretary

Roland M. Boucher Apartments, Inc.

Print Entity Name

By: 
President

By: 
Secretary

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated May 8, 2009, is by and between **SADWIN APARTMENTS INC.**, a Rhode Island non-profit corporation ("Sadwin"), **SUTHERLAND APARTMENTS INC.**, a Rhode Island non-profit corporation ("Sutherland") and **ROLAND M. BOUCHER APARTMENTS, INC.**, a Rhode Island non-profit corporation ("Boucher") (Sadwin, Sutherland, and Boucher are sometimes hereinafter referred to individually as a "Constituent Corporation" and are sometimes referred to collectively as the "Constituent Corporations").

WHEREAS, the Constituent Corporations each operate a housing facility assisted under Section 202 of the Housing Act of 1959, as amended in Woonsocket, Rhode Island; and

WHEREAS, the Board of Directors of each Constituent Corporation determined it is advisable to refinance the existing mortgage indebtedness applicable to each Constituent Corporation securing the financing obtained by each under Section 202 of the Housing Act of 1959, as amended; and

WHEREAS, the Board of Directors of each Constituent Corporation determined it will greatly assist the refinancing process, and provide better overall management efficiencies if they could operate as one entity; and

WHEREAS, the members (to the extent that the Constituent Corporation has members) and the Board of Directors of each Constituent Corporation deem it advisable that the Constituent Corporations merge into one entity and have duly approved and authorized this Agreement and Plan of Merger; and

WHEREAS, the laws of the State of Rhode Island permit such a merger, and the Constituent Corporations desire to merge into one entity, with Boucher as the surviving entity pursuant to the provisions of the laws of Rhode Island;

NOW, THEREFORE, in consideration of these premises and of the mutual agreements and covenants herein contained, it is agreed that Sadwin and Sutherland shall be and they hereby are merged into Boucher, which shall be hereafter referred to as the "Surviving Corporation," and the terms and conditions of such merger and the manner of carrying it into effect are and shall be as follows:

Section 1. Name.

The name of the Surviving Corporation shall remain and be **ROLAND M. BOUCHER APARTMENTS, INC.** upon the effective date of the merger.

Section 2. Articles of Incorporation.

The Articles of Incorporation of the Surviving Corporation shall be the Articles of Incorporation of Boucher existing as of the date of the merger, with the following Amendments:

The Articles of Incorporation of the Surviving Corporation are hereby amended by adding the following language thereto:

Article Third:

Notwithstanding anything in these Articles of Incorporation to the contrary, the Corporation is formed solely to acquire, operate, construct, lease and own a project consisting of property located at 30 Willow

Street, 128 Blackstone Street, 824 Harris Avenue, 328-288 Privilege Street, 37 Rebekah Street, 462 East School Street, and 183 Elm Street, Woonsocket, Rhode Island (the "Project") and to do any and all things necessary, convenient or incidental to that purpose. The purposes for which the Corporation is formed and the business to be carried on and the objectives to be effected by it specifically include: (i) financing of the construction of rental housing with the assistance of mortgage insurance under the National Housing Act; (ii) entering into, performing, and carrying out contracts of any kind necessary to, or in connection with, or incidental to, the accomplishment of the purposes of the Corporation, including, expressly, any contract or contracts with the Secretary of Housing and Urban Development which may be desirable or necessary to comply with the requirements of the National Housing Act, as amended, and the Regulations of the Secretary thereunder, relating to the regulation or restriction of mortgagors as to rents, sales, charges, capital structure, rate of return and methods of operation.

Article Fourth:

(a) The Corporation is authorized to execute a note (the "Note"), a mortgage, securing the Note (the "Mortgage"), and security agreement (the "Security Agreement") on the Project in order to secure a loan to be insured by the Secretary of Housing and Urban Development ("HUD"); to execute the regulatory agreement (the "HUD Regulatory Agreement") and other documents required by HUD in connection with the HUD-insured loan (the "HUD Loan"), and to comply with the requirements of HUD's mortgage insurance program.

(b) Notwithstanding any other provisions of these Articles, in the event that any provision of these Articles, or any other organizational documents of the Corporation, including the Bylaws (collectively, the "Organizational Documents"), conflicts with the terms of the Note, Mortgage, Security Agreement or HUD Regulatory Agreement (collectively, the "HUD Loan Documents"), the conflicting provisions of the HUD Loan Documents shall control.

(c) The following provisions of this Section (c), shall apply for so long as (and only for so long as) HUD or HUD's successors or assigns is the insurer or holder of the Note.

i. No provisions required by HUD to be inserted into these Articles, or any other Organizational Documents of the Corporation, may be amended without prior HUD approval.

ii. No provision of or amendment to these Articles, or any other Organizational Documents of the Corporation, that results in any of the following will have any force or effect without the prior written consent of HUD:

- (1) Any amendment that modifies the term of the Corporation;
- (2) Any amendment that activates the requirement that a HUD previous participation certification be obtained from any additional member;
- (3) Any amendment that in any way affects the Note, Mortgage, Security Agreement or HUD Regulatory Agreement;
- (4) Any amendment that would authorize any officer or representative to bind the Corporation for matters concerning the Project which require HUD's consent or approval, other than the official representative as

designated in these Articles (or substitute representative designated in the manner provided in these Articles); or

(5) Any change in a guarantor for the Corporation of any obligation to HUD.

iii. Any incoming director and/or member must agree to be bound by the Note, Mortgage, Security Agreement, HUD Regulatory Agreement and any other documents required in connection with the HUD-insured loan.

iv. Notwithstanding any other provisions of these Articles, upon any dissolution, no title or right to possession and control of the Project, and no right to collect the rents from the Project, shall pass to any person who is not bound by the HUD Regulatory Agreement in a manner satisfactory to HUD.

v. The members, officers, trustees and directors agree to be liable in their individual capacities to HUD with respect to the following matters:

(1) For funds or property of the Project coming into their hands, which by the provisions of the HUD Regulatory Agreement, they are not entitled to retain;

(2) For their own acts and deeds, or acts and deeds of others which they have authorized, in violation of the provisions of the HUD Regulatory Agreement;

(3) For the acts and deeds of "affiliates," as defined in the HUD Regulatory Agreement, which they have authorized in violation of the provisions of the HUD Regulatory Agreement; and

(4) As otherwise provided by law.

vi. The Corporation may not voluntarily be dissolved or converted to another form of entity without the prior written approval of HUD.

vii. The Corporation has designated Christian L. Stephens, President of the Corporation, as its official representative for all matters concerning the Project which require HUD consent or approval. The signature of Christian L. Stephens, individually, will bind the Corporation in all such matters. The Corporation may from time to time appoint one or more substitute representatives to perform this function, but within three (3) business days of doing so, will provide HUD with written notification of the name, address, and telephone number of the substitute representative. When any person other than the person(s) identified herein has full or partial authority of management of the Corporation, the Corporation will promptly provide HUD with the name of that person and the nature of that person's management authority.

viii. Notwithstanding any provision to the contrary in the Organizational Documents, any indemnification by the Corporation of the Corporation's members, officers, trustees, directors, and/or board members is limited to the available proceeds of liability insurance and/or "surplus cash" as defined in the HUD Regulatory Agreement.

ix. So long as the Corporation is the owner of the Project and the Project is encumbered by an indebtedness insured or held by HUD, the Corporation will not, without the prior written approval of HUD, engage, except for natural persons, in any other business or activity, including the operation of any other rental project, or incur any liability or obligation not in connection with the Project.

(d) By-Laws of the Corporation may be adopted by the Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provisions of these Articles or of the Regulatory Agreement between the Corporation and the Secretary of Housing and Urban Development pursuant to Article 3 hereof.

(e) Notwithstanding anything herein or in the Bylaws to the contrary, the Board of Directors shall retain the sole right to manage the property, affairs and business of the Corporation and the Member of the Corporation shall have no right to vote with respect to any matter governing the property, affairs and/or business of the Corporation except with respect to the right to elect the Board of Directors of the Corporation.

(f) Upon the dissolution of the Corporation or the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual, and all of the remaining assets of the Corporation, after the payment of the Corporation's debts, shall be conveyed or distributed only to one or more organizations created and operated for one or more exempt purposes within the meaning of Article THIRD (a) hereof, other than for religious purposes, all of the foregoing with the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future United States internal revenue law, or shall be distributed to the Secretary of Housing and Urban Development exclusively for a public purpose. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

The Articles of Incorporation of the Surviving Corporation are hereby further amended by deleting the provisions of Article FOURTH of the original Articles of Incorporation which was added to the Articles of Incorporation by the Articles of Amendment filed and effective on December 20, 1990.

Section 3. Bylaws.

The Bylaws of the Surviving Corporation shall be the Bylaws of Boucher existing as of the date of the merger, as amended by the Surviving Corporation.

Section 4. Directors, Officers, and Members.

The Directors, Officers, and Members of the Surviving Corporation on the effective date of the merger shall be the Directors, Officers, and Members of Boucher on the effective date of the merger.

Section 5. Effective Date of Merger.

(a) For all purposes under the laws of the State of Rhode Island, this Agreement and Plan of Merger and the merger herein provided for shall become effective as soon as:

(i) This Agreement and Plan of Merger shall have been adopted, approved and signed in accordance with the laws of the State of Rhode Island and Articles of Merger indicating its adoption and approval shall have been executed in accordance with such laws, and

(ii) The Articles of Merger shall have been filed in the office of the Rhode Island Secretary of State.

(b) The corporate identity, existence, purposes, powers, objects, franchises, rights and immunities of Boucher shall continue unaffected and unimpaired by the merger hereby provided for, and the corporate identity, existence, purposes, powers, objects, franchises, rights, and immunities of Sadwin and Sutherland shall be continued in and merged into ROLAND M. BOUCHER APARTMENTS, INC., and said Surviving Corporation shall be fully vested therewith, subject to the Amendments to the Articles of Incorporation of the merged corporations as set forth in Paragraph 2 above.

(c) The date upon which the Constituent Corporations shall become a single corporation is the effective date of the merger.

Section 6. Effect of Merger.

Upon the merger becoming effective:

(a) The Surviving Corporation shall possess all rights, privileges, powers, licenses and franchises and shall be subject to all the restrictions, disabilities, obligations, and duties of each of the Constituent Corporations, except as otherwise provided by law, and except as otherwise provided in this Agreement and Plan of Merger;

(b) The Surviving Corporation shall be vested with all property, real, personal, or mixed, and all debts due to the Constituent Corporations on whatever account as well as all other choses in action belonging to the Constituent Corporations; and

(c) All property, rights, privileges, powers and franchises of the Constituent Corporations shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations, but all rights of creditors and all liens upon any property of the Constituent Corporations shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the effective date of the merger; and all debts, liabilities, obligations, and duties of the Constituent Corporations shall thenceforth attach to, and are hereby assumed by, the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities, obligations and duties had been incurred or contracted by it.

Section 7. Delivery of Deeds and Instruments.

From time to time as and when requested by the Surviving Corporation or by its successors or assigns, each Constituent Corporation shall execute and deliver, or cause to be executed and delivered, all deeds and other instruments and shall make, or cause to be taken, all such other and further actions as the Surviving Corporation may deem necessary or desirable in order to more fully vest in the Surviving Corporation title to and possession of all the property, rights, privileges, powers and franchises referred to in Section 6 hereof and otherwise to carry out the intent and purposes of this Agreement and Plan of Merger. Notwithstanding the aforesaid, title to all real, personal and mixed property of the Constituent Corporations shall vest solely in the Surviving Corporation upon the effective date of the merger without

the requirement of any further action, and no deed or other documentation need be filed to vest title to all real, personal, mixed and any other assets of the Constituent Corporations in the Surviving Corporation. For the convenience of the parties and to facilitate the filing and recording of this Agreement and Plan of Merger, any number of counterparts hereof may be executed and each such executed counterpart shall be deemed to be an original instrument.

Section 8. Service of Process.

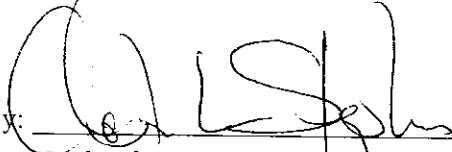
Upon the merger herein proposed becoming effective, the Surviving Corporation agrees that it may be served with process in the State of Rhode Island in any proceeding for enforcement of any obligation any Constituent Corporation or for any obligation of the Surviving Corporation, by service upon the Registered Agent of the Surviving Corporation.

Section 9. Employer Identification Number.

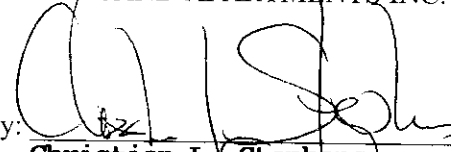
The federal employer identification number of Boucher shall be the federal employee identification number of the Surviving Corporation.

IN WITNESS WHEREOF, the undersigned have caused this Agreement and Plan of Merger to be signed in their respective corporate names by an officer thereunto duly authorized as of the date first written above.

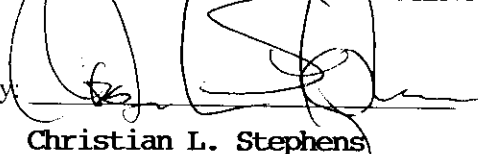
SADWIN APARTMENTS INC.

By: 
Christian L. Stephens
President

SUTHERLAND APARTMENTS INC.

By: 
Christian L. Stephens
President

ROLAND M. BOUCHER APARTMENTS, INC.

By: 
Christian L. Stephens
President