

Extra Info #6
7/18/05

Final Version

TOWN OF ACTON – BOARD OF SELECTMEN

Motion to Authorize Acton Community Housing Corporation to Advance Affordable Housing Development on Certain Town-Owned Property

WHEREAS the Town of Acton is the owner by tax taking of the real property at 28 Willow Street and 214 Central Street, Acton, Massachusetts (the “Property”) by tax title takings in Land Court Case Nos. 112320 T.L. and 112319 T.L. (Judgments dated May 4, 1998).

WHEREAS the Acton Community Housing Corporation (“ACHC”) proposes that the Property be developed as an affordable housing project consisting of three units of affordable housing (a duplex farmhouse on the Central Street side of the Property and a one-unit bungalow on the Willow Street side of the Property) (the “Project”).

WHEREAS the Board of Selectmen supports ACHC’s proposal for the Project.

WHEREAS ACHC is a non-profit housing corporation created by special Home Rule legislation and is subject to the supervision of the Board of Selectmen. See Chapter 143 of the Acts of 1996, § 1.

WHEREAS, under ACHC’s Home Rule legislation, ACHC has the power “with the approval of the board of selectmen, to acquire ..., and to own, ... and to ... sell, transfer, convey, ...or to otherwise dispose of, on such terms and conditions as it may deem proper, real ... property ... as may be necessary or appropriate to carry out its purposes.” (St. 1996, c. 143, § 2(d)).

WHEREAS the Board of Selectmen intends to place an article on the warrant for the next Town Meeting to authorize the Selectmen to convey the Property to ACHC on certain terms and conditions for purposes of re-conveyance, subject to applicable law, to a developer that will develop affordable housing on the Property.

NOW THEREFORE, the Board of Selectmen moves to authorize the following actions in furtherance of the Project on the Property:

1. ACHC is hereby authorized to apply to the Department of Housing and Community Development (“DHCD”) for any necessary approval and site eligibility determination under the Local Initiative Program, 760 CMR 45.00, for the Project.
2. ACHC is hereby authorized to apply to the Acton Board of Appeals for a Comprehensive Permit under M.G.L. c. 40B for the Project.

3. ACHC is hereby authorized to apply to other State and Town boards, commissions, departments, and agencies for any other necessary permits and approvals for the Project, exclusive of any building permits and other construction-related permits needed for the actual construction of the Project (it being understood that the Selectmen and ACHC intend, subject to Town Meeting approval, that the permitted Project and Property will be conveyed pursuant to applicable law and re-use restrictions to a qualified developer who will own the Property, construct the Project, and dispose of the units as appropriate).
4. Prior to submission, each such application shall be provided to Town Counsel, the Town Manager, and the Board of Selectmen for their respective review and approval, and for execution as may be necessary on behalf of the Town.
5. Town Counsel, in consultation with the Town Manager, is hereby authorized and directed to prepare any necessary Affordable Housing Restrictions, Land Dispositions Agreements, Request for Proposals, and other transaction documents necessary to effectuate the Project.
6. The Town Manager is hereby authorized to determine the value of the Property subject to the terms and conditions of the Comprehensive Permit and the affordable housing restrictions to be imposed on the Property. Said determination shall be made under G.L. c. 30B, § 16(b), through procedures customarily accepted by the appraising profession as valid, including in the judgment of the Town Manager a real estate appraisal from a qualified real estate expert familiar with property values in the Town of Acton.
7. In the event the value of the Property as so determined exceeds twenty-five thousand dollars in value, ACHC is hereby authorized to issue a Request for Proposals (“RFP”) in accordance with documents to be prepared by Town Counsel and approved by the Town Manager and the Board of Selectmen for the prospective conveyance of the Property conditioned upon the construction and implementation of the Project. Without limitation, the RFP shall condition such disposition of the Property on the approval of Town Meeting and the further approval of the Board of Selectmen under St. 1996, c. 143, § 2(d) and/or other applicable law.
8. Town Counsel, in consultation with the Town Manager, is hereby authorized and directed to prepare any necessary warrant articles for the next Town Meeting to authorize the Selectmen to convey the Property to ACHC for purposes of re-conveyance to a developer who shall develop the affordable housing Project on the Property, subject to applicable law, subject to terms and conditions established by the Selectmen, and subject to the terms and conditions of the Comprehensive Permit and the affordable housing restrictions to be imposed on the Property for the Project.

9. For purposes of G.L. c. 40, § 15, the proposed warrant article authorizing the Board of Selectmen to convey the Property to ACHC shall specify the amount to be paid by ACHC for such conveyance as **\$202,548**, which when paid shall be applied, in the following order, to (a) the taxes, interest and penalties outstanding with respect to the Property, (b) the required amount of the payment in lieu of taxes that would be required from a buyer of the property, calculated in accordance with G.L. c. 44, § 63A, as of the date of the conveyance, (c) the assessment, containment and removal costs incurred by the Town with respect to the environmental condition of the Property, and (d) the attorney's fees and costs related to the Town's investigation of environmental contamination at the Property and the lawsuit to collect those costs.

IN WITNESS WHEREOF, the Board has caused the foregoing to be moved, seconded, and approved at an open meeting duly called and noticed for the purpose on this 18th day of July, 2005.

TOWN OF ACTON, MASSACHUSETTS,
By its Board of Selectmen

Peter K. Ashton, Chairman

Walter M. Foster, Vice Chairman

Lauren Rosenzweig

F. Dore' Hunter, Acting Clerk

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Counsel's Reply
in full, except for motion

John Murray

From: Stephen Anderson
Sent: Saturday, July 16, 2005 10:03 PM
To: Don Johnson; John Murray
Cc: Nancy Tavernier; Daniel C. Hill
Subject: Acton/ACHC: Disposition of Town-Owned Tax Title Land at 28 Willow Street and 214 Central Street



Disposition-Tax-Title-Property.doc
ExhibitA-Determination.DOC (23...
ExhibitB-Motion.DOC (38 KB)
Acton/ACHC: Tax Title Land at...

<<Disposition-Tax-Title -Property.doc>>

<<ExhibitA-Determination.DOC>> <<ExhibitB-Motion.DOC>> <<Acton/ACHC: Tax Title Land at 28 Willow Street and 214 Central Street>>

Dear Don, John and Nancy:

I have reviewed ACHC's proposal to the Board of Selectmen for the disposition of the Town-owned Tax Title land at 28 Willow Street and 214 Central Street. In light of a new SJC case just decided on June 29, 2005, entitled Board of Selectmen of Hanson v. Lindsay, 444 Mass. 502 (2005), I've recommended a slightly different procedure for advancing ACHC's proposed project from that set out in Nancy's memo to the Board. If the Board of Selectmen supports the proposed project as presented, I recommend that John sign the Notification attached as Exhibit A and that the Board of Selectmen adopt the Motion attached as Exhibit B. This will enable the project to advance significantly pending the required Town Meeting vote(s) at the next Annual or Special Town Meeting.

Please see my email of earlier today regarding the attachment John needs to develop for Exhibit A.

Please fill in the blank on paragraph 9 of Exhibit B before the Selectmen meet to discuss this.

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