

Extra Information  
9/22/07  
Agenda Item #2

**John Murray**

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**From:** Ryan D. Pace [rpace@AndersonKreiger.com]  
**Sent:** Monday, September 22, 2008 12:00 PM  
**To:** John Murray  
**Subject:** ACT/82 River Street - Habitat for Humanity Votes  
**Attachments:** Acton. Selectmen's Vote. Habitat Sale (A0066137).DOC; Document.pdf

John -

I hope that you had a good weekend. As you requested, here are form votes for tonight's Board of Selectmen's meeting (for your convenience, I have also attached the body of the Quitclaim Deed that is referenced). Please note that I have listed the three options that we discussed on Friday with check boxes. You may wish to revise these votes accordingly after the Selectmen have discussed this matter.

The attorney for Habitat for Humanity has stated that Megan Foley from Habitat is prepared to attend tonight's meeting if you think that would be helpful - just let me know.

Best,  
Ryan

Ryan D. Pace  
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The question for the Board is:  
Does the Board wish to alter  
Section D-3 of the Deed and if so how?  
Nancy T has suggested option 2  
John

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RECORD OF VOTE OF THE ACTON BOARD OF SELECTMEN  
SEPTEMBER 22, 2008

At a duly called public meeting of the Acton Board of Selectmen on September 22, 2008, the Board voted \_\_\_\_\_ as follows:

- To approve Habitat for Humanity, North Central Massachusetts, Inc. and the Massachusetts Department of Housing and Community Development collectively as the monitoring agent charged with ensuring that any re-sales of the affordable housing on the property at 82 River Street (previously known as 74 River Street) in Acton comply with the terms of the affordable housing restriction to be placed on the property by Habitat for Humanity, North Central Massachusetts, Inc. in accordance with the requirements of the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374.
  
- To approve Habitat for Humanity, North Central Massachusetts, Inc. and the Massachusetts Department of Housing and Community Development collectively as the monitoring agent charged with ensuring that any re-sales of the affordable housing on the property at 82 River Street (previously known as 74 River Street) in Acton comply with the terms of the affordable housing restriction to be placed on the property by Habitat for Humanity, North Central Massachusetts, Inc. in accordance with the requirements of the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374, and to approve Acton Community Housing Corporation as an alternate monitoring agent in the event that Habitat for Humanity, North Central Massachusetts, Inc. fails to perform monitoring duties under the affordable housing restriction.
  
- To approve Acton Community Housing Corporation and the Massachusetts Department of Housing and Community Development collectively as the monitoring agent charged with ensuring that any re-sales of the affordable housing on the property at 82 River Street (previously known as 74 River Street) in Acton comply with the terms of the affordable housing restriction to be placed on the property by Habitat for Humanity, North Central Massachusetts, Inc. in accordance with the requirements of the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374.

In addition, the Acton Board of Selectmen voted \_\_\_\_\_ as follows:

To extend until October 31, 2008 the deadline for the completion and conveyance of the affordable housing at 82 River Street (previously known as 74 River Street), which deadline is set forth in paragraph B of the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374.

To authorize the Town Manager: (a) in consultation with Town Counsel, to approve on behalf of the Town of Acton the final affordable housing restriction that is required under the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374 on terms that are acceptable to the Town Manager in his discretion and (b) to take any actions or to execute any documents that are necessary or preferable in the Town Manager's discretion (i) to ensure that the affordable housing restriction is properly placed on the property, (ii) to enable Habitat for Humanity, North Central Massachusetts, Inc. to convey the affordable housing units to one or more third-party purchasers and (iii) to carry out the provisions and requirements of the Quitclaim Deed dated March 1, 2007 from the Town of Acton to Habitat for Humanity, North Central Massachusetts, Inc. that is recorded with the Middlesex South Registry of Deeds at Book 49069, Page 374.

TOWN OF ACTON  
By its Board of Selectmen

\_\_\_\_\_  
Lauren S. Rosenzweig, Chair

\_\_\_\_\_  
Paulina Knibbe, Vice-Chair

\_\_\_\_\_  
Andrew D. Magee, Clerk

\_\_\_\_\_  
Peter Berry, Member

\_\_\_\_\_  
Terra Friedrichs, Member

**John Murray**

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**From:** Nancy Tavernier [ntavern@comcast.net]  
**Sent:** Monday, September 22, 2008 12:59 PM  
**To:** John Murray  
**Subject:** Re: FW: ACT/82 River Street - Habitat for Humanity Votes

Option 2 is fine with me. I never knew we were monitoring agent in the first place.

At 12:14 PM 9/22/2008, you wrote:

Which option do you like?

John

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03-30



Bk: 49069 Pg: 374 Doc: DEED  
Page: 1 of 30 03/01/2007 03:52 PM

QUITCLAIM DEED

The Town of Acton, a Massachusetts municipal corporation with an address of Town Hall, 472 Main Street, Acton, Middlesex County, Massachusetts 01720,

for consideration of ONE DOLLAR (\$1.00) paid and other good and valuable consideration,

grants to Habitat for Humanity, North Central Massachusetts, Inc., a Massachusetts corporation with a principal place of business at 1 Oak Hill Road, Fitchburg, Worcester County, Massachusetts 01420 (the "Buyer"),

with QUITCLAIM COVENANTS

A certain parcel of land located on the Northerly side of River Street in Acton, Middlesex County, Massachusetts, and being shown as Lot A on a plan entitled "Plan of land in South Acton, Massachusetts," owned by Thor Realty Corporation, Everett M. Brooks Company, Civil Engineers, dated August 31, 1963 and recorded with Middlesex South District Registry of Deeds in Book 11466, Page 212, and bounded and described as follows:

Beginning at the Southeasterly corner thereof on the Northerly side of River Street and at Lot B as shown on said plan and thence running NORTH 57° 12' 45" WEST, 150 feet by said River Street to an iron pipe set in a stone wall at land formerly of William E. Stearns;

Thence turning and running NORTH 14° 23' 15" EAST by land of said Stearns, 203.90 feet to the center of a stone bound as shown on said plan;

Thence turning and running SOUTH 74° 40' EAST, 115.56 feet by land formerly of Mary E. Gates, 115.56 feet to a stone bound at said Lot B;

Thence turning and running SOUTH 8° 13' 33" WEST, 89.66 feet to a point;

Thence turning and running NORTH 76° 46' 27" WEST, 45.59 feet to a point;

River Street, Acton

Foley + Lardner  
111 Huntington Ave  
Boston, MA 02111

Thence turning and running SOUTH 13' 13' 33" WEST, 39 feet to a point;

Thence turning and running SOUTH 76' 46' 27" EAST, 49 feet to a point;

Thence turning and running SOUTH 8' 13' 33" WEST, 122 feet to the point of beginning. The last five (5) courses being by Lot B as shown on said plan.

Containing 27,141 square feet of land, more or less, and being Lot A on said plan however otherwise bounded, measured or described.

The Town has received a statement from the Buyer under M.G.L. c. 60 sec. 77B to the extent that this provision is applicable to this conveyance.

The Town is hereby conveying the premises and the Buyer is hereby accepting the premises subject to the following terms, conditions and restrictions for the benefit of the Town which shall be binding on the Buyer and shall run with the land so that they are binding on Buyer's nominees, successors and assigns as owners of the premises:

- A. The Buyer shall not use the premises for any purpose other than the construction of one or two affordable housing units as hereinafter defined, constructed by Buyer in accordance with the Construction Specifications attached as Exhibit A, with all costs of the work to be borne by the Buyer (the "Project"). The Buyer shall apply for all necessary permits and approvals from state and local authorities for the construction of the Project on the premises no later than February 25, 2008. The Buyer shall pursue all necessary permits and approvals for the construction of the Project, including any approvals required in order to qualify the affordable housing being constructed, diligently, expeditiously, and in good faith. The Buyer shall construct the Project, and market and sell the individual units created, in such a manner as to render the units eligible for qualification in and a net addition to Acton's Subsidized Housing Inventory under General Laws Chapter 40B. The Buyer shall not use the premises to develop housing units required by or proposed for any development elsewhere within the Town of Acton or the Commonwealth of Massachusetts. Qualification of the units shall be coordinated with the Town, and the Buyer shall work diligently and in good faith with the Town to achieve said qualification.
- B. The Buyer must complete construction of the Project and convey all affordable housing units created on the premises to income-eligible purchasers by no later than June 30, 2008, which date may be extended by consent of and at the discretion of the Town. If the construction is not completed and all of the affordable housing units have not been conveyed as provided above by June 30, 2008, the title to the premises (with any and all finished and unfinished improvements thereon) shall revert to the Town and the Buyer shall promptly execute a quitclaim deed to the Town to transfer the title to the premises to the Town for one dollar (\$1.00).
- C. The Buyer shall sell the affordable housing unit(s) pursuant to the buyer selection process described in Exhibit B (except as specifically provided otherwise herein)

(the "Buyer Selection Process") to income-eligible purchasers who are citizens of the United States of America or legally documented aliens at a price that is "affordable" to a household earning no greater than 80% of the area median income, consistent with the terms and policies of the Department of Housing and Community Development's Local Initiative Program. The Buyer Selection Process shall conform to all applicable laws, rules and regulations.

To the extent allowable under applicable laws, rules, regulations and governmental policies, and to the extent a qualifying household or households timely apply for eligibility, first preference for the purchase of the affordable units shall be given to households that meet one or more of the following "Acton Connection" preference criteria:

- (1) at least one member of the household is currently a legal resident of the Town of Acton. For purposes of the Buyer Selection Process, a person shall be deemed a resident if that person has been registered as an Acton resident with the Acton Town Clerk pursuant to M.G.L. c. 51, § 4 and would be considered a resident under the United States Census Bureau's residency guidelines.
- (2) at least one member of the household is either a son or daughter of an Acton resident.
- (3) at least one member of the household is an employee of the Town of Acton, the Acton Public Schools, the Acton-Boxborough Regional School District, or the Acton Water District, and has been an employee for a period of at least six months at the time of the Buyer Selection Process application deadline.
- (4) at least one member of the household is currently privately or publicly employed within the Town of Acton and has been so employed for a period of at least six months at the time of the Buyer Selection Process application deadline.

The "Acton Connection" preference criteria shall apply to the initial sale of each affordable unit on the premises by the Buyer and to any resale of an affordable unit on the premises by the Buyer or to any purchaser selection process conducted by the Buyer in the event the Buyer exercises any rights that it might acquire under Paragraph D(4) hereof.

In the event that a waiver of an applicable rule or regulation imposed by a state agency is required to comply with the condition for the units to qualify for inclusion in the Town's Subsidized Housing Inventory, the Buyer shall diligently pursue such a waiver. If despite the Buyer's diligent efforts a waiver is not granted, the Buyer shall follow a buyer selection process mutually acceptable to Buyer and Seller which ensures that each affordable unit in the Project qualifies for inclusion in the Town's Subsidized Housing Inventory.

Consistent with the intent of this conveyance to promote community and/or future homeowner participation in the construction of the affordable units, the Buyer

may, to the extent allowable under applicable rules or regulations, conduct the Buyer Selection Process in advance of construction of the Project. In the event that a waiver of an applicable rule or regulation imposed by a state agency is required to conduct the Buyer Selection Process in this manner while complying with this condition for the units to qualify for inclusion in the Town's Subsidized Housing Inventory, the Buyer if seeking to utilize future homeowner participation in the construction of the affordable units shall diligently pursue such a waiver. If despite the Buyer's diligent efforts a waiver is not granted, the condition that the units must qualify for inclusion in the Town's Subsidized Housing Inventory shall take precedence.

The Buyer and Seller acknowledge and agree that the Buyer has in good faith attempted to comply with the "Acton Connection" preference criteria with respect to the initial sale of the proposed affordable unit on the premises to Marcos and Silvia Lopes DeSouza of Leominster, Massachusetts, and that, as of the date hereof, a qualifying Acton household did not timely apply for eligibility therefor.

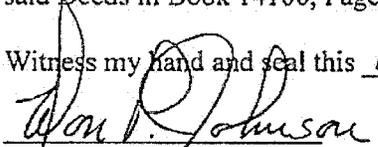
D. Each affordable unit shall be encumbered by an affordable housing restriction substantially in the form attached hereto as Exhibit C, with such amendments as are approved or reasonably requested by the Board of Selectmen, and which shall contain the following provisions:

- (1) The term of the restriction shall be in perpetuity;
- (2) The Town shall have the right to find a subsequent purchaser of the property upon re-sale;
- (3) Unless otherwise specified by the Board of Selectmen, the Acton Community Housing Corporation shall be the monitoring agent, charged with ensuring that any re-sales comply with the terms of the affordable housing restriction;
- (4) Subject to written approval at the discretion of the Board of Selectmen and the Department of Housing and Community Development given prior to the closing on the Buyer's initial sale of an affordable unit on the premises, the affordable housing restriction attached hereto as Exhibit C may be modified to include the paragraph regarding a Subsequent Purchaser substantially as attached hereto as Exhibit D, with such other conforming changes to Exhibit C as the Selectmen and said Department shall require in connection therewith including, without limitation, the "Acton Connection" preference criteria in the event the Buyer does

exercise its rights under the Subsequent Purchaser paragraph and a follow-on right of first refusal for the Seller in the event the Buyer does not exercise its rights under said paragraph.

For grantor's title see deed from Thomas F. Litrenta dated October 13, 1980 and recorded with said Deeds in Book 14100, Page 121.

Witness my hand and seal this 1<sup>st</sup> day of March 2007.

  
Don P. Johnson, Town Manager  
Town of Acton

COMMONWEALTH OF MASSACHUSETTS )  
 )  
COUNTY OF MIDDLESEX )  
 )

On this 1<sup>st</sup> day of March 2007, before me, the undersigned notary public, personally appeared Don P. Johnson, as Town Manager of the Town of Acton, proved to me through satisfactory evidence of identification, which was PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose as Town Manager as aforesaid.

  
Notary Public RYAN D. PACE  
MY COMMISSION EXPIRES JANUARY 10, 2014

