

**Acton Community Housing Corporation**

**Nancy Tavernier, Chairman**

**TOWN OF ACTON**

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TO: Roland Bartl, Planning Department  
FROM: Nancy Tavernier, Chair, Acton Community Housing Corporation  
SUBJECT: ACHC recommendations for Ellsworth Village affordable unit  
DATE: March 29, 2013  
Cc Steven Ledoux, Acton Town Manager  
James Fenton, Authentic Homes

The Acton Community Housing Corporation (ACHC) has been asked to comment on the March 6, 2013 request from Ellsworth Village that the 3<sup>rd</sup> and final affordable unit be released from its deed restriction and the developer be allowed to sell it as a market rate unit due to the developer's purported inability to find an interested and qualified buyer. The developer has suggested making an unspecified monetary donation to the Town's affordable housing program. The ACHC recommends that the developer either sells the unit at the affordable price, or donates to the affordable housing program a sum equal to the difference between the affordable selling price and the market-rate selling price.

The Planning Board issued a Senior Residence Special Permit for Ellsworth Village, on 4/26/05, which included the Condition that three units be designated as affordable units with restrictions to remain in effect in perpetuity. The Planning Board also named the Town of Acton or its designee, the ACHC, as the monitoring agent for the sale and resale of the site's affordable units. The Regulatory Agreement of the state Department of Housing and Community Development also designated the ACHC as the monitoring agent for purposes of monitoring the developer's performance. ACHC therefore is the appropriate organization to make a recommendation on this request to the Planning Board, as the original special permit-granting authority.

Given that the ACHC's mission is to facilitate the creation of affordable housing units in the town, we find it counter-intuitive to participate in a process that will eliminate a unit from our inventory. The most appropriate approach for us is to look at the applicable rules, namely, the Zoning Bylaw, and make our recommendation based on our interpretation of the intent of the Bylaw. The clear intent of the current Zoning Bylaw, under the Senior Residence program, is for the developer to provide an affordable unit whether on-site, off-site, or a monetary contribution equal to the value of any unit not provided. The current Zoning Bylaw provides as follows:

9B.12.9 Affordable Housing Alternatives - The Planning Board in its special permit **may authorize or require the substitution of required AFFORDABLE SENIOR RESIDENCES** with:

9B.12.9.1 **Off-site AFFORDABLE DWELLING UNITS**, which shall be in suitable condition for family or individual persons' housing as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B; or

9B.12.9.2 **Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons' housing**, as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B.

The option for a developer making monetary donations in lieu of building affordable units is a change in the Zoning Bylaw since the Planning Board issued the original special permit. So if the Planning Board chose to follow the provisions currently in effect, it obviously would have to vote to amend the original special permit.

Under the current Zoning Bylaw provisions, the ACHC's analysis is as follows. The initial certified sales price of the affordable units was set in 2007 at \$150,000. Using the same assumptions and calculations from the Regulatory Agreement, the current sales price of the unit would be \$159,100, assuming a two-person household, and based on calculations by Beth Rust, of the Regional Housing Services Office done in January, 2013. In reviewing the recent year's records of market sales at Ellsworth Village, we see selling prices ranging from \$350,000 to \$379,900. Those numbers form the basis of our recommendation.

ACHC voted unanimously on March 21, 2013 to recommend the following:

1. **Sell the Unit as an affordable unit at \$159,100.** We suggest marketing the unit aggressively by extending the outreach and marketing program for 60 days using all available resources such as putting it on MassAccess, MAHA, Boston Globe, Action Unlimited, Town website, MLS, offer a broker referral, and even use Craigslist. Beth Rust from the RHSO would be happy to provide a list of contacts and resources for this full marketing program. She could even recommend a lottery agent should the developer wish to use outside assistance.

**OR,**

2. **Pay a monetary contribution equal to the difference between the affordable selling price and the market selling price** (range ~\$190,900 to \$220,800). By setting the market price and comparing it to the current affordable price, the developer has

essentially set the value of the creation of an off-site unit equal to this differential which honors the intent of 9B.12.9.2.

In either scenario, the developer would receive, free and clear, \$159,100. This is the approximate selling price that was used in the original project pro forma back in 2005 and the finances worked then with those prices. It is our assumption that without the Special Permit from the Planning Board, only 4-5 houses could have been built. With the Senior Residence Special Permit, 33 units were built and are now 99% sold. We know selling age-restricted housing is a huge challenge and especially finding eligible affordable owners, but that was the development choice that was made in 2005.

In 2010, the developers of Robbins Brook Senior Housing made a similar request to the Board of Selectmen, the permit granting authority. The developers wanted to conclude the sale of the development and requested to be released from the obligation to build three affordable units. In that case, the units were much smaller than market units with a less desirable floor plan that had one bedroom on the second floor only. The Selectmen agreed to release these units in exchange for a monetary payment equal to the difference in price between the affordable selling price of \$150,000 and the market price of approximately \$170,000 for 1200-square-foot units, or a net of \$20,000 per unit. The Selectmen approved compensation to ACHC for \$20,000 per unit, or \$60,000 for three units. While there is a significant difference in the monetary amount requested from Ellsworth Village and the product quality is higher, the methodology is identical.

Our recommendation to the Planning Board is given in good faith. We understand that if the Town wants to release the restriction on this unit, it is the Planning Board that has to make the decision. If the unit is released, we will continue to monitor the other two affordable units and ensure their compliance with the affordable housing program.

Thank you.