

Lisa Tomyl

From: Nancy Tavernier [ntavern@comcast.net]
Sent: Tuesday, August 26, 2014 2:28 PM
To: Manager Department
Cc: Mike Gowing
Subject: ACHC agenda item September 8 meeting
Attachments: BOS request for AHA purchase Drummer unit final.pdf; Drummer Rd. Unit C-4 deed rider designee excerpt.pdf

Attached please find a Memo from the ACHC for the September 8 agenda item seeking approval for the purchase of an affordable unit for the Acton Housing Authority. Per recent email communication, the Chair has agreed to put this on consent. The ACHC has agreed to put off our discussion of the Housing Production Plan previously scheduled for Sept. 8 to the September 22 BOS meeting.

Thank you for expediting this request.

Nancy

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

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TO: Mike Gowing, Chair, Board of Selectmen
FROM: Nancy Tavernier, Chair, Acton Community Housing Corporation
SUBJECT: Recommendation for purchase of affordable unit by the Acton Housing Authority
DATE: August 26, 2014

The Acton Community Housing Corporation (ACHC) has voted to recommend that the Board of Selectmen approve the designation of the Acton Housing Authority (AHA) as an eligible purchaser for an affordable deed restricted condominium unit at Parker Village and approve the ACHC's proposed use of affordable-housing gift funds for the purchase. The unit would be added to several other Parker Village units that the AHA owns and administers as low-income rentals.

This is a relatively simple request that looks more complicated due to all the regulatory processes that we have to follow.

1. History of affordable 2BR unit in Parker Village

This unit was purchased in 2007 by a 3-person household as part of the ACHC's Condo Buydown Program. The ACHC used Community Preservation Act affordable housing funds to "buy down" the market price to a price that was affordable to an income-eligible household.

2. Affordable housing deed restriction

In order that the Parker Village unit or any other affordable unit be considered part of the Town's affordable housing inventory and credited toward the 10% affordable-housing minimum that the Town must aim for under state law, the MA Department of Housing and Community Development (DHCD) requires the addition of an affordability restriction to the property deed, in the form of a 20-page deed rider recorded with the deed. The rider prescribes various requirements, including as to primary occupancy, refinancing, and reselling the unit, and also provides that DHCD and the Town of Acton are the Monitoring Agents. See the attached section from the deed rider on reselling the unit, which provides a sense of all the state rules and regulations for affordable housing.

3. Requirements for reselling an affordable unit

When affordable-unit owners decide to sell their units, they must notify the Town and DHCD. DHCD will calculate the Maximum Resale Price based on a multiplier that is included in the deed calculated at the time of purchase. ACHC contracts with a marketing agent who is paid out of the sales proceeds of the unit. The unit is then marketed for 90 days and if no sale has been made, the marketing period may be

extended another 60 days, after which the unit can be sold at the affordable price to any buyer, even an income-ineligible purchaser, but with the deed restriction remaining in place so that the process will start all over again at the next resale. Alternatively, the Monitoring Agents (Town and DHCD) have a right of first refusal allowing them to purchase the unit or designate a purchaser.

4. Efforts to resell the Parker Village affordable unit

The Sudbury Housing Trust, which is the Town of Sudbury's affordable-housing entity, has been actively marketing the unit for over 90 days and there have been no interested or eligible buyers. The agent has stated that there is so little interest in the unit that another 60 days of marketing probably would not produce a buyer. The ACHC sees no purpose to extended marketing, if it is likely to be unproductive, and will needlessly prolong the uncertainty for the seller, who has relocated.

5. Proposed designation of AHA as purchaser

The ACHC believes that the Parker Village unit would be more suitable as an affordable rental, which is why we are recommending the Selectmen's designation of the AHA as purchaser of the 2BR unit at Parker Village and the Selectmen's authorization of the use of Affordable Housing Gift Funds to pay the affordable purchase price of \$110,000. The AHA would use the unit in their low-income rental program where they have a waiting list of more than 100 households. The AHA owns 4 other units in Parker Village and they are very pleased with the management and the condominium association. The DHCD supports this proposal and will be preparing the necessary documents.

6. Proposed use of affordable Housing Gift Funds

The ACHC recommends the use of affordable housing gift funds for the AHA's purchase of the unit. Since the 1980's, some developers have given housing gift funds to the Town for affordable housing purposes. The three affordable housing entities in Town—ACHC, AHA and Habitat for Humanity have used these funds in the past for a variety of affordable-housing-related needs. The gift funds are held by the Town and any ACHC proposal for their use requires Selectmen approval. ACHC is recommending that \$110,000 be taken from the Bentley Monument Place Fund (current balance \$140,000) and be transferred to the AHA for the purchase of the Parker Village condo unit.

7. Board of Selectmen action needed

The ACHC requests that the Board of Selectmen vote:

1. To designate the AHA to be the Purchaser of the Parker Village unit C-4 at 5 Drummer Rd.;
2. To authorize the Town Manager to sign the DHCD Purchaser Certificate reflecting the AHA as purchaser and sign other DHCD paperwork as required
3. To approve the use of the Bentley Monument Place Housing Gift Fund of \$110,000 for the Acton Housing Authority for the purchase of the unit.

Thank you for your support.

Enclosure: Deed Rider excerpt on resales

5 Drummer Rd Unit C-4 - Deed Book 50431
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Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

→ (c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Deed Rider and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner agrees to execute, to

secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Deed Rider or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed. (a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed. Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Deed Rider, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.