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TOWN OF ACTON

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Acton Community Housing Corporation
Nancy Tavernier, Chairman

TO: Board of Selectmen
FROM: ACHC
SUBJECT: Proposal to hire 40B consultant
DATE: March 18, 2004

The ACHC has been contacted by a developer who is preparing conceptual plans for a very large Chapter 40B project. We are meeting with him on April 1 and hope to get more information on his plans. We have informed him that there is a process that we follow and have forwarded to him the details of the procedures.

In anticipation of this permit request being filed, ACHC has voted to seek your support for the hiring of a consultant to give technical assistance to the Town in reviewing the proposal, providing technical and financial review, negotiating with the developer, and advising the ZBA and other town boards. I have included information from the Mass. Housing Partnership Fund that details the Technical Assistance provided by them to municipalities dealing with Chapter 40B's. They grant up to \$10,000 to communities to help fund the expense and help with the selection of an appropriate consultant. This is the program that was used for the Towne School proposal; they funded the feasibility study for the Town at a cost of \$22,000.

This letter is a heads-up to the BOS, we are trying to get out in front of this proposal and be proactive. After the recent unpleasant experience on Franklin Place, the ACHC has no desire to be caught in the middle on this one. This potential development will be much more demanding than anything the ACHC or Town Staff has experienced in the recent past. In the late 1980's, the Town hired a consultant to help negotiate the proposed 135 unit North Acton Woods development which in the end was never constructed. It was a very constructive experience.

We would anticipate using New View funds to provide additional funding for the consultant should the MHP not be able to fully fund this service. We are seeking conceptual approval from the BOS for this expenditure without asking for a specific amount yet. After our meeting on April 1, we will be prepared to seek specific action from the Board. We will contact MHP in the meantime to gather more information on the assistance they could provide.



MASSACHUSETTS HOUSING PARTNERSHIP
Community Housing Initiatives

CH. 40B TECHNICAL REVIEW ASSISTANCE

Program Guidelines

PROGRAM SCOPE: Massachusetts Housing Partnership (MHP), with support from the *Massachusetts Department of Housing and Community Development (DHCD)*, *Massachusetts Housing Investment Corporation (MHIC)* and *MassHousing*, provides technical assistance to Zoning Boards of Appeal (ZBA) reviewing applications for Comprehensive Permits pursuant to Massachusetts General Law (M.G.L.) c.40B.

The purpose of the program is to assist the Zoning Board of Appeals (ZBA) and other municipal Boards address specific Ch. 40B development proposals. MHP provides financial grants of up to \$10,000 to engage third-party, qualified consultants on behalf of the ZBA for municipalities reviewing Ch. 40B proposals. Consultants work with the ZBA and other Boards to increase local capacity to review applications. Communities receiving technical assistance from MHP have successfully negotiated comprehensive permits - on terms mutually agreeable to the town and the developer -- in about three-quarters of the cases. In other cases MHP's technical assistance has helped ensure that inappropriate 40B proposals are withdrawn or has given communities the confidence to deny 40B applications when warranted. MHP engages consultants on behalf of municipalities reviewing Ch. 40B requests for homeownership projects. For rental developments, municipalities directly select and engage the consultant from a list of pre-qualified candidates provided by MHP.

PROGRAM PROCEDURES

Application Process:

1. Applicants, preferably the ZBA, may initiate the technical assistance request once the developer files the 40B proposal with the municipality.
2. Applicants must contact MHP to discuss each project prior to receiving an application. A two-page technical assistance application is required and must be signed by the chief elected official and ZBA Chair of the municipality. MHP reserves the right to reject applications that are submitted after the hearing has opened.

Consultant Services:

1. Pre-qualified development consultants educate municipal boards and staff about the Ch. 40B process, review applications with the ZBA, identify areas requiring further study or discussion with the developer, and facilitate productive discussions between the ZBA and the developer.
2. The municipality agrees that the MHP consultant is the "lead" consultant for the project and will review and approve the use of additional consultants requested by the municipality. Failure to do so may result in termination of the 40B TA award.

Uses of Technical Assistance Funds:

1. MHP staff will work with the applicant to determine the amount of the technical assistance award.
2. MHP's technical assistance does not take the place of services that are typically the financial responsibility of the developer, such as Peer Review of engineering, traffic, architecture and other technical issues.
3. Legal costs for municipal counsel and mediation are not within the scope of this program.
4. MHP pays consultants directly upon authorization of satisfactory work from the municipal contact.

Reporting & Evaluation:

1. MHP requests that the municipality notify MHP if TA funds are not needed after a grant is processed.
2. A copy of the decision is required from the ZBA upon completion of the hearing. Decisions may be sent directly to MHP.
3. MHP requires the submission of a *MHP Program Evaluation Form* that evaluates the technical assistance provided by the consultant.

Please note: Because of limited program resources, MHP will not provide assistance to communities that have been certified by DHCD to have an affordable housing inventory that is at or above 10% or exceeds 1.5% of land zoned for residential, commercial or industrial use.

To speak to MHP staff about your 40B project and to request an application, contact Tatiana Xenelis at (617) 330-9955 x 292 or txenelis@mhp.net.

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