



**Town of West Boylston
Affordable Housing Trust**

August 3, 2011

6:00 p.m.

Agenda

- 1) Welcome and roll call**
 - 2) Choose officers**
 - 3) Review mission**
 - 4) Set meeting schedule and discuss goals
moving forward**
 - 5) Adjournment**
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AUGUST 2011

TOWN OF WEST BOYLSTON

WEST BOYLSTON AFFORDABLE HOUSING TRUST BOARD OF TRUSTEES **A/K/A HOUSING PARTNERSHIP**

Appointing

Authority: Board of Selectmen

Creation: Under Article 11 of the October 16, 2006 town meeting, the town voted to accept Massachusetts General Laws Chapter 44, Section 55C, establishing a trust to be known as the Town of West Boylston Affordable Housing Trust Fund whose purpose shall be to provide for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households; appointment of the Board of Trustees and the authority of said Board shall all be as set forth in G.L. Chapter 44, Section 55C. Article 6 of the October 18, 2010 town meeting, the town voted to include the members of the Housing Partnership on the Affordable Housing Trust. The Housing Partnership will cease to exist as a sole entity effective July 1, 2011.

1. Membership and qualifications

The Board of Trustees must be chosen by the Board of Selectmen and shall be made up of at least five Trustees, including one of the members of the Board of Selectmen, with a two-year term of appointment

2. Meetings

(a) Meetings of the Members. All meetings of the members shall be held at an Americans with Disabilities Act compliant place within the Town.

(b) Notice. The West Boylston Affordable Housing Trust Board of Trustees shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B.

3. Duties

(a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B;

(b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

- (d) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
 - (e) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
 - (f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
 - (g) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
 - (h) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
 - (i) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
 - (j) to carry property for accounting purposes other than acquisition date values;
 - (k) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;
 - (l) to make distributions or divisions of principal in kind;
 - (m) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;
 - (n) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;
 - (o) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and
 - (p) to extend the time for payment of any obligation to the trust.
- (d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.
- (e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

The members are as follows:

Members	Expiration of Appointment	Other Information
Marc Frieden	June 30, 2013	Resident
Steven Quist	June 30, 2012	Selectman
Anna Mary Kraemer	June 30, 2012	Resident
Robert Barrell	June 30, 2013	Resident
Patricia Halpin	June 30, 2013	Resident

Meetings: The Committee meets as needed. Meeting postings and approved meeting minutes must be electronically filed with the Town Clerk.

E-Mail

Reminder: All emails sent to the town address are subject to both the Open Meeting and Public Records Laws. Copies of the emails should be kept by your committee. No deliberation can take place outside of a public meeting, so you can use the email to distribute information you plan to discuss, but you may not actually discuss the issues before your board or committee in email.

Contact: For information about the Committee, please contact their appointing authority, the Office of the Town Administrator 508.835.3490. The website for the Committee is http://www.westboylston-ma.gov/Pages/WBoylstonMA_BComm/affhousing

TELEPHONE
508 835-3490
FAX: 508 835-4102
EMAIL: lgaumond@westboylston-ma.gov



AHT
LEON A. GAUMOND, JR.
TOWN ADMINISTRATOR

TOWN OF WEST BOYLSTON
MUNICIPAL OFFICE BUILDING
127 HARTWELL STREET
WEST BOYLSTON, MASSACHUSETTS 01583-1108

To: Board of Selectmen
Planning Board
ZBA
Open Space Implementation Committee
Town Wide Planning Committee
Affordable Housing Trust/Housing Partnership
CC: Building Inspector
From: Leon A. Gaumond Jr., Town Administrator
Date: June 16, 2011
Re: 40B conference

I recently attended a conference with other Town Officials on navigating the 40B process.

The program was outstanding from my perspective. One of the best presentations was from Edward Marchant. He presented an Overview of Chapter 40B Fundamentals. Attached is a copy of his notes. I am sure you will find this information helpful to you in your role with the Town.

I hope this information is helpful to you and please feel free to share with your members. As always, please feel free to contact me if I can be of further assistance.

Edward H. Marchant
EHM/Real Estate Advisor
Brookline, MA 02445
617-739-2543
emarchant@msn.com

OVERVIEW OF CHAPTER 40B FUNDAMENTALS

The Next Chapter of 40B:
A Training on the Latest Developments in the Affordable Housing Law
June 15, 2011

CHAPTER 40B INFORMATION RESOURCES

1. 40B Information Available on the Web

Without a doubt, the best and most current information on Chapter 40B is readily available on the Web. The best sources of Chapter 40B information are:

- Citizens' Housing and Planning Association
www.chapa.org
Go to "Housing Policy" on home page and then to "Chapter 40B"
- Massachusetts Department of Housing and Community Development (DHCD)
www.mass.gov/dhcd
Go to "Community Development" in central column on home page and then to "Chapter 40B Planning"

The current Subsidized Housing Inventory (SHI) (12/22/2010) as of 6/6/11 is available at: <http://www.mass.gov/Ehed/docs/dhcd/hd/shi/shiinventory.pdf>

Remember: The SHI will be adjusted based upon the 2010 Census.

- Housing Appeals Committee (HAC)
Access the HAC site via the DHCD home page--look for "Housing Appeals Committee" in the left margin.
- MassHousing
www.masshousing.com
Go to "Developers" section on home page and then click on "Comprehensive Permit/40B" (includes detailed Cost Certification information/requirements)

Representative listings of Chapter 40B-related documents available at the CHAPA and DHCD websites are provided at the end of this outline.

BE SURE THAT YOU ARE FAMILIAR WITH THE CHAPTER 40B REGULATIONS ("760 CMR 56.00: COMPREHENSIVE PERMIT: LOW OR MODERATE INCOME HOUSING") AND "COMPREHENSIVE PERMIT GUIDELINES" DATED 2/22/08. THESE REGULATIONS AND GUIDELINES ARE AVAILABLE AT THE HOUSING APPEALS COMMITTEE (HAC) WEB SITE.

2. Information Re: Funding Available for 40B Technical Assistance

- Massachusetts Housing Partnership Fund
Contact: Dina Vargo (dvargo@mhp.net)
http://www.mhp.net/uploads/resources/ch._40b_ta_guidelines.pdf
- In many instances, Applicants have also been willing to provide funding to ZBAs to retain technical assistance advisors, particularly if they feel that such technical assistance will expedite the review process.

3. Local 40B Resources: Town Counsel/City Law Department/Staff

4. Other Zoning Boards of Appeal/Staff from Other Towns or Cities/Developers with 40B Experience/Lawyers with 40B Experience

5. Peer Review Consultants [See 760 CMR 56.05(5)]

6. 40B Project Visits. For a valuable learning experience, there's nothing like visiting several representative 40B developments similar to the type of development that is being proposed in your community. Call CHAPA, DHCD, MassHousing or MHP for project locations or call ZBAs in nearby towns/cities.

7. Local Comprehensive Permit Decisions. These are public documents and should be available at the ZBA office or Clerk's office. All 40B documents that are part of a public hearing are public documents. One good way to understand the 40B process is to visit a ZBA office and review the complete project file for a 40B project. You can get a better understanding of the types of conditions that can be required by reviewing some representative Comprehensive Permit decisions.

8. Housing Appeals Committee (HAC) Decisions

- Recent HAC decisions are now available on the Web at HAC's web site.
- All HAC decisions are available at Social Law Library in Boston (617 523 0018)

9. Conferences

- Check out MHP's, DHCD's, and CHAPA's web sites for information on any proposed Chapter 40B conferences or other training sessions.

10. Chapter 40B Consultants

GENERAL EXPERIENCES WITH OTHER 40B APPLICATIONS

- **CONDUCT A SITE/NEIGHBORHOOD VISIT EARLY IN THE REVIEW PROCESS AND MAKE SURE THAT YOU UNDERSTAND BOTH SITE AND NEIGHBORHOOD EXISTING CONDITIONS, THE PROPOSED SITE PLAN AND BUILDING DESIGN, AND THE LOCATION OF ABUTTERS WHO WILL BE MOST AFFECTED BY THE PROPOSED DEVELOPMENT**
- **ZBA, TOWN STAFF, PEER REVIEWERS, AND POTENTIAL OPPONENTS SHOULD IDENTIFY AND FOCUS ON THE "REAL" PROJECT ISSUES/IMPACTS AS EARLY IN THE REVIEW PROCESS AS POSSIBLE AND TRY TO RESOLVE EACH ISSUE IN A LOGICAL, EFFICIENT MANNER THAT RECOGNIZES THE CRITICAL PATH NATURE OF THE RESPECTIVE STEPS IN THE HOUSING DEVELOPMENT PROCESS**
- **NEGOTIATING WITH DEVELOPERS IS POSSIBLE AND IS FREQUENTLY DONE. UNDERSTANDABLY, DEVELOPERS NORMALLY WANT TO HAVE "EVERYTHING ON THE TABLE" BEFORE SERIOUS NEGOTIATIONS BEGIN**
- **WORK SESSIONS WITH THE DEVELOPER CAN OFTEN BE PRODUCTIVE AFTER THE INITIAL MORE FORMAL PUBLIC HEARINGS BUT BE SURE THAT YOU GET LEGAL ADVICE RE: OPEN MEETING LAW REQUIREMENTS**
- **IF NECESSARY, ZBAS SHOULD GET OBJECTIVE AND EXPERIENCED TECHNICAL ASSISTANCE ADVISORS/ PEER REVIEWERS TO SUPPLEMENT ZBA MEMBERS' SKILLS AND EXPERIENCE**

**PRIMARY CONCERNS OF ZBA MEMBERS,
OTHER MUNICIPAL BOARDS/DEPARTMENTS OR COMMITTEES,
ABUTTERS/NEIGHBORS, AND
APPLICANT/DEVELOPMENT TEAM MEMBERS**

GENERAL CHAPTER 40B ISSUES

**1. CHAPTER 40B STATUTORY MINIMA/REGULATORY REQUIREMENTS RE:
ELIGIBILITY**

- Less than 10% of year round housing units in community are qualified "affordable" units [methodology for calculating number of qualified affordable units is provided in 760 CMR 56.03 (3)(a)]
- Qualified "affordable" units are located on less than 1.50% of total land area zoned for residential, commercial, or industrial use [methodology for calculating land areas is provided in 760 CMR 56.03 (3)(b)]
- Application before ZBA will not result in commencement of construction of qualified "affordable" housing comprising more than 0.3% (three tenths of one percent) of the total land area zoned in community for residential, commercial, or industrial use or ten acres, whichever is larger, in any one calendar year [methodology for calculating annual land area minimum is provided in 760 CMR 56.03 (3)(c)]
- Housing Production Plan (HPP)—under certain circumstances a municipality can deny any Comprehensive Permit application if the municipality has a DHCD-approved Housing Production Plan and is meeting its affordable housing goals [760 CMR 56.03 (4)] or if it has made Recent Progress Toward Housing Unit Minimum [760 CMR 56.03 (5)]. A municipality can grant Comprehensive Permits even it has satisfied these requirements. However, a developer has no right to appeal any ZBA decision if a municipality has satisfied either the ½ of 1% or 1% HPP standards and has been certified by DHCD. These HPP regulations are complicated. If you need help in understanding them, call DHCD.
- Recent Progress Toward Housing Unit Minimum—even without an approved HPP, if a community has created Subsidized Housing Inventory eligible units equal to or greater than 2% of the municipality's year round housing units, the ZBA can deny an application. See 760 CMR 56.03 (5).
- Review of Large Projects (There are limits on the maximum size of 40B projects. The limits vary based upon the number of year round housing units in each community based upon the latest decennial census data. See 760 CMR 56.03 (6).

- Related Applications (Under certain circumstances, a developer can not submit a Comprehensive Permit application within 12 months of the filing of a prior application for a variance, special permit, subdivision, or other approval related to construction on the same land, if that application was for a prior project that was principally non-residential in use, or if the prior project was principally residential in use but did not include at least 10% of its units as Subsidized Housing Inventory Eligible Housing units. Additional information on Related Applications is provided at 760 CMR 56.03 (7).

2. BALANCING REGIONAL HOUSING NEEDS WITH THE FOLLOWING LOCAL CONCERNS

- Health
- Safety
- Environmental
- Design
- Open Space
- Planning
- Other Local Concerns

3. ROLE AND RESPONSIBILITIES OF ZBA MEMBERS

4. CHAPTER 40B PERFORMANCE REQUIREMENT DEADLINES

7/14/30/15/15/30/180/40/20 DAYS

Although the author believes that the information presented below has been derived from reliable sources, it is subject to errors and omissions and no warranty is made as to its accuracy.

The ZBA must confirm with its own Town Counsel, other advisors, and/or applicable public agencies each of the following Chapter 40B performance requirement deadlines.

**THE FOLLOWING DEADLINES ARE
VERY IMPORTANT!**

CHAPTER 40B PERFORMANCE REQUIREMENT DEADLINES

TIME PERIOD	ACTION
7 DAYS FROM RECEIPT OF CP APPLICATION	<p>Within 7 days of the receipt of the Comprehensive Permit application, the ZBA needs to distribute copies of the Comprehensive Permit application to all Local Boards, departments, and committees (E.g., Planning Board, Conservation Commission, Board of Health, DPW, Affordable Housing Partnership, etc.) If in doubt, it is always better to include any Town entity that might have an interest in the project.</p> <p>The Applicant should be required to provide a sufficient number of copies to simplify this distribution requirement. Each copy must include a copy of the list of Waivers required by 760 CMR 56.05(2) (h).</p> <p>The ZBA should request in writing that each Local Board review the application and submit written comments by a date certain (preferably by the date of the initial public hearing). Unfortunately, this rarely happens and the ZBA often needs to follow-up with each entity to assure that written comments are received.</p>
NO MORE THAN 14 DAYS FROM RECEIPT OF CP APPLICATION	<p>SEE 760 CMR 56.05(3)</p> <p>The initial public hearing must be advertised with proper legal notice and proper notice to abutters such that the initial public hearing can be opened within 30 days of the receipt of a complete Comprehensive Permit (CP) application by the town.</p> <p>Therefore, the ZBA must place all necessary legal ads and notify all abutters of the initial public hearing in accordance with the normal ZBA public hearing advertising requirements. The Applicant is required to include a certified list of abutters within the application.</p> <p>A second legal notice may be required in some jurisdictions.</p> <p>The initial public hearing must be opened within 30 days of the receipt of a complete Comprehensive Permit application unless the Applicant gives written permission to hold the initial public hearing at a later date.</p> <p>SEE 760 CMR 56.05(3)</p>

30 DAYS FROM RECEIPT OF CP APPLICATION	<p>The ZBA must open the initial public hearing within 30 days of receipt of a complete Comprehensive Permit application. Even if the ZBA feels that the Comprehensive Permit application is incomplete, some ZBAs take a conservative approach and schedule and open the initial public hearing. At the initial hearing, the ZBA can explain why it feels that the Comprehensive Permit application is incomplete, request any additional required information, and with input from Town Counsel, make a decision as to what the next appropriate step should be.</p> <p>Note: A ZBA may stay the commencement of an initial hearing if three or more Comprehensive Permit applications are concurrently undergoing hearings before the ZBA, and the total number of housing units in the pending projects exceeds the numerical threshold for a Large Project within that municipality, as set forth in 760 CMR 56.03(6).</p>
15 DAYS FROM INITIAL PUBLIC HEARING	<p>SEE 760 CMR 56.05(3)</p> <p>Within 15 days of the initial public hearing, the ZBA must make a determination as to whether or not it wants to deny an application on one or more of the grounds set forth in 760 CMR 56.03(1) in accordance with the procedures set forth in 760 CMR 56.03(8). The ZBA must provide written notice to both the Applicant and DHCD.</p>
15 DAYS FROM ZBA ACTION	<p>SEE 760 CMR 56.05(3) and 760 CMR 56.03(1) and 760 CMR 56.03(8).</p> <p>If the Applicant wishes to challenge the ZBA's assertion that it can deny the application on one or more of the grounds set forth in 760 CMR 56.03(1), the Applicant must file its written response with the Massachusetts Department of Housing and Community Development (DHCD) within 15 days of its receipt of the ZBA's notice. The Applicant must also provide a copy of challenge to the ZBA.</p>
30 DAYS FROM FILING OF APPLICANT'S CHALLENGE	<p>DHCD must issue its decision within 30 days of the receipt of all materials. Any failure of DHCD to issue a timely decision shall be deemed a determination in favor of the municipality.</p> <p>SEE 760 CMR 56.03(8).</p>

180 DAYS FROM INITIAL PUBLIC HEARING	Except with the written consent of the Applicant, the public hearing shall not extend beyond 180 days of the initial public hearing. The 180 day limit presumes that the Applicant has made timely submissions of materials in response to reasonable requests of the ZBA.
40 DAYS FROM CLOSING OF PUBLIC HEARING	<p>SEE 760 CMR 56.05(3)</p> <p>The ZBA must "render a decision" (Denial, Approval, or Approval with Conditions), based on a majority vote of the Board within 40 days of the closing of the public hearing, unless such time period is extended by written agreement of the ZBA and Applicant. The ZBA shall file its decision with 14 days in the office of the city or town clerk and forward a copy to the Applicant or its designated representative, and to DHCD.</p> <p>Note: Although the regulations state that the ZBA needs only to "render a decision" within 40 days, most ZBAs take a conservative approach and file the written executed decision itself within 40 days of the closing of the public hearing.</p>
20 DAYS FROM DATE ZBA DECISION IS FILED WITH TOWN CLERK	<p>SEE CMR 760 56.05(8).</p> <p>If the ZBA denies the permit or approves the permit with unacceptable conditions or requirements, the Applicant may appeal the ZBA decision to the Housing Appeals Committee within 20 days after the written decision has been filed in the office of the city or town clerk.</p> <p>SEE 760 CMR 56.05(9)(b) and 760 CMR 56.06(4)(g)</p> <p>If the ZBA approves the Comprehensive Permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c. 40A, §17. The court would normally be either the Land Court or Superior Court.</p> <p>SEE 760 CMR 56.05(9)(a)</p>

5. ROLE AND RESPONSIBILITIES OF OTHER MUNICIPAL BOARDS/
DEPARTMENTS OR COMMITTEES
6. LOCAL RULES
7. PUBLIC HEARING FORMAT/CONTINUANCE OF PUBLIC HEARING/PUBLIC
NOTICE
8. ZBA VOTING REQUIREMENTS (MULLIN RULE)

9. CRITICAL 40B APPLICATION SUBMISSION REQUIREMENTS

- **Applicant Status: Public Agency, Non-Profit, or Limited Dividend Organization**
- **Evidence of Site Control (Deed, Lease, Option, or P&S Agreement)**
- **Project Eligibility Letter from Subsidizing Agency (primarily MassHousing, DHCD, Massachusetts Housing Partnership (MHP), and MassDevelopment). The Subsidizing Agency must make the following findings in accordance with 760 CMR 56.04 (4):**

(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);

(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under M.G.L. c.40A, and overlay districts adopted under M.G.L. c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's guidelines, and the Project appears financially feasible and consistent with the Department's guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;

(f) that the Applicant is a public agency, a non profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and

(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site. The Subsidizing Agency shall provide copies of its written determination of Project Eligibility to the Department, the Chief Executive Officer of the municipality, and the Board

10. ADDITIONAL INFORMATION THAT CAN BE REQUESTED FROM APPLICANT

11. LAND VALUE APPRAISAL BASED UPON EXISTING "BY-RIGHT" ZONING PREPARED BY AN APPRAISER LISTED ON MASSHOUSING'S APPROVED APPRAISER LIST. THIS APPRAISAL IS A REQUIREMENT FOR PROJECT ELIGIBILITY LETTER (PEL) APPLICATION.
12. PRELIMINARY VS. "FINAL" INFORMATION AND TIMING OF SUBMISSIONS
13. TIMELY REVIEW OF APPLICATION BY ZBA
14. TIMELY IDENTIFICATION OF "REAL" ISSUES
15. TIMELY IDENTIFICATION OF AREAS WHERE PEER REVIEW CONSULTANTS WILL BE REQUIRED.
16. FINANCIAL REVIEW (PRO FORMA REVIEW). SEE 760 CMR 56.05 (6) FOR DETAILED GUIDELINES ON WHY AND WHEN A FINANCIAL REVIEW SHOULD BE DONE.
17. TIMELY PROCUREMENT OF PEER REVIEW CONSULTANTS
18. TIMELY COMPLETION OF PEER REVIEWS
19. COOPERATION AMONG ZBA/DEPARTMENTS/COMMITTEES/APPLICANT
20. OPEN MEETING LAW
21. NEGOTIATION OPPORTUNITIES/PROCESS
22. 40B SUBSIDIZED HOUSING INVENTORY (SHI) "CREDITS" AND PROJECT REQUIREMENTS FOR INCLUSION OF UNITS IN SHI
23. EXCEPTIONS (AKA WAIVERS) TO ZONING BY-LAWS AND OTHER **LOCAL** RULES BUT NOT TO STATE WETLANDS PROTECTION ACT, TITLE V REQUIREMENTS, AND OTHER **STATE** REQUIREMENTS. ZBA CAN NOT GRANT EXCEPTIONS TO ANY STATE BUILDING CODE REQUIREMENTS.
24. ZBA DECISION ALTERNATIVES
 - Denial
 - Approval (as submitted)
 - Approval with Conditions
25. CONDITIONS TO DECISION: A RECENT (SEPTEMBER 2, 2010) MASSACHUSETTS SUPREME JUDICIAL COURT (SJC) DECISION IN THE ZONING BOARD OF APPEALS OF AMESBURY V. HOUSING APPEALS COMMITTEE CASE ADDRESSES THE TYPE OF CONDITIONS THAT A BOARD CAN OR CAN NOT PLACE ON A 40B PROJECT. ALL ZBAS SHOULD FAMILIARIZE THEMSELVES WITH THE AMESBURY DECISION.

26. APPEAL PROCESS FOR APPLICANT: HOUSING APPEALS COMMITTEE (HAC)

APPEAL PROCESS FOR OTHER PARTIES WITH STANDING: SUPERIOR COURT OR LAND COURT

APPEAL OF HAC, SUPERIOR COURT OR LAND COURT DECISION: MASSACHUSETTS SUPREME JUDICIAL COURT (SJC)

27. POST COMPREHENSIVE PERMIT DECISION SUBMISSION
REQUIREMENTS: FINAL APPROVAL BY SUBSIDIZING AGENCY, FINAL ENGINEERING AND ARCHITECTURAL PLANS FOR BUILDING PERMIT APPLICATION

28. CHANGES IN PROPOSED DEVELOPMENT FOLLOWING DECISION

- Substantial change
- Insubstantial change

29. INSPECTIONS DURING CONSTRUCTION PERIOD

30. LIMITED DIVIDEND RESTRICTIONS AND COST CERTIFICATION

31. LOTTERY, FAIR HOUSING, LOCAL PREFERENCE

32. MONITORING AGREEMENTS AND AGENTS (LIMITED DIVIDEND REQUIREMENTS AND RESIDENT ELIGIBILITY REQUIREMENTS)

33. REGULATORY AGREEMENT

34. DEED RIDER (FOR HOME OWNERSHIP PROJECTS)

35. TRANSFER OF COMPREHENSIVE PERMIT. SEE 760 CMR 56.05 (12) (b)

36. LAPSE OF COMPREHENSIVE PERMIT. SEE 760 CMR 56.05 (12) (c)

REPRESENTATIVE CHAPTER 40B-RELATED DOCUMENTS AVAILABLE AT CHAPA's WEBSITE

[CHAPA Home](#) » [Housing Policy](#) » [Chapter 40B](#)

Looking for 40B and other affordable homeownership lotteries? [Click here](#).

- **Fact Sheet (prepared by CHAPA)** Updated October 2009
- **Link to Massachusetts Department of Housing and Community Development 40B Web Site**
- **Link to Massachusetts Housing Partnership Web Site**
- **Link to 40B Facts Web Site**
- **DHCD Design Guidelines** - March, 2011
- **Out of Reach 2010** - National Low Income Housing Coalition
- **HUD's 2010 Area Median Income Limits for Massachusetts** - May, 2010
- **H. 4455 - Initiative Petition to Repeal Ch. 40B** January 2010
- **Berquist Appellate Court Decision** July 2009
- **On the Ground: 40B Developments Before and After** Alexandra DeGenova, Brendan Goodwin, Shannon Moriarty, and Jeremy Robitaille Urban and Environmental Policy and Planning, Tufts University May 2009
- **Chapter 40B Housing Production Update prepared by CHAPA** (PDF File) - December 16, 2008
- **Reviewing 40B: What Gets Proposed, Approved, Appealed and Built?** (PDF file) Lynn Fisher, Department of Urban Studies and Planning and the Center for Real Estate MIT November 2008
- **Summary of New 40B Guidelines** (PDF File) April 15, 2008
- **DHCD Powerpoint Presentation on New Regulations** (PDF File) April 15, 2008
- **Housing Appeals Committee Mediation Program** (PDF File) March 31, 2008
- **New 40B Guidelines** March 20, 2008
- **New Chapter 40B Regulations: Regulations** (PDF File) **CHAPA's Summary** (PDF File) February 22, 2008
- **MIT Center for Real Estate, Housing Conference Materials (Ch. 40B, affordability index, land density)** June 11, 2007
- **New State Deed Rider for Affordable Housing Units with Restrictions Surviving Foreclosure (MassHousing)** (PDF file) June 8, 2006
- **Guidance on Holding Lotteries for NEF** (PDF file) Updated October 2005
- **40B Production and Pipeline Report** (PDF file) March 2005
- **CHAPA's Analysis of the 2005 Subsidized Housing Inventory (40B)** (PDF file) January 18, 2005
- **CHAPA Report: The Record on 40B: The Effectiveness of the Massachusetts Affordable Housing Zoning Law** June 13, 2003
- **Governor's Task Force Report on 40B** (PDF file) Go to **DHCD's website** to read the appendices. June 12, 2003
- **CHAPA Report: The Faces of 40B: Profiles of Families Living in Affordable Housing** (PDF file) June 9, 2003

**REPRESENTATIVE CHAPTER 40B-RELATED DOCUMENTS AVAILABLE AT
DHCD's WEBSITE**

Chapter 40B Planning

Chapter 40B is a state statute, which enables local Zoning Boards of Appeals to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions.

- **Comprehensive Permit Guidelines**

Information regarding M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory. Find the CPA Prequalification List, updated monthly.

- **Handbook: Approach to Ch 40B Design Reviews**

The 40B Design Handbook is a result of a collaborative process of the four Massachusetts housing agencies that are authorized to review and approve site eligibility for Chapter 40B affordable housing developments.

This handbook is a reflection of these agencies and their commitment to ensuring that 40B affordable housing developments adhere to high standards of site and building design that enhance the quality of life for residents and the communities in which they reside.

Chapter 40B has a long history of succession Massachusetts. Enacted in 1969, it is credited with having produced over 58,000 units of housing for owners and renters, seniors and families, special needs households and veterans.

This handbook strives to create a shared language and vision of well-designed housing in order to create models of success for future developments to follow. Affordable housing is an art as well as an industry and we are committed to marrying the two.

- **Developer's Guide**

A guide to assist a developer through the Chapter 40 B process.

- **Local Initiative Program (LIP)**

The Local Initiative Program is a state housing program that was established to give cities and towns more flexibility in their efforts to provide low and moderate-income housing.

- **Housing Production Plan**

Housing Production Plan is a regulation under Chapter 40B that encourages communities to take a proactive approach to affordable housing development.

- **Subsidized Housing Inventory (SHI)**

The Subsidized Housing Inventory is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law. While housing developed under Chapter 40B is eligible for inclusion on the inventory, many other types of housing also qualify to count toward a community's affordable housing stock.

- **Sale Prices and Rents**

Guidance on calculating 40B affordable sale prices and rents.

- **Housing Appeals Committee**

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Housing July
LEON A. GAUMOND, JR.
TOWN ADMINISTRATOR

TOWN OF WEST BOYLSTON
MUNICIPAL OFFICE BUILDING
127 HARTWELL STREET
WEST BOYLSTON, MASSACHUSETTS 01583-1108

To: Senator Harriette Chandler
Senator Jennifer Flanagan
Rep. Harold Naughton
Rep. James O'Day
Rep. Kimberly Ferguson
From: Leon A Gaumond Jr., West Boylston Town Administrator
CC: Terri Ackerman, Sterling Town Administrator
Nancy Colbert Puff, Boylston Town Administrator
RE: Request for regional housing support
Date: July 5, 2011

I am writing to update you on a major project recently completed for the Towns of West Boylston, Boylston and Sterling.

Last year, the West Boylston Selectmen adopted a goal of improving the housing processes in the Town. In order to meet that goal, the Town brought in CMRPC to provide us with a draft Housing Production Plan. In addition, we convened a Tri-Town Working Group to look critically at the issue of housing and specifically how communities try to meet the mandates and requests made of them in the area of housing, particularly affordable housing. It was clear that the problems facing West Boylston were similar to those in Sterling and Boylston so we decided to work together to study this problem.

I have repeatedly said that small towns like West Boylston have real problems dealing with affordable housing. The biggest issue in my opinion is one of capacity. Larger communities have Town Planners, Asst. Town Planners, Housing specialists, community development officers, etc., who monitor and deal with

housing issues. However small communities do not have such assistance. In fact, there is no clear indication of who is in charge of these issues. The ZBA, Selectmen, Planning, Building, Housing Partnership, and Administration all have some role in affordable housing yet no one is responsible for the many tasks associated with affordable housing and reporting.

One of the clearest recommendations from our working group was to find that assistance that the Towns desperately need. As a response to that, I proposed a peer-to-peer grant proposal that was funded by the commonwealth to further study our capacity issue and to make recommendations to the Tri-town Working Group. We commissioned a true community housing expert, Beth Rust, to look at this issue. Her final report is attached.

Essentially, the report suggests that if the towns are ever to be proficient in the area of affordable housing development & monitoring, we will need help in which to do it. In my opinion, the best option could be to bring on a Community Housing Specialist to work on retainer on a regional basis. I am writing to ask the legislative delegation to get a pilot program funded in the region to support the cost of a Community Housing Specialist this year. I understand that the Legislature and the Governor are all supporting regionalization projects in their budgets and it seems to me that \$20,000 is a very modest sum to support a worthwhile regional project that the Commonwealth has already bought into through the peer-to-peer project.

The three Town Administrators are willing to meet with you to discuss this issue further. We hope this is a small but critically important project that you could support on a regional basis. Thank you for your attention to this matter.



Community Housing Specialist Scope of Services

Supporting the Towns of
West Boylston, Boylston, and Sterling

Through the Three Town Housing Working Group

Community Housing Specialist

Background

The towns of West Boylston, Boylston and Sterling jointly seek the services of a Community Housing Specialist to provide housing support to the communities, with a focus on developing strategies to more confidently and effectively manage affordable housing details for the municipalities.

The collaboration of these three communities took shape through efforts led by the Central Massachusetts Regional Planning Commission (CMRPC) starting in May 2010 with initial findings documented in a report (Housing Planning and Development, December 15, 2010) funded through the Legislature's District Local Technical Assistance program.

In this report, while individual actions identified for each municipality were identified, there were two joint strategies highlighted as key collaborative initiatives. First, the creation of a Three Town Housing Work Group is articulated with goals to develop a shared understanding of each community's housing environment, to foster greater capacity, and to create a set of specific and consistent tools to guide housing efforts – whether publicly sponsored projects, or private developments. The Three Town Housing Work Group is a team comprised of members and housing stakeholders from each community to explore and research opportunities for greater town participation, and to provide direction and oversight to this new effort.

The second most important recommendation noted in the report, is to seek shared professional capacity in the form of a Community Housing Specialist. The specialist would support the Three Town Housing Work Group, and has the expertise and is engaged to act as a central point of contact for the town staff, Boards, Committees, developers, and other principals for housing activities.

In February 2011, the towns were jointly awarded a Peer-to-Peer grant from the Department of Housing and Community Development (DHCD) to more fully develop this shared capacity of the Community Housing Specialist in a collaborative, regional approach. This scope of services is the final report from the DHCD grant.

Introduction

The towns of West Boylston, Boylston and Sterling recognize that municipalities play a central role in affordable housing from initial proposal through on-going monitoring, irrespective of whether the housing is sponsored by a private developer using 40B or a public or non-profit organization. In the municipal role there are many details and aspects to manage in order to derive maximum community benefit and local control in affordable housing projects, which are not part of the core responsibilities of the town administrator or other town personnel. This local control takes many forms – it articulates local requirements in private 40B projects, it monitors and enforces compliance to conditions and requirements, it develops shared models and best practices among the communities, such as review criteria, standards and guidelines. Focusing attention on the housing activities is not primarily an advocacy action; it is a proactive approach for the towns to attend to the complex details of affordable housing. By providing dedicated and knowledgeable expertise, the towns benefit by increasing local control in housing developments.

These three towns recognize the innovative and effective approach to acquiring these services through a regional shared model. The Community Housing Specialist is not a generalist position, but rather has experience and focus on affordable housing activities. Sharing this expense across the towns through a contracted scope of services is not only cost efficient, but allows a greater level of expertise to be procured with no additional headcount or impact of Town human resources.

It is hoped that cost of retaining the Community Housing Specialist would be offset by reductions in legal costs, grant awards, and developer fees.

Scope of Services

The Community Housing Specialist would be responsible for the coordination, administration and reporting of affordable housing programs and activities supporting the towns of Boylston, Sterling and West Boylston.

It is proposed that the specialist be contracted for a set of core services, as described below, and be available for supplemental services, which would be separately contracted, with separate scope of services defined per project.

Core Responsibilities

The core responsibilities focus on base services that the Community Housing Specialist would perform for the three towns to create a framework to evaluate and approve projects, and to monitor existing units of affordable housing.

Create framework – With dedicated expertise available, develop standards and guidelines; recommend policy and process

- Create and communicate housing guidelines for local adoption with stakeholders;
- Provide on-going support to each Town and the Three Town Housing Working Group with attendance at meetings (12 per year), and be available for adhoc phone support
- Provide general information and have discussions on initial project concepts;
- Provide general expertise to local stakeholders, including ZBA; and the general public on process, opportunities, requirements through education, training, and presentations;
- Provide information for local residents: create interest list, provide contact point, perform outreach for new housing opportunities.
- Assist in completion of Commonwealth Capital Application and other municipal surveys and information.

Estimate: 240 hours annually: 120 West Boylston, 60 Boylston, 60 Sterling

Monitor existing projects and units – Ensure and enforce compliance, preserve units

- Create central repository of project legal documents for all projects;
- Review projects with respect to Regulatory Agreement requirements;
- Identify compliance violations and propose course of action;
- Ensure projects are in compliance with applicable limited dividend requirements through Cost Certification review;

- Review and monitor each Town's Subsidized Housing Inventory;
- Assist in locating eligible buyer on resale of affordable housing units.

Estimate (based on SHI units): 160 hours annually: 100 hours West Boylston (189 units), 10 hours Boylston (24 units), 50 hours Sterling (163 units)

Supplemental Services:

The supplemental services would provide value-added responsibilities focusing on assisting specific projects and locally sponsored unit creation development and administration. These services would be estimated and contracted on an as-needed basis by each town, with specific defined scope of services, and generally contracted at the same rate as the core services. Suggested and anticipated services include:

Assist with specific proposed projects - Central contact point for pre-permitting activities for new projects

- Assist town boards and developers during the pre-application process, facilitating site and conceptual plan review, project concepts and designs, obtaining community input and comment
- Analyze projects using locally adopted rules, State guidelines and regulation, best practices;
- Recommend mitigation from Town perspective;
- Review finalized plans with regard to the affordable component, including unit mix, disbursement, cost, governance, schedule, marketing;
- Provide technical support during the application and 40B review process, interacting with DHCD and Subsidizing Agency;
- Facilitate feedback from Town Boards for Permitting Authority;
- Coordinate Regulatory Agreement, and other local agreements as appropriate.

Develop bylaws to encourage affordable housing within local zoning

- Investigate, assist and develop bylaws, programs, and projects to create affordable housing;
- Prepare project budgets and schedules, sources and uses, identify local commitment and coordinate applications for local, state and federal resources, including housing grants and loans, assistance and public services or other sources.

Develop programs and projects to create affordable housing

- Investigate Town owned land and other reasonably priced parcels
- Develop partnerships with developers to increase the affordable component in developments
- Develop and implement programs, and projects to create affordable housing including issuing RFP, conducting feasibility studies, and administer through on-going operation.

Administer lotteries, act as Monitoring Agent and qualify eligible applicants

- Develop marketing plans per regulation and guidelines
- Perform outreach and market units

- Qualify applicants and certify eligibility
- Administer lotteries, and assist applicants to close.

Qualifications/Skills

Working under the direction of the Three Town Housing Working Group, the Community Housing Specialist has a high degree of expertise in affordable housing development, the ability to work independently, and is able to manage complex projects.

- Five years related experience; or equivalent combination of education and experience;
- Educational background sufficient to the task;
- Strong communication and interpersonal skills, both in dealing with staff, the public and with elected and appointed officials;
- Ability to read, analyze, and interpret financial data, demographics, technical reports and legal documents through excellent computer skills and analytical abilities;
- Ability to coordinate multiple responsibilities and activities, make decisions and problem solve;
- Ability to prepare and deliver written and oral reports and presentations for Boards and Commissions and the public;
- Ability to maintaining confidential and accurate accounts, and manage the procurement process;
- Proficient in grant writing.

Compensation

The three towns anticipate contracting with a consultant for the services described. The consultant is responsible for insurance, equipment and other overhead requirements.

It is anticipated that this engagement would be priced on an hourly basis, with an estimated 400 hours for the three towns annually, and not to exceed amount of \$20,000 – or \$50 per hour with reimbursed expenses (office and travel). Using the estimates above, this is allocated as follows:

	Framework		Monitoring		Total	
	Hours	Amount	Hours	Amount	Hours	Amount
West Boylston	120	\$6,000	100	\$5,000	220	\$11,000
Boylston	60	\$3,000	10	\$500	70	\$3,500
Sterling	60	\$3,000	50	\$2,500	110	\$5,500
Total	240	\$12,000	160	\$8,000	400	\$20,000

It is anticipated that the towns will issue a Request For Quotation (RFQ) to procure these services.

