

Community Preservation Committee-minutes of meeting on July 22, 2015

Present: Bea Phear, Cheryl Lowe, Dale Julier, Glenn Hearn, and Gary Montrowl and Pam Thors Admin. Asst.

Also Present: Joanne Scott and Michael Holtham

Absent: Tara Whiting, Lesley Eaton, Scott Stearns and Sean Conley

A quorum being present, Bea opened the meeting at 5:30pm.

Minutes: The minutes of the meeting of June 24, 2015 were reviewed and approved.

Invoices: The following invoices were reviewed and approved;

DCRHA Rental Assistance-August \$7,065.00

Save the Gay Head Lighthouse-\$80,455.68

Administrative Assistant Payroll-thru July 1st-\$1,975.85

New Business:

The Affordable Housing Trust payments from CPC funding were reviewed. Pam explained that at the July 14th Affordable Housing Trust meeting, Michael Holtham raised the issue of incorrect wording in the 2014 Warrant Article supporting pre-development costs for the Fire Station Affordable Housing project. She explained that Mr. Holtham, (in attendance), is an abutter to the project and stated that the project described in the warrant article is for two duplexes rather than the three triplexes currently under consideration. Joanne Scott stated that in light of this being brought to their attention the Affordable Housing Committee will not make any further expenditure from this fund until the issue has been reviewed by Town Counsel. Mr. Holtham said that, at the Selectmen's meeting earlier, it was suggested that there may need to be a new Town By-law passed in order for the current plan to be approved. Joanne stated that the Zoning for the current plan was approved by the Zoning Official and they are allowed a septic capacity for 24 people but that they are asking for only 18. Joanne stated that they will be consulting with Town Counsel and will advise the CPC when there is a definitive answer as to whether there needs to be an amendment to the warrant article at Town Meeting.

The Affordable Housing Restriction, (see attached), for the 6 Water Street Apartment project was reviewed. Dale asked about the remaining 2 apartments and whether a qualified West Tisbury resident could be placed in one of them. Joanne said she would speak to Philippe Jordi about that possible opportunity.

A motion was made to approve the Affordable Housing Restriction for "6 Water Street". The vote on the motion was unanimous in favor.

Pam said she will let DCRHA and IHT know and follow up by getting a recorded copy of the document for the file.

The Island Housing Trust application to the Affordable Housing Committee was discussed. The grant, request for the IHT Partnership for Accessory Apartment Program is for \$18,500.00 to pay for the first 12 months of the programs consultant fee. Pam suggested that the anti-aid amendment may prohibit this type of grant due to the fact that the grant is for aiding the perspective landlord who does not necessarily qualify for Affordable Housing who stands to make a small profit by utilizing the program and the consultation provided. She referenced the email from Stuart Saginor, (see attached), who doesn't believe this to be a problem. He notes that in his opinion, the presence of profits does not represent a violation to the anti-aid amendment. Dale said that she thinks the affordability restriction that would need to be placed on the accessory apartment covers the anti-aid amendment issue. Glenn brought up the issue that if the town is paying for a consultant that perhaps that position should have to be put out to bid. Joanne said that the Affordable Housing Committee would be referring the issue to Town Counsel and let the CPC know the outcome of that referral.

Old Business:

The Historic Preservation Restriction for the Martha's Vineyard Museum Roof Restoration Project was reviewed. Pam stated that she had sent the Oak Bluffs version of this document and the Restriction filed with the Martha's Vineyard Garden Club for the Old Mill to Atty. M. Goldsmith as well. Pam pointed out that the only addition was paragraph #6 which addressed reimbursement. It was mentioned that there should be a notary page for each signature. Pam agreed and said she would bring the revised document to sign at the next meeting.

The meeting was adjourned at 6:30pm.

Respectfully Submitted,
Pam Thors, Admin. Asst.

Pam Thors

From: Stuart Saginor <Stuart.Saginor@communitypreservation.org>
Sent: Wednesday, July 22, 2015 11:09 AM
To: Pam Thors
Cc: Katherine Roth
Subject: Re: Anti-Aid Amendment question

Hi Pam:

We're not attorneys, so unfortunately we don't know the answer to your question. The anti-aid amendment is actually not part of CPA, but an amendment to the state's constitution, so we aren't experts in all the nuances of that law. You'll definitely want to run this by Town Counsel.

That being said, I think profits are made at all levels of affordable housing, such as landlords who accept rental assistance. No one expects that a landlord will rent out their units, even affordable ones, at a break even level. So I don't the presence of profits necessarily means it's a violation of the anti-aid amendment. Will the units have affordable housing restrictions on them? If so, wouldn't the town hold those restrictions? That clearly is to the public benefit.

But housing is complicated, so you should get a written legal determination before you proceed.

Stuart

Stuart Saginor
Executive Director
Community Preservation Coalition
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>>>> Pam Thors <cpa@westtisbury-ma.gov> 7/22/2015 10:05 AM >>>>

Dear Stuart, I have a question regarding CPC funding and the Anti-Aid Amendment. Island Housing Trust has filed an application with the West Tisbury Affordable Housing Committee for a grant to assist their latest endeavor which is a program to help individual homeowners build affordable detached rental apartments. Their aim is to increase the units available for Affordable Housing through the Dukes County Regional Housing Authority by giving individual property owners initiative and guidance to build and rent the units. Even though the main benefit is to the person who qualifies for affordable housing, the landlord does stand to make a small profit. I think that the concept that IHT has come up with is brilliant but very possibly not in compliance with the anti aid amendment. Would you advise the WTCPC on this? Thank you and I hope you are fitting some summer into your busy schedule. Pam

Pam Thors
Community Preservation Committee
Town of West Tisbury

**6 WATER STREET
AFFORDABLE HOUSING RESTRICTION**

The undersigned Island Housing Trust Corporation, a Massachusetts not-for-profit corporation with a principal office address of 346 State Road, Vineyard Haven, MA, and a mailing address of P.O. Box 779, West Tisbury, MA 02575 ("IHT"), is the owner of a certain parcel of land with buildings thereon situated at 6 Water Street, Tisbury, County of Dukes County, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at the northeast corner of the house lot formerly owned by Holmes M. Athearn; thence running easterly by a narrow strip of land formerly owned by the said Holmes M. Athearn on hundred and eighteen (118) feet to Water Street; thence southerly by Water Street thirty-two (32) feet to the northeast corner of the house lot now or formerly of Georgianna Calhoon; then westerly by said house lot nor or formerly of Georgianna Calhoon one hundred and eighteen (118) feet to the southeast corner of the aforesaid house lot of Holmes M. Athearn; thence northerly by land formerly of Holmes M. Athearn forty-six (46) feet and six (6) inches to the point of beginning. Said conveyance is made subject to the existing easement of record, recorded with Dukes County Registry of Deeds in Book 932, Page 632.

WHEREAS, the undersigned Dukes County Regional Housing Authority ("DCRHA") is chartered to promote and facilitate the development of affordable housing for low and moderate income residents of Dukes County.

WHEREAS, the Towns of Tisbury and West Tisbury at their 2015 Annual Town Meetings voted to appropriate monies from their respective Community Preservation Funds to the IHT for it to develop a six affordable rental apartments.

WHEREAS, pursuant to the Community Preservation Act, M.G.L. ch. 44B §12, a real property interest that is acquired with monies from the Community Preservation Fund for affordable housing purposes shall be bound by a permanent restriction preserving the affordability to low and moderate income persons.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficient of which is hereby acknowledged, IHT and DCRHA covenant and agree as follows:

1. The Premises shall be used solely as affordable rental apartments or dwelling units by individuals earning 60% or less of the median household income for Dukes County as calculated and adjusted for household size from time to time by HUD, and preference, in accordance with all applicable state and federal law, will be given to three qualified tenants from the town of Tisbury and one qualified tenant from the town of West Tisbury, living or working in that town.

New guidance from Dept. of Revenue for local housing trusts, CPA communities

BOSTON, June 15, 2015 --- Recent guidance from the state Department of Revenue (DOR) warrants immediate attention by Municipal Affordable Housing Trusts and community preservation committees. While some communities may already be in compliance with the requirements noted, it is important for trusts and CPCs to review the following information.

Expansion of trust powers recommended

The Municipal Affordable Housing Trust statute 55C c.4 states that the purpose of a trust is to "create or preserve" affordable housing. The trust statute does not include "support" which is an eligible activity under the Community Preservation Act statute.

While a number of communities have attempted to address this by executing grant agreements between trusts and CPCs, the trust statute does not explicitly grant trusts the power to execute a grant agreement to carry out programs that do not meet the trust statute's stated purpose to create and preserve affordable housing. The Community Preservation Coalition addressed grant agreements in their October 2014 bulletin. <http://www.communitypreservation.org/news/7136>.

Individual trusts, particularly those that are using CPA funds for "support" activities as defined in the CPA statute, should make their own determination regarding the need to amend their original vote establishing the trust to include the power to execute grant agreements as described above.

MHP, CHAPA, CPC addressing this issue

MHP, working in cooperation with the Citizens' Housing and Planning Association (CHAPA) and the Community Preservation Coalition, is recommending a change to the trust statute language that would expand the powers of the trust to include execution of a grant agreement with a municipality/community preservation committee to administer all CPA eligible activities. We are currently drafting language that would expand trust powers and have it automatically apply to all existing trusts. We will seek legislative support for this change during the current session.

Anti-Aid Amendment applies to trust and CPA programs

As a government entity, Municipal Affordable Housing Trusts must comply with constitutional and general principles related to the payment of public funds to private individuals or entities. The Anti-Aid amendment to the Massachusetts Constitution (MA. Const. amend. Article 42, s.2) as amended by Article 103 generally prohibits the granting of public funds to private organizations except when the funds are used for a designated public purpose and the benefits accrue to the public.

In order to comply with the law, all Municipal Affordable Housing Trusts or CPA-

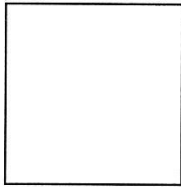
funded projects or programs should include some type of affordability restriction or recapture provision recorded through a deed, mortgage or contract that is commensurate with the assistance provided. Programs where communities or trusts are currently providing grants to individuals without any type of restriction or contract are not in compliance with the anti-aid statute.

For more information about this issue, contact MHP's Ruston Lodi at rlodi@mhp.net or Callie Clark at cclark@mhp.net.

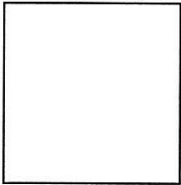
This event is sponsored by the [Massachusetts Housing Partnership \(MHP\)](#), the state [Department of Housing and Community Development \(DHCD\)](#), [Citizens' Housing and Planning Association \(CHAPA\)](#), [Metropolitan Area Planning Council \(MAPC\)](#) and the [Mel King Institute for Community Building](#).

MHP | 160 Federal St, Boston MA 02110 | Tel 617-330-9955 | Fax 617-330-1919

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