

## **AFFORDABLE HOUSING TRUST STUDY COMMITTEE**

**Members:** 7

**Appointed by:** Select Board

**Length of Term:** Three years or until completion and filing report with the Select Board.

**Committee composition:**

The Committee shall be composed of seven members, plus a non-voting liaison of the Select Board. Other members may include individuals with experience in real estate lending or finance, land use or real estate law, real estate development, affordable housing development, housing advocacy, planning, racial equity, accessibility, sustainability/resiliency, or architecture. The Committee members shall elect a Chair and Vice Chair.

**Staff support:** Land Use Health & Development Department and the Regional Housing Services Office.

**Budget:** An appropriation will be requested for consulting services from individuals or firms experienced in housing trusts and non-profit Housing Development Corporations or non-profit Community Development Corporations or other entities eligible to participate in the Massachusetts or other community investment tax credit programs.

**Committee Mission/Charge:**

The Committee will have two objectives:

- Objective A to bring a proposal to the Select Board and Town Meeting to adopt a Municipal Affordable Housing Trust;
- Objective B to develop a proposal for a non-profit Housing Development Corporation or non-profit Community Development Corporation or other entity eligible to participate in the Massachusetts or other community investment tax credit programs.

Objective A:

Review Lexington's Housing needs as detailed in the current or draft Comprehensive Plan Update (expected completion 2021), census data, data from the Regional Housing Services Office, the reports of the Special Permit Residential Development Ad-Hoc Committee, the Community Preservation Committee, and data from Lexington's housing groups and other relevant sources.

Identify affordable housing funding sources, both internal and external to Lexington, including but not limited to grants, donations, foundations, nonprofit organizations, faith organizations, local, state and national foundations and local, state and federal government funding programs.

Evaluate and determine whether an affordable housing trust can advance Lexington's housing Goals.

Consider and recommend roles and expected interaction between an Affordable Housing Trust and Lexington's existing housing entities (the Housing Authority, LexHab, the Housing Partnership Board, et al.) and potential future entity, i.e., a non-profit Housing Development Corporation or non-profit

Community Development Corporation or other entity as described above.

Consider and recommend roles and expected interaction between an Affordable Housing Trust and the Community Preservation Committee and Capital Expenditures Committee. Present findings, work and recommended actions to the Select Board in advance of drafting materials for Town Meeting.

Determine and reach agreement on the powers and duties of a proposed Affordable Housing Trust.

Develop a draft bylaw for a Municipal Affordable Housing Trust to recommend to the Select Board by June 30, 2022, including the proposed Declaration of Trust for an Affordable Housing Trust detailing the full powers of the proposed trust.

Develop a warrant article for Town Meeting to adopt MGL c.44 s.55C (See Attached) including the proposed Declaration of Trust for an Affordable Housing Trust detailing the full powers of the proposed trust.

#### Objective B:

Analyze and evaluate the costs and opportunities, benefits and risks of creating a non-profit, non-governmental Housing Development Corporation or Community Development Corporation or other entity as described above, including a recommendation on whether such non-profit corporation would help Lexington produce affordable housing more quickly, efficiently and economically than is currently being produced by the Town or by private developers, and whether a non-profit Housing Development Corporation or non-profit Community Development Corporation or other entity as described above would ultimately replace some or all of LexHab's duties, including affordable housing development duties. The committee may also recommend suggested initial staffing, operating budget, and annual fundraising plan.

Draft for the corporation's consideration the organization's draft bylaws and articles of organization

#### **Prior to serving as a member of this Committee, appointees are required to:**

1. Acknowledge receipt of the Summary of the Conflict of Interest Statute. Further, to continue to serve on the Committee the member must acknowledge annually receipt of the summary of the Conflict of Interest Statute. Said summary will be provided by and acknowledged by the Town Clerk.
2. Provide evidence to the Town Clerk that the appointee has completed the on-line training requirement required by the Conflict of Interest Statute. Further, to continue to serve on the Committee, the member must acknowledge every two years completion of the on-line training requirement.

Reference: MGL Chapter 44 Section 55C: Municipal Affordable Housing Trust Fund  
**Ref: [https://www.mhp.net/writable/resources/documents/MAHTGuidebook\\_2018.pdf](https://www.mhp.net/writable/resources/documents/MAHTGuidebook_2018.pdf)**

Charge adopted by the Select Board on September 13, 2021

## **MGL Chapter 44 Section 55C: Municipal Affordable Housing Trust Fund**

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

(1) 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; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;

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

(3) 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;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements 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;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) 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;

(7) 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;

(8) 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;

(9) 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;

(10) to carry property for accounting purposes other than acquisition date values;

(11) 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;

(12) to make distributions or divisions of principal in kind;

(13) 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;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) 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.