

Frequently Asked Questions
Warrant Article #14: Reorganization of LexHAB

Why does LexHAB want to become an independent nonprofit organization? As an independent nonprofit organization LexHAB would be able to develop affordable housing more efficiently and cost effectively as well as diversify its funding streams. Rather than relying entirely on local funds, a nonprofit organization would be able to use a combination of local, state, federal and private funding sources to acquire or develop affordable housing. Currently, as a quasi-municipal entity, local funding sources are the only options available, and costs of development are 40% higher than they would be as an independent nonprofit organization.

If other communities have groups like LexHAB, how are they structured? We do not know of any affordable housing group that is structured the way LexHAB is currently structured as a quasi-municipal entity. Communities that do have community focused affordable housing groups have 501(c)(3) nonprofit housing development organizations or 501(c)(3) nonprofit community development corporations. The Housing Corporation of Arlington is closest to the model LexHAB would have as an independent nonprofit.

What aspects of the original 1983 enabling legislation will be affected by the change in organizational status? The revised Special Act clearly separates LexHAB from the Town and transfers ownership of LexHAB's 78 units to the new LexHAB nonprofit organization. If the LexHAB nonprofit organization dissolves, properties will revert to the Town or an affordable housing organization of the Town's choosing. The Special Act clearly exempts LexHAB nonprofit organization from public bidding. The Select Board will not appoint LexHAB's board members, rather existing LexHAB board members will recruit and appoint new board members, which will be confirmed by the Select Board.

What aspects of the organization will not change? LexHAB as an independent nonprofit organization will have the same mission, organizational structure, staff and board. LexHAB will own and manage its same 78 properties. All housing affordability restrictions will remain. LexHAB will maintain connections to the Town for reporting.

It sounds like the Town will lose control over LexHAB and LexHAB properties. How do we know that LexHAB will not sell its properties and that the properties will remain affordable and benefit Lexington? LexHAB will be a non-profit corporation with a mission to expand Lexington's inventory of affordable housing. LexHAB's actions must further its mission. In addition, affordability restrictions ensure future affordability. LexHAB and the Town will be drafting a Memorandum of Understanding to address any outstanding issues related to the properties.

What is a 501(c)(3) organization? Section 501(c)(3) is a portion of the U.S. Internal Revenue Code and a specific tax category for nonprofit organizations. Organizations that meet Section 501(c)(3) requirements are exempt from federal income tax. While the Internal Revenue Service recognizes more than 30 types of nonprofit organizations, only those that qualify for 501(c)(3) status can say that donations to them are tax deductible. LexHAB would become an independent 501(c)(3) nonprofit organization.

What are the ways LexHAB will be able to partner with larger affordable housing developers or other developers as a 501(c)(3) nonprofit organization that it cannot currently consider? If LexHAB were to be a co-developer/co-owner with a larger affordable housing developer currently, the same public procurement rules would be triggered. This increased cost and complexity is not something the larger developers will want to take on. The switch to a 501(c)(3) eliminates this as a hurdle. There are several ways LexHAB could partner with larger developers as a 501(c)(3). LexHAB could be a co-developer in Lexington with a larger development group that wants to partner with someone that has more local connections and sensitivities. LexHAB could be a co-owner with a larger developer whereby the developer partners with LexHAB to own and manage the affordable units in their development. LexHAB could partner with a group like MetroWest on a development where both are co-developers and co-owners.

Has LexHAB considered an arrangement with the Town structured as the Town leasing the land LexHAB properties are on for a small fee as an alternative to transferring all of the properties to the 501c3? Why or why not? While the Town could certainly look at this going forward if they were to be disposing of vacant land lots or starting a new housing project, trying to separate out the real estate now with land leases would be a very complicated, lengthy, and costly undertaking given the regulatory and financial strings on many of these properties.

Who holds the deeds to the current 78 units of LexHAB managed properties? If they are not deeded to LexHAB, will an RFP be necessary to transfer the property to LexHAB? Will the change in organizational structure require that the deeds currently held by LexHAB be refiled? If so, what is the estimated cost for the transfer and who would pay the costs?

LexHAB holds the deeds to all of its properties. The property will transfer to the 501(c)(3) as part of the revised Special Act seamlessly and at no cost to the Town or LexHAB. This is one of the reasons to transition to a 501c3 through the Special Act via Home Rule petition.

Currently the LexHAB board is appointed by the Select Board. Once the structure is changed and it is not a quasi-municipal organization, who would be the appointing agency for the LexHAB board?

LexHAB's Board of Directors will make new appointments to the Board, subject to confirmation by the Lexington Select Board. The Select Board will have the ability to veto a LexHAB Board nomination.

LexHAB oversees the sales transfers of the appreciation limited Muzzey condominium units by income qualifying new buyers and by determining maximum selling price. Will this still remain a LexHAB responsibility? The Regional Housing Services Organization (RHSO) is responsible for the sales transfers at Muzzey. This is not currently a LexHAB responsibility and will not be a LexHAB responsibility as a 501(c)(3).

Could the Affordable Housing Trust and LexHAB work together? Yes, they could, but they are entirely separate entities. The AHT is a municipal financing entity that would be part of the Town of Lexington (Warrant Article #12). The reorganized LexHAB would be an independent 501(c)(3) non-profit organization that is separate from the Town. For instance, the AHT could provide funding to LexHAB.

Would paid, professional staff manage LexHAB the independent nonprofit? Yes. Would the Town pay LexHAB staff? No, the Town would not be involved in staffing LexHAB.

Would the LexHAB maintain its own account records and functions, secure insurance, make audits, and handle all of its financial needs? Yes.

Where would LexHAB get its funding? It could receive money from the Affordable Housing Trust, grants from state, federal, or private entities, loans or mortgages from banks, and rental payments from managed properties, to name a few. Additionally, LexHAB could make funding requests to the Town, if appropriate, to further the Town's affordable housing goals.

Could LexHAB apply for CPA funding? Yes, LexHAB could apply directly to the CPC for CPA funds. As with all CPA application requests, this would require the approval of Town Meeting.

Will LexHAB require Town Meeting or Select Board approval to hold property as assets, buy, sell, manage, collect rent, or anything of this nature? No. LexHAB will be an entity with no financial ties to the Town government and, therefore, will not require Town Meeting or Select Board approval. As a non-profit it will act to further its mission to expand Lexington's inventory of affordable housing.

Will LexHAB's assets, liabilities, income and expenses, and debt be recorded on the Town's books? Does the Town assume any of these obligations? No.

If LexHAB receives CPA funds from a CPA application request, will the Development Corporation be held to public procurement funding rules and processes? No, but the Town recommends a CPA grant agreement and affordable deed restriction on housing created with CPA funds, as is customary, to ensure compliance with the terms of the CPA.

Will all of LexHAB's existing property assets be transferred to the new nonprofit LexAHB? Yes. LexHAB and the Town will create an MOU that details any restrictions on the properties.

What about LexHAB properties originally purchased, built, or improved with CPA funds? Beginning circa 2007/2008, all properties purchased with CPA funds have regulatory agreements that the affordable in perpetuity.

Where can I learn more?

- The League of Women Voters has information about the Town's Comprehensive Housing Plan as well as Article 14 LexHAB's Reorganization and Article 12, the Affordable Housing Trust:
<https://my.lwv.org/massachusetts/lexington/event/first-friday-future-affordable-housing-lexington>
- The Regional Housing Services Organization (RHSO) has information on local and regional housing:
[RHSO Housing in Lexington](#)
- The MA Housing Toolbox has information on affordable housing as well as resources and best practices:
<https://www.housingtoolbox.org/>