

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, JULY 8, 2013

Present: Ald. Gentile (Chairman), Ciccone, Linsky, Salvucci, Blazar, Fuller, and Lappin

Absent: Ald. Rice

Also present: Lou Taverna (City Engineer) Reiko Hayashi (Housing Planner), Rob Muollo (Housing Planner), Jim Robertson (Community Preservation Committee Member), Bruce Proia (Fire Chief), and Maureen Lemieux (Chief Financial Officer)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#227-13 HIS HONOR THE MAYOR requesting authorization to enter into an Inter-Municipal Agreement with the Town of Wellesley detailing Wellesley's obligation to fund half of the construction contract costs associated with structural repairs to the jointly owned Wales Street Bridge. [06/10/13 @ 6:54 PM]

ACTION: **APPROVED 7-0**

NOTE: The Committee reviewed the request to authorize an agreement with Wellesley for the repair of the Wales Street Bridge, which is jointly owned by Newton and Wellesley. The agreement states that the Town of Wellesley is responsible for half of the construction costs for the repair of the bridge.

The Committee asked for the total estimated cost of the project. City Engineer Lou Taverna responded that the cost is expected to be about \$650,000. Mr. Taverna also informed the Committee that the Town of Wellesley has capped their share of the project at \$400,000. The Committee expressed a concern about the hard cap of \$400,000 in the event bids come in higher. City Engineer Lou Taverna will speak with the Town of Wellesley to discuss the possibility that bids could come in higher resulting in a more expensive project. With that, Ald. Ciccone moved approval, which carried unanimously.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#316-12(2) COMMUNITY PRESERVATION COMMITTEE recommending the
(#55-13) appropriation of four hundred seventy-five thousand dollars (\$475,000) to the Planning and Development Department to continue the Newton Homebuyer Assistance Program as described in the proposal amended in December 2012. [01/25/13 @ 12:33 PM]

ZONING & PLANNING APPROVED 6-0 on 02/11/13

ACTION: **HELD 7-0**

NOTE: The Docket request was discussed in February 2013 and held as several Committee members had questions regarding the asset requirements. Housing Planner Reiko Hayashi reviewed the request for \$475,000 to recapitalize the Newton Homebuyer Assistance

Program with the Committee. The funds would be used to assist three homebuyers, increase the subsidy from \$115,000 to \$150,000, and create an asset limit, which had not existed previously. The asset limit would be consistent with the State's limit of \$75,000.

At the previous meeting, the Committee requested that the Law Department provide information on whether the City could legally use an asset limit lower than the \$75,000 used by the State and whether the City is required to include retirement accounts in their income and assets determination for eligibility. The Law Department provided the attached memorandum, which states that the City can have a lower asset limit but the State's Department of Housing and Community Development (DHCD) does not advise it. The DHCD set the \$75,000 as the asset limit as it would allow a homebuyer a cushion for repairs and replacements related to the home.

The memorandum also includes a response to the question of whether retirement accounts can be excluded from income and asset calculations. The City cannot exclude retirement assets from asset determination without decreasing the State's calculation of the number of affordable housing units in Newton. The City follows the federal and state requirements in order to have the affordable units calculated as part of the subsidized housing inventory.

The Chairman was still troubled that the City could be giving a homebuyer up to \$150,000 and that homebuyer could have \$75,000 in the bank. On the other hand, it seems like retirement accounts should not be included, as you want people to save for retirement. There was also concern among the Committee members regarding a sentence in the memo that inferred that there was a possibility that a housing unit that was purchased with Homebuyer Assistance Program funds could be removed from the subsidized housing inventory if sold. It is the Committee's understanding that once a unit is designated as affordable, it remains affordable in perpetuity. The Committee asked under what circumstances a unit could be removed from the subsidized housing inventory Ms. Hayashi explained that when an owner notifies the Planning Department that they are selling the property, the department requires them to sell the housing unit as an affordable unit in accordance with the deed restriction. The Committee would like to ask the Associate City Solicitor Marie Lawlor about that sentence in the memorandum to determine what she meant.

Housing Planner Rob Muollo added that it would be a rare occasion that the City would not find a subsequent buyer that meets the guidelines for affordable housing to continue to use the housing as affordable housing. If the City were unable to find a buyer that meets the guidelines, the City does have safeguards in place. If a buyer cannot be found on resale, the City has the authority to purchase the property for a short time period until a buyer who meets the qualifications can be found.

The Chairman asked if Attorney Lawlor's memorandum is referring to a possible quick sale because of a default of mortgage. The deed restriction that is recorded with the Registry of Deeds gives the City 120 days, then another 60 days and then if a buyer cannot be found there is an opportunity to sell to a non-profit. There has never been a case where the City has had to take responsibility for a unit but that would be a last resort to keep the unit as affordable. The City operates the program on first come basis but there is a pre-screening process to ensure that they

are eligible to buy. There are currently six first time homebuyers that have been pre-qualified; however, the pre-qualification expires after six months. Ms. Hayashi provided the attached handout that includes details of three real cases of program participant financials and the homebuyer process.

In one of the sample cases, the program participant provided a 10% down payment and the Committee members asked if the Planning Department had asked that person to make a 10% down payment. Ms. Hayashi explained that the bank asked that the homebuyer provide a 10% down payment, as the homebuyer had a smaller income but a healthy savings account and by putting 10%, it would reduce the monthly mortgage payment.

The Chairman stated that he has no problem with the income guidelines but is still concerned with the asset limit. The Chairman would feel better about the program if the Planning Department were looking at a potential homebuyer's asset situation and if the assets are healthy, encouraging that there be a 10% down payment instead of a 5% down payment without changing the homebuyer assistance requirements. The Chairman would like the item held in order to have an opportunity to discuss with the Director of Planning and Development and the City Solicitor whether the encouragement of a larger down payment is appropriate. With that, Ald. Ciccone moved hold, which carried unanimously.

REFERRED TO PUBLIC SAFETY & TRANS AND FINANCE COMMITTEES

#226-13 HIS HONOR THE MAYOR requesting authorization to transfer the sum of two hundred thousand dollars (\$200,000) from Fire/Rescue Salaries to a capital account for Fire Department Equipment. [06/10/13 @ 6:54 PM]

PS&T APPROVED 6-0 on 06/19/13

ACTION: APPROVED 7-0

NOTE: The Committee is being asked to authorize a transfer of \$200,000 within the Fire Department from salary savings to a new account for capital equipment. Chief Proia explained that the funds would be used to buy a piece of equipment to improve the efficiency and operation of the department. The Chief would like to purchase a mobile cascade system with the funds, which would be used to fill firefighters' self-contained breathing apparatus. Currently, there is a fixed cascade system housed at Station 3. If there is a fire and the supply of bottles of air is depleted, the firefighters must go to Station 3 to fill the bottles. While the firefighters are without filled air bottles, they are not eligible to respond to a call. The mobile rig would be transported to the scene of an incident and firefighters would fill their air bottles on site. Ald. Ciccone moved approval, which carried unanimously.

Appointment by President Lennon

#213-13(2) ALDERMAN RUTHANNE FULLER appointed pursuant to the City of Newton Other Post-Employment Benefits Trust Agreement (OPEB) established in #209-10(4) as the Board of Aldermen representative to the OPEB Trust Fund for a term of office to expire June 30, 2015. [06-13-13 @5:03 PM]

ACTION: APPROVED 6-0 (Fuller recused)

NOTE: Pursuant to the recently established City of Newton Other Post-Employment Benefits Trust Agreement President Lennon is appointing Ald. Fuller to serve as the aldermanic

trustee. Ald. Fuller has resigned from the State's PRIM Compensation Committee to avoid any conflict of interest. Ald. Linsky moved approval, which carried by a vote of six in favor and one recusal.

Respectfully submitted,

Leonard J. Gentile, Chairman

LAW DEPARTMENT MEMORANDUM

To: Alderman Leonard J. Gentile, Chair, and Members of the Finance Committee

From: Marie M. Lawlor
Assistant City Solicitor

Date: May 22, 2013

Re: Finance Committee questions pertaining to First Time Homebuyer Program (Docket Item #55-13)

Cc: Trisha Kenyon Guditz, Housing Program Manager
Planning and Development Department

Rieko Hayashi, Housing Planner
Planning and Development Department

Questions Presented

I understand that the Finance Committee has posed two questions pertaining to recapitalizing the First Time Homebuyer Program (Program). The first question is whether the City is legally bound to use the \$75,000.00 asset limit recommended by the state Department of Housing and Community Development (DHCD) in order to determine a homebuyer's eligibility for the Program, or may instead use a lower asset limit. The second question is whether the City may exclude retirement savings from an asset determination.

Short Answers

1) The City may legally use a lower asset limit, but DHCD strongly advises against this for reasons discussed below; and 2) The City may not exclude retirement assets from asset determinations without also excluding Homebuyer Program units from the State's Subsidized Housing Inventory. (The Subsidized Housing Inventory is used to measure a community's inventory of low-and moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.)

Background

By history and policy, the City has consistently adhered to the income and asset eligibility determinations set by the U.S. Department of Housing and Urban Development

(HUD), and followed by DHCD for first time homebuyer programs. When Newton's Program was started, funding was from federal sources, and such adherence to HUD regulations was required.

Newton's funding source has since changed to Community Preservation Funds and the Program currently uses no federal funding. While there appears to be no federal requirement (when using local funding) to adhere to the HUD income and asset determinations and guidelines, the Planning Department's policy has consistently adhered to those determinations and guidelines in order to be consistent with HUD and DHCD requirements, as well as with other Newton housing programs which do receive federal funds.

In addition, DCHD regulates the Program in the following ways. First, DCHD must approve all affordable housing covenants in connection with Newton's First Time Homebuyer Program. Second, DHCD is the regulatory authority for G.L. c. 40B, as mentioned previously, and administers the State's Subsidized Housing Inventory. DHCD determines whether or not Newton's First Time Homebuyer units will be counted toward Newton's 10% inventory of affordable housing units. Currently, Newton is at 7.6 percent.

Discussion

The \$75,000.00 asset limit:

DCHD has advised that local programs not using federal funds may apply to set an asset limit lower than the \$75,000.00, but strongly recommends against a lower limit in order to provide a cushion for home maintenance and unforeseen contingencies. Originally, DHCD's asset limit was \$50,000 but the agency increased it to \$75,000 in 2008 in order to provide a small reserve for needed repairs and capital replacements. Such a cushion is in the best interest of the Program, since it minimizes the possibility that a homebuyer will be unable to maintain the unit and will be forced to sell. Such a sale could potentially remove the unit from the Subsidized Housing Inventory. Moreover, DHCD cautions that lowering the asset limit would result in a reduced pool of First Time Homebuyer applicants to the detriment of the Program and the City's goal of providing homeownership opportunities to lower income families.

Exclusion of Retirement Assets from Income Asset eligibility determination:

DCHD has advised that it requires local Programs to include retirement assets in income asset determinations in accordance with HUD regulations. If Newton's Program fails to include retirement assets in such determination, DHCD has advised that the Program's units will not be counted on the Subsidized Housing Inventory, nor will the Program's Affordable Housing Restrictions be approved.

DCHD points out that uniformity with HUD and state regulations is important since most First Time Homebuyers must rely on soft second mortgage programs in conjunction with

local First Time Homebuyer programs in order to afford their home. These soft second mortgage programs require strict adherence to HUD and DHCD regulations, including the \$75,000 asset limit calculated with retirement savings included in the asset determination. Differing income asset determination standards would jeopardize a Newton First Time Homebuyer's eligibility for a soft second mortgage.

Assets Defined

The Homebuyer Program follows State guidelines which require non-liquid assets be included for unit to be eligible for Subsidized Housing Inventory (SHI).

The definition of assets is based on Federal (HUD) and State (DHCD) guidelines as follows:

Non-liquid assets include: Individual retirement account, 401(k) , Keogh accounts, retirement, pension, cash value of life insurance policies, personal property held as an investment, inheritances, capital gains, insurance settlements, cash value of revocable trust.

Liquid assets include: Cash held in savings, checking accounts in home or foreign countries.

How a Soft Second Mortgage Works

Actual Homebuyer applicant	Without a Soft Second Mortgage	With Soft Second Mortgage
purchase price of a 3 bedroom for a household of 4 people	\$410,000	\$410,000
Downpayment \$5,000 –Savings	\$20,500	\$20,500
Mortgage Boston Private Bank	\$205,000	\$215,500
FINANCING GAP	\$184,500	\$174,000
2 nd mortgage Soft Second (loan + Subsidy)	0	\$59,000 (includes \$10,902 interest subsidy)
Newton Homebuyer Program assistance	\$0 –this home is not affordable to this homebuyer	\$115,000

3 Sample Cases

Buyers' Sources (prior to closing)	4 person household (1 adult, 3 children)	1 person household	2 person household (1 adult, 1 child)
Income	\$57,652 (\$67,350 max)	\$33,011 (\$47,150 max)	\$44,628 (\$60,650 max)
Checking	\$3,886	\$100	\$7,006
Savings	\$4,480	\$26,046	\$494
Retirement	\$38,708-401 (k)	\$3,241-IRA	\$17,828-401(k), IRA
Total Assets	\$42,074	\$29,387	\$26,028
Buyers' Contribution	3 bedroom purchase	1 bedroom purchase	2 bedroom purchase
Downpayment 5% (minimum required)	\$20,500 (5%) \$20,000 gift, \$500 (own funds)	\$23,900 (10%) (own funds)	\$6,000 (5%) (own funds)
Monthly housing costs	\$1,421	\$814	\$930
Housing to Income Ratio (maximum 33%)	29.59%	32.52%	32.56%
Debt to Income Ratio (maximum 38%)	37.92%	33.60%	37.83%

Homebuyer Process

1. **Pre-screening and pre-purchase homebuyer counseling.**
2. **Bank pre-approval** – applicants required to apply for Soft Second
3. **Verify income and assets**
4. **Inspect property and review offer**
5. **Financing commitment** - based on minimum needed to get monthly housing payments to \leq 33% of monthly income.
6. **Post-purchase counseling course within 6 months of closing.**