



Ruthanne Fuller
Mayor

Barney Heath
Director of
Planning & Development

Malcolm Lucas
Housing Planner

Members

Esther Schlorholtz, Chair
Donna Rigg, Vice-Chair
Judy Korzenowski
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CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

MEETING AGENDA

Date: September 6, 2023

Time: 8:00 a.m.

Place: Virtual (Zoom)

Zoom Online Meeting: <https://newtonma-gov.zoom.us/j/86071437875>

The Fair Housing Committee will hold this meeting as a virtual meeting on Wednesday, September 6, 2023, at 8:00 am. No in-person meeting will take place at City Hall. To view and participate in this virtual meeting on your smartphone, download the “ZOOM Cloud Meetings” app in any app store or visit www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following:
Meeting ID: 860 7143 7875.

You may also join the meeting from your smartphone by dialing 1(305) 224-1968 and entering 86071437875# For audio only, call 1(305) 224-1968 and enter **Meeting ID: 860 7143 7875.**

To view and participate in this virtual meeting on your computer, at the above date and time, either copy the attached link into your browser or visit www.zoom.us, click “Join a Meeting” and enter the following **Meeting ID: 860 7143 7875.**

1. **Approval of August 2023 minutes**
2. **Review of City Oversight of Affordable Housing Marketing, Lottery, and Leasing/Sales**
3. **Recommendation for Enhancing Newton’s Oversight of Deed Restricted and City-supported Affordable Housing—See Attachment**
4. **Subcommittee Updates**
 - **Lottery Results & Lease-ups Sub-Committee**
 - **Membership & Nominating Sub-Committee**
 - **Fair Housing Award Sub-Committee**

- **Fair Housing Literature Sub-Committee**

5. Fair Housing Committee Priorities Discussion

FH Protected Groups

- **Promote housing choice for diverse populations to advance Affirmatively Furthering Fair Housing (AFFH), with focus on race/ethnicity, public subsidy, and disability**
- **Promote Diversity, Equity, Inclusion and Belonging in Newton**
- **Promote effective processes/practices for new affordable homeownership and resales**
- **Promote improved practices for real estate professionals to achieve more housing choice for diverse populations**
- **Identify and work to overcome barriers to successful tenancies and to improve processes/practices for tenant selection in lottery and market rate multifamily rental housing**

Learning/Teaching

- **Enhance FH literature and website information and access for the public**
- **Promote FH training for real estate professionals, landlords, tenants, the public and committee members**

Data and Analysis

- **Promote data collection on multi-family rental and new homeownership occupancy**
- **Enhance Project Review of Housing Developments to advance AFFH**
- **Support AI/Consortium Fair Housing Testing and FH testing in Newton**

Collaboration

- **Collaborate with Related Newton Commissions and Committees to increase affordable housing for households of various sizes and lower incomes and to encourage increased funding for affordable housing**
- **Promote affordable housing production in coordination with other City commissions and committees**
- **Support federal, state and city initiatives that promote AFFH**
- **Collaborate with Human Rights Commission on Fair Housing Complaint Process**
- **Contribute to Newton's FH-related plans**
- **Address committee membership appointments with representation from Human Rights Commission and legal counsel with FH specialty**

6. Next meeting Wednesday, October 4, 2023

*Supplementary materials are available for public review in the Planning Department of City Hall (basement) the Friday before the meeting. For more information contact **Malcolm Lucas at 617.796.1149**. The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711



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Fair Housing Committee

MEETING AGENDA

Date: August 2, 2023

Time: 8:00 a.m.

Place: Virtual (Zoom)

Members Present: Esther Schlorholtz, Chair

Donna Rigg, Vice Chair

Josephine McNeil

Alexandra Weiffenbach

Steve West

Members Absent: Tatjana Meschede

Judy Korzenowski

Staff Present:

Malcolm Lucas, Housing Planner

Jini Fairley, ADA/Sec. 504 Coordinator

Lara Kritzer, Director of Housing and Community
Development

Public Present:

Susan Albright, Council President

Alicia Bowman, Council

Julia Malakie, Council

Pamela Wright, Council

Malcolm Lucas, Housing Planner served as recorder, Esther Schlorholtz, Chair, called the meeting to order at 8:00 a.m.

1. Approval of June 2023 minutes

- Upon a motion by SW, AW seconded the motion. The minutes for June 2023 were approved 6-0-0.

2. Review of Cambridge study on Resident Experiences of Inclusion and Bias in Inclusionary Housing



- ES introduced the discussion on the Cambridge resident experience study and stated that Cambridge is the oldest and most robust inclusionary housing plan in the country since the 1970s. They have a strong commitment to creating affordable housing, build among the most affordable housing in the state, and commit substantial resources to it, including almost three-quarters of their Community Preservation funds. ES explained that Cambridge's infrastructure is different from Newton's in respect to inclusionary housing. ES stated that it would be great to have someone from the City of Cambridge to talk with the FHC to explain how they are executing and funding their programming to improve the resident experience of affordable housing tenants and buyers because Newton could benefit substantially from their experience. Councilor Bowman stated that it would be great to hear from the City of Cambridge and stated that she has heard from builders who work in Cambridge. Councilor Bowman stated that the Cambridge Multi Service Center that is funded by their CD department: Health and Human Services program, is a valuable model to learn about. The department works with the homeless and on eviction prevention programs. Councilor Bowman stated that the work they do could be very helpful in Newton and is needed.
- ES thanked TM for preparing notes on the study for her. She explained that the study explored 430 Cambridge residents' perceptions and experiences in their buildings and complexes, this includes homeownership, mixed income rentals and 100% affordable buildings. The study includes the sense of community belonging, interactions with neighbors and their experiences with bias. Resident participants had generally positive experiences with the Inclusionary Housing Program (IHP) for both the program and staff in the Community Development Department. 1/3 of the renters and affordable IHP units found the process of applying to Cambridge somewhat or very confusing and stressful.
- ES stated that FHC and Newton Housing Partnership members have heard anecdotes that Newton affordable housing residents describe issues related to experiencing an environment that is not conducive to feeling welcomed and belonging in the community. She said that this experience happens across Massachusetts, and also discussed the broader concerns about the application process that is very challenging. ES pointed out those aspects and continued with the presentation listing the Cambridge study stats: 40% of all renters, and 41% of all owners of affordable IHP units reported encountering bias or discrimination, at least several times in the past year, about 10%, and each group experienced bias less than once a year. ES also stated that the majority of the identification of the sources of the bias were also identified by the tenants and the owners and were largely for the rental population. Property managers were identified as the primary source of the bias, and the lack of sense of inclusion, and belonging. And residents of market rate units in mixed income housing were identified as the source of bias as well.
- Lastly ES discussed the recommendations.
 - Create a task force with representation from renters, owners, property managers, and City staff.
 - Provide information and resources for assessing and addressing bias in inclusionary housing or mixed income settings.
 - Offer and encourage participation in trainings on inclusion and racial equity and inclusive property operating practices for IHP property owners, property managers and other staff, and residents of IHP buildings.
 - Engage local, regional, and state entities and non-profit agencies (e.g., fair housing coalitions, Massachusetts Commission Against Discrimination, Greater Boston Legal

Services) to discuss the study findings on bias and develop action steps to address bias in IHP communities.

- Provide guidance for residents and IHP property managers on appropriate avenues for intervention and accountability actions related to residents' concerns with bias and exclusion.
 - Encourage property managers to create intentionally welcoming and maximally accessible environments for people of color, women and non-binary people, individuals with disabilities or health problems, and those with children—for residents and visitors alike— in IHP buildings.
- Councilor Albright stated that she is worried that property managers and real estate professionals are not trained in this area and gave an example of a property manager that she has spoken to. The property manager has to deal with the day-to-day operation in managing the building and also dealing with demanding or difficult tenants. Councilor Albright stated that this is not a property managers' strength and asked what should be done. ES stated that training would be a great start and explained that there is a responsibility there to provide for all tenants and it will be beneficial to provide training by experienced property managers that are also experienced in affordable housing property management. ES gave an example for higher income tenants; she noted that property management is generally very responsive to ensuring that these tenants are satisfied. She said that in her experience, successful affordable housing management has somewhat different requirements and it is a different market niche from 100% market housing that requires other expertise including more access to special resources when tenants experience difficulties, understanding of government requirements when vouchers or other resources are being used by tenants, and other services. ES stated that it needs to be looked into further and reiterated that it would be beneficial for the City of Cambridge to come speak about it with the FHC or even Newton City Council.
- SW stated that from his experience in development and management the study results will be similar across America, and it is an endemic issue. SW does agree with training and stated that good property managers do balance the day-to-day and providing services while trying to help people avoid evictions. SW stated often it is the bigger nonprofits that provide better services for affordable housing property management. SW stated that it is called resident services and stated that these staff are hired for money to provide services. These staff provide advocacy to tenants and their families. SW stated that to ask property managers to manage the day-to-day and add community service and building community is difficult. He stated that there are companies who provide these services and they do it well. He also stated that sometimes there is tension between property management and these resident services programs. SW stated that the development staff and housing departments focus is responding to development and zoning pressures as well as others. SW stated that he doesn't think they should be let off the hook or not have a role, but it would be better for an entity that focused just on that. SW stated that this will cost, and it also would benefit if it were set up in the beginning of the process. Lastly, he stated that these services are normally set up for big developments with the funding sources and anything at 12 or less units he does not know what can be done.
- Councilor Albright asked ES if the FHC would be committed to do a joint docket item to discuss this matter and to have the City of Cambridge to come speak about the study. ES expressed appreciation for this proposal and committee members agreed.

3. Subcommittee Updates

- **Lottery Results & Lease-ups Sub-Committee**
- **Membership & Nominating Sub-Committee**
 - ES stated that the sub-committee has had the discussion and spoke about losing a committee member recently and that they need to find more members. ES stated that Barney Heath is working on the FHC's recommendation on the committee's structure.
- **Fair Housing Award Sub-Committee**
 - ES stated that this topic is for the future.
- **Fair Housing Literature Sub-Committee**

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Learning/Teaching

- **Enhance FH literature and website information and access for the public**
- **Promote FH training for real estate professionals, landlords, tenants, the public and committee members**
 - ES asked AW for any updates on the NHA training program for landlords and tenants. AW stated that there were not any updates at this time and that she is hoping to get a date soon and that they are actively working on it.

Data and Analysis

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5. Next meeting Wednesday, September 6, 2023

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TO: Newton Fair Housing Committee

CC: Barney Heath, Malcolm Lucas, Jini Fairley, Shaylyn Davis, Lara Kritzer, Allison McIntyre

FROM: Esther Schlorholtz, Chair of Newton Fair Housing Committee

DATE: August 31, 2023

RE: Recommendation for Enhancing Newton's Oversight of Deed Restricted and City-supported Affordable Housing

I look forward to discussing this proposal with you at our meeting on 9/6 at 8:00 am. Please read the proposal and come prepared with your comments and questions. Thank you.

DRAFT

Purpose:

The primary purpose of this proposal is to ensure Newton effectively manages deed restricted affordable housing resulting from the Inclusionary Zoning (IZ) ordinance, which is in process of revision. Enhancing the City's oversight of compliance and affordability overall, in the short and long term, for all affordable and city-supported units will ensure that both rental and homeownership units remain long-term assets for the community and contribute affirmatively to furthering fair housing.

Proposed is that the City establish an option for small and less experienced owners/developers of IZ affordable rental and ownership units to contract with a City-approved Compliance & Certification Agency to carry out affirmative marketing, lotteries, lease-ups/sales, reporting and ongoing compliance with the law. As proposed here, improved IZ project oversight and data collection will enhance important compliance on Chapter 40B and other deed restricted and City-supported affordable housing. These efforts are expected to result in better outcomes for lottery applicants and residents of the affordable homes.

City funding will be needed to create a data base and implement related oversight improvements. A new dedicated stream of revenue is proposed that requires annual per unit payments by owners/developers of affordable and City-supported units for all new affordable housing, IZ and other, and that is sufficient to fund the City's on-going effective oversight of compliance and affordability commitments.

Recommendation:

This proposal highlights measures to accomplish these goals. These recommendations will enhance Newton's capacity to effectively manage its compliance and affordability

responsibilities and establish a dedicated stream of income to allow it to do so. Additionally, the recommendations will help create an effective option for owners/developers of deed restricted affordable housing to carry out their responsibilities to manage the affordable housing consistent with the law in perpetuity, or to the extent required by the City. Most importantly it will result in better outcomes for the lottery applicants and residents of the affordable homes in the short and long term.

The recommendations, as more fully described here, would be incorporated into the City's IZ (and any related) ordinance. The IZ ordinance is currently being revised.

Background:

The City is responsible overall for compliance and affordability for both multi-family rental and home ownership units that have deed restrictions associated with City zoning and permitting requirements. The City is also responsible for ensuring compliance on deed restrictions associated with its funding support and with affordability restrictions associated with funding or ground leases, e.g., for formerly City-owned properties, such as former schools, for which affordability restrictions are incorporated into long-term leases. (Note that some of the City funded projects and those with ground leases may have different long-term restrictions than requirements to maintain affordability in perpetuity.)

The City specifically has important compliance oversight, audit and enforcement functions to ensure that these valuable affordable homes are occupied and maintained as quality affordable housing both in the short- and long-term. The deed restrictions, ground leases or other legally binding provisions require owners/developers to maintain affordability up to a period in perpetuity.

Currently, the City has no dedicated funding support to carry out its significant oversight and compliance responsibilities. As it is implementing new zoning overlay districts and other changes to its IZ ordinance, it is considering how to strengthen its oversight responsibilities and better ensure compliance by owners/developers building affordable units, including:

- **City Oversight:** The City would improve its compliance oversight primarily through: creating a more comprehensive and accurate tracking database for all affordable and City-assisted units; assigning dedicated staffing to ensure marketing, lottery, leasing and sales are compliant; and creating protocols that identify red flag issues with owner/developer performance. The City would establish consistent fair housing data collection and other reporting requirements by owners/developers to allow it to track lotteries, rent ups/sales, occupancy and ongoing performance. These improvements would be incorporated into the IZ ordinance and related ordinances that affect compliance and affordable housing oversight of Chapter 40B and other City-supported projects going forward. To implement this overall improvement plan, the IZ (and any related) ordinance should require a fee payment structure to cover key costs to the City of compliance oversight, similar to those that Program Administrators (e.g., MHP

and MassHousing) charge to affordable housing developers to fund the Program Administrators' compliance functions. (Note that it is recommended that projects approved prior to implementation of these new fee requirements *would not* retroactively be required to comply with new fees.)

- **Improved Owner/Developer Performance:** Owners/developers of rental housing are required to maintain affordability initially through the affordable lottery process and upon re-lease. Although large scale housing developers of Chapter 40B and special permit projects have the option of hiring highly skilled entities to carry out lottery, lease-ups, reporting and other functions, less experienced developers of smaller scale properties using the IZ process have fewer options. The City should offer an option for owners/developers of IZ affordable rental units to contract with a City-approved Compliance & Certification Agency to carry out affirmative marketing, lotteries, lease-ups, reporting and maintain the housing units in compliance with the law for an initial and ongoing fee on a per-unit basis.

For the smaller scale IZ homeownership units, which have different tasks and processes than needed for the compliance related to rental housing, the process would need to be handled appropriate to those functions. Currently, this function for larger homeownership projects is handled by a Monitoring Agent (like RHSO or MetroWest Collaborative Development) instead of a Compliance Agent, and this should continue. It is recommended that the City also offer the option for owners/developers to contract with a City-approved Monitoring Agent to carry out the affordable housing lottery and sales process, both initially and at turnover, for a fee, for projects that are not handled by other approved Monitoring Agents. The City or a City-approved Monitoring Agent would also charge a one-time fee at sale of each affordable unit to monitor individual owner's re-sale compliance over the long term. These requirements would be incorporated into the IZ (and any related) ordinance.

City Oversight Proposal. To carry out its compliance oversight functions, the City requires a comprehensive and accurate tracking database for all affordable housing units, including IZ units. It also requires clear protocols for staff to monitor and enforce the conditions of the IZ (and other) permits, regulatory agreements, reporting, lotteries, marketing plans, income verifications, rent levels, etc., and to carry out audits and remediation. To facilitate performance oversight, it should also maintain a protocol that facilitates identifying red flags when designated staff evaluate annual reports from owners/developers and their Compliance and Certification agencies. This service, and related compliance oversight over already existing and new affordable units requires funding support. Funding from the City to cover the initial cost to design and implement the data base and protocols with the assistance of an experienced consultant is strongly recommended.

To improve oversight, the City could contract with another entity, an Administering or Monitoring Agent, to carry out a number of functions on behalf of the City for this

compliance role. However, this would require dedicated funding, for which the City does not have funding currently in place. Also, it is important to note that the City itself cannot serve as both the compliance oversight entity and carry out audit and other functions such as the lotteries, certifications, etc. This would create conflict-of-interest situations. This is why it is important for the City to contract with another entity.

Therefore, to create the appropriate funding, it is recommended that the revised IZ ordinance require owners/developers of rental properties to annually pay a per affordable unit compliance fee to the City of approximately \$200/unit/year (more research required on amount and for modest allowable increases over time). The City would use this funding to cover the costs of compliance oversight for all its inventory of affordable and City-supported units.

For affordable homeownership units, the fee structure would need to be different from that for rental units. The owner/developer would contract with an experienced Compliance & Certification Agency on the initial lottery and sales (as many of them do now). For smaller scale and less experienced developers, a City-approved Compliance & Certification Agency would be an available option. To accommodate the cost of managing resales of affordable homes in the long-term, the developers/owners would be required to pay a one-time initial fee at the point of sale of the affordable unit of approximately \$1,500-\$2,000 (more research required on amount and allowance for adjustment over time). Depending on how the City structures its compliance monitoring of homeownership units, the fee would be paid to the City or to a City-approved Compliance & Certification Agency. The City should consider the feasibility of charging a similar fee at turnover/resale.

Improved Owner/Developer Performance Proposal: One promising solution for effectively managing IZ properties, which tend to be smaller projects and have less experienced owners/developers, is modeled on the experience of Chelmsford, MA. Chelmsford contracts with the Chelmsford Housing Authority (CHA) (a separate legal entity from the City) to execute standardized contracts with owners/developers to carry out certain functions consistent with what a Compliance & Certification Agency would do in Newton. These functions include lotteries, affirmative fair housing marketing, lease-ups, Housing Navigator & My Mass Home reporting, recertifications, annual reporting, and importantly they also manage a centralized waiting list for all IZ units. (Note that a centralized waiting list can facilitate affirmatively furthering fair housing since it offers a more timely and established way to incorporate past lottery participants and new applicants into the affirmative fair housing marketing efforts. This is especially valuable to help ensure people with disabilities and those with rental vouchers have better opportunities for success in lotteries.)

In Chelmsford, the CHA, acting as an independent Compliance & Certification Agency, contracts with owners/developers on the scope of services and also includes a commitment for funding from the owner/developers to cover the costs in the short and long-term. This is at no additional cost to the City and generates sufficient revenue to

the Housing Authority to cover the costs of managing the relevant IZ affordable housing functions.

It is valuable to note again that owners/developers must carry out these functions regardless of whether there is a contract with a City-approved Compliance & Certification Agency like the CHA, but this method ensures better quality control and long-term compliance. It considerably reduces the need to take enforcement actions against non-compliant owners/developers. It also allows the City to intervene if contracts with existing Compliance & Certification Agents expire or if the owners/developers and their Agents are insufficiently skilled to carry out the functions in a way that would ensure the best quality the City would want to achieve.

In Newton and other Massachusetts cities/towns that create larger scale affordable housing than most IZ properties (i.e., Chapter 40B and other zoning and permitting mechanisms), there are a few experienced and skilled Compliance & Certification Agents. These Agents, such as SEB and Maloney Properties, contract with owners/developers in a similar way to that being proposed here for smaller IZ properties. These services are valuable and should continue.

In selecting an appropriate City-approved Compliance & Certification Agent, depending on the counsel of the City's law department, the City may choose to issue an RFP for qualifying entities, or it may select an already established entity such as the Newton Housing Authority.

To ensure successful implementation of this proposal, it is important to further evaluate the newly proposed fee structures. Over time the fees generated should be sufficient to cover the costs. However, the City needs to be prepared to provide supplemental funding, especially in the initial phases of implementation. This plan contemplates that the fees should accumulate sufficiently to pay for the City's compliance and oversight responsibilities for all affordable and City-supported housing, not just new units.

Finally, it is important to highlight that these proposals to strengthen the City's oversight functions and to establish an option for owners/developers to hire a City-approved Compliance & Certification Agency, will significantly help the City in its efforts to achieve its affirmatively furthering fair housing goals. They will allow the City to ensure that marketing plans, lotteries, and lease-ups/sales of affordable deed restricted housing are managed effectively and are working towards achieving greater diversity and a fairer, more welcoming City. The proposals will allow lease-up/sale data analysis to determine barriers to occupancy by protected classes, to evaluate Fair Housing performance, and to propose solutions with better outcomes for the residents. Additionally, establishing a consistent set of data reporting from owners/developers on lottery and lease-up results and annual review of occupancy results will provide valuable insights into how to continue to affirmatively further fair housing in Newton.