

**FALMOUTH/JACKSON APARTMENTS**

**COMMUNITY PRESERVATION  
APPLICATION**

Applicant: CAN-DO

Date: October 15, 2004

# FALMOUTH/JACKSON APARTMENTS

## COMMUNITY PRESERVATION APPLICATION

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21 April 2011  
appraisal posted  
separately on Newton  
CPC website

**CITY OF NEWTON**

**Developer Application for Affordable Community Housing Funds**  
 Community Development Block Grant Program, Newton Housing Rehabilitation Fund,  
 Community Preservation Fund, HOME Program

I. Applicant/Developer Information	
Contact person and/or primary applicant: <b>Josephine McNeil</b>	
Organization, if applicable: <b>CAN-DO</b>	
Co-applicant, if applicable:	
Owner of project (if not developer/sponsor): <b>CAN-DO</b>	
Mailing address: <b>1075 Washington Street, West Newton, MA 02465</b>	
Daytime phone #: <b>617-964-3527</b>	E-mail address: <b>jam_cando@msn.com</b>
Fax #: <b>671-964-3593</b>	
Developer (if different than applicant):	
Mailing address:	
Daytime phone #:	E-mail address:
Fax #:	

II. Project Information	
Project address: <b>20-22 Falmouth Road; 163 Jackson Road</b>	
Assessor's parcel ID number: <b>Falmouth Rd. 34037 0075; Jackson Rd. 12001 0036</b> <i>(available from the Assessing Department's page of the City's website)</i>	
Project name: <b>Falmouth/Jackson Apartments</b>	
Brief project description: <b>Acquisition and rehabilitation of two 2-family properties in order to provide four rental units to families with Section 8 certificates.</b>	
Estimated total development cost:	<b>\$1,855,755</b>
Total amount of City funding requested:	<b>\$ 1,156,000</b>
City funding source(s) (check <i>all</i> that apply and list the amount requested):	
<input type="checkbox"/> CDBG/Housing Development: <b>\$ 400,000</b>	<b>Use: Acquisition</b>
<input type="checkbox"/> HOME/Housing Development: <b>\$</b>	<b>Use:</b>
<input type="checkbox"/> CDBG/Newton Housing Rehabilitation Fund: <b>\$ 206,000</b>	<b>Use: Rehab</b>
<input type="checkbox"/> Community Preservation Fund: <b>\$ 550,000</b>	<b>Use: Paydown MHIC loan</b>

## Developer Application for Affordable Community Housing Funds

Type of CDBG-funded project (check <i>all</i> that apply):	
<input checked="" type="checkbox"/> Rehabilitation	<input checked="" type="checkbox"/> Acquisition <span style="margin-left: 100px;"><input type="checkbox"/> New construction (site improvements only)</span>
Type of CPA-funded project (check <i>all</i> that apply):	
<input checked="" type="checkbox"/> Creation	<input type="checkbox"/> Preservation <span style="margin-left: 100px;"><input type="checkbox"/> Support</span>
Type of housing (check <i>all</i> that apply):	
<u>Homeownership:</u>	<u>Rental:</u>
<input type="checkbox"/> single family	<input checked="" type="checkbox"/> individual/family
<input type="checkbox"/> condominium(s)	<input type="checkbox"/> group residence, congregate
<input type="checkbox"/> cooperative (s)	<input type="checkbox"/> other
<input type="checkbox"/> other	<input type="checkbox"/>
Targeted population (check all that apply):	
<input checked="" type="checkbox"/> individual/family	
<input type="checkbox"/> special needs. Identify special need(s): _____	
<input type="checkbox"/> elderly	
<input checked="" type="checkbox"/> homeless/at risk of homelessness	
<input type="checkbox"/> other – identify population:	

Unit composition	# units	# units <= 30% AMI	# units <= 50% AMI	# units <= 80% AMI	# units between 80-100% AMI	Market rents(s)	Market sale price(s)
SRO							
1 BR							
2 BR	2		2				
3 BR	2		2				
4 BR/+							

III. Site Information		
Lot size: <b>Jackson Rd. 5204 sq. ft.; Falmouth Rd. 5252 sq. ft.</b>	Zoning district: <b>Jackson MR1; Falmouth – SR1</b>	Ward: <b>Jackson Rd. – 1 Falmouth Rd. - 6</b>
Assessor's parcel ID number: <b>Falmouth-34037-0075; Jackson – 12001-0036</b> <i>(available from the Assessing Department's page of the City's website)</i>		
Do you have site control e.g. Purchase and Sales Agreement, option to purchase, deed? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>		

### Developer Application for Affordable Community Housing Funds

Note: Community Preservation Fund applicants are required to submit evidence of site control with the application.

If applicable, please explain what zoning relief is required e.g a zoning variance, special permit, comprehensive permit is required and why. Please attach a copy of the Site Approval (Eligibility) letter from the appropriate agency if the project requires a comprehensive permit.

**No zoning relief needed.**

Please describe any anticipated environmental issues/concerns with the site. If the site contains known environmental hazards, provide a remediation plan.

**Lead paint is in both houses and will be removed as part of the rehabilitation. Asbestos testing will take place at both properties and remediated as required.**

Will the project temporarily or permanently require the displacement of or relocation of existing tenants? If yes, please describe any outreach efforts and/or notifications to residents to date.  
**One of the units in the Falmouth Street property is currently occupied and the residents have been advised that they need to relocate by the Newton Housing Office and advised of their rights in connection therewith.**

**How old is the existing building, if applicable? Jackson Rd. – 89 yrs.; Falmouth Rd. – 84 yrs.**

Are there (or will there be) children under the age of seven living on the premises?

Yes

No

Is the property listed in the National Register of Historic Places, located in a local historic district, National Register Historic District or eligible for listing in the National Register?

Yes

No

If yes, identify district:

### IV. Project Schedule

## Developer Application for Affordable Community Housing Funds

Inform ward aldermen and immediate abutters of proposed plans:	<b>September 2004</b>
Pre-development (design, zoning, permitting):	
Acquisition:	<b>October 2005</b>
Rehabilitation/construction:	<b>November 2004 – April 2005</b>
Marketing/outreach:	<b>February 2005-April 2005</b>
Identify expected date of project completion:	<b>April 2005</b>
Full occupancy:	<b>May 2005</b>
Other significant dates that need to be noted:	

### V. Financing and Operating Budget

- Development proforma and operating budget:** In order to evaluate this proposal, the City of Newton requires applicants to submit a development budget that includes all anticipated sources and uses of financing for the project and an operating budget that details operating income and expenses. Applicants may use their own format or ask Housing Development staff to provide sample formats. Applicants are encouraged to use the state *One Stop Application*, used by Massachusetts affordable housing lenders and agencies to provide project sponsors with a single application that can be submitted to any or all of the participating organizations. Please complete Sections 1-4 of the One Stop and submit it with this application. The *One Stop Application* is available at [www.onestopapp.com](http://www.onestopapp.com). Please refer to the attached Developer's Checklist which lists all the information required for submission.

Please note that Community Preservation Funds may not be used for the direct acquisition of community housing or housing-related maintenance costs. All applicants seeking Community Preservation Funds for community housing must submit a capital needs assessment with their application, unless the project is new construction or substantial rehabilitation.

- Appraisal of property:** Satisfactory evidence that the purchase price of the property does not exceed fair market value for that property must be submitted as part of this application.
- Letters of financial commitment, including commitments for housing subsidies (if applicable):** If applicant does not have financing, describe what sources of financing are planned and the timeframe that funds are expected to be available, conditions, deadlines, limitations, etc. related to the commitment of non-City sources of funding. If receiving housing subsidies, submit commitment letters for housing subsidies or an explanation when the applicant will seek housing subsidies and from what source(s).

### VI. Project Description

**Developer Application for Affordable Community Housing Funds**

6. **Project outcomes:** Describe how the success of the project will be measured. Identify specific, achievable goals.

**Project will be deemed successful if completed on time and on budget and when occupied by four low income families.**

7. **Additional community benefits:** Describe how this project can be used to achieve additional community benefits.

8. **Combination Community Preservation projects:** If seeking Community Preservation Funds for a project combining community housing with any other Community Preservation goals (historic preservation, open space, recreation), describe the additional components.

**VII. Phase II Application (to be completed prior to scheduling a public hearing for CPA funds and/or the Planning and Development Board)**

1. For projects that include construction or rehabilitation, include the existing and proposed site plan, floor plans, elevations and any other drawings as necessary to illustrate the proposal.

2. Evidence that the project is in compliance with the zoning ordinance, Architectural Access Board Regulations, or any other applicable laws and/or regulations. If zoning relief is required, specify what relief is needed and when an application will be made to the City for zoning review.

**No permitting necessary; use remains the same.**

3. Evidence that the appropriate City Boards and Commissions have approved the project. For example, proposed new uses on City Parks and Recreation land requires approval from the Parks and Recreation Commission.

4. Evidence that the proposed site is free of hazardous materials or that there is a plan for remediation in place.

**Both properties have lead which will be abated during rehabilitation. Asbestos testing will occur and be removed where located.**

Applicant signature and date: Josephine McNeil - 10/13/04  
verify that all information stated in this application is true and accurate.

## Developer Application for Affordable Community Housing Funds

### **DEVELOPER CHECKLIST**

The following information must be submitted with a completed application, development and operating budgets and Section 1-4 of the “*One Stop Application*”. Applications for CDBG/HOME Program funds are submitted to the Newton Housing Office located at 492 Waltham Street in West Newton. Applications for CPA funding *only* are submitted to the Community Preservation Planner in the Planning and Development Office in the Newton City Hall.

#### **Required for all housing projects:**

- Completed One-Stop application (CPA funding requires: 12 bound copies, one unbound copy to reproduce and one electronic copy).
- Development proforma and operating budgets or sections 1-4 of the State “*One Stop Application*.”
- Preliminary site plan locating existing buildings and parking.
- Letters of community support, if available.
- Site approval (eligibility) letter if project requires a comprehensive permit.
- Remediation plan if site contains known environmental hazards.
- Appraisal of the property (required for acquisition only)
- Letters of financial commitment from other funding sources, if available.
- Commitment letter for housing subsidies or explanation when applicant will seek housing subsidies and from what source(s).
- Plan to cultivate community support.
- Proof of hazard insurance (required at closing).

#### **Required for community housing projects requesting Community Preservation Funds:**

- Evidence of site control.
- Capital needs assessment if applicant is applying for funds to create community housing, unless the project is new construction or substantial rehabilitation.
- Description of project involving other Community Preservation goals (historic preservation, open space, recreation).



## Developer Application for Affordable Community Housing Funds

### FUNDING TERMS

#### **Community Preservation Funds:**

- Deferred forgivable loans at 0% interest.
- Deed restriction in perpetuity (with DHCD approval) or to the maximum extent permitted by law prior to closing on funds.

#### **Housing Development Funds:**

- Deferred forgivable loans at 0% interest.
- Deed restriction in perpetuity (with DHCD approval) or to the maximum extent permitted by law prior to closing on funds.

#### **Newton Housing Rehabilitation Funds:**

- Direct loans at 3% compound interest amortized up to 30 years and limited to funding construction.
- Grants limited to lead paint, asbestos, and other hazard remediation and removal of architectural barriers for the disabled.

**Please note:** For informational purposes only. Terms subject to change.

**DEVELOPMENT PROFORMA AND  
OPERATING BUDGET**

ALL

FALMOUTH/JACKSON		9/8/04		
ITEM				
<b>DEVELOPMENT BUDGET</b>				
ACQUISITION COSTS:			\$	1,330,000
LAND				
BUILDING				
SUBTOTAL - ACQUISITION COST			\$	1,330,000
<b>CONSTRUCTION COSTS:</b>				
Direct Construction Costs			\$	269,970
Construction Contingency			\$	26,997
Subtotal: Construction			\$	296,967
<b>GENERAL DEVELOPMENT COSTS</b>				
Architecture & Engineering			\$	10,000
Survey and Permits			\$	5,022
Legal			\$	7,000
Title and Recording			\$	1,000
Accounting & Cost Cert.			\$	500
Real Estate Taxes			\$	8,022
Liability Insurance			\$	12,000
Builder's Risk insurance			\$	5,000
Appraisal			\$	660
Interest	6%	12 months	\$	71,280
Origination Fee			\$	5,940
Other:				
<b>Subtotal soft costs</b>			\$	126,424
Soft Cost Contingency			5%	\$ 6,321
<b>Subtotal: Gen. Dev.</b>			\$	132,745
<b>Subtotal:Acquis.,Const., and Gen. Development</b>			\$	1,759,712
>Developer Overhead			3%	\$ 52,791
>Developer Fee			3%	\$ 52,791
<b>Total Development Cost</b>			\$	1,865,295
PAYOFF MHIC			\$	1,188,000
<b>TOTAL</b>			\$	3,053,295

*OLD*  
See 10/11/04

ALL

<b>FUNDING SOURCES:</b>			
City of Newton Purchase Rehab		\$	400,000
MHIC		\$	1,188,000
NHRF Lead Paint Grant		\$	30,000
NHRF Asbestos Grant		\$	6,000
CPA		\$	600,000
FHLB		\$	100,000
BANK		\$	700,000
GAP		\$	29,295
<b>TOTAL</b>		<b>\$</b>	<b>3,053,295</b>

*OLD*  
*See 10/1/09*

**FALMOUTH-JACKSON OPERATING BUDGET**

9/29/04

<b>INCOME:</b>	<b>MONTHLY</b>	<b>ANNUAL</b>	
2-2BEDROOM-1566	\$ 3,132	12 \$	37,584
2 - 3 Bedroom -1967	\$ 3,934	12 \$	47,208
TOTAL		\$	84,792
VACANCY (1%)		\$	848
ANNUAL RENTAL INCOME		\$	83,944
<b>TOTAL INCOME</b>			<b>\$ 83,944</b>
<b>EXPENSES</b>			
<b>Administrative</b>			
Management Fee @ 3% of annual income		\$	2,518
Payroll, Taxes & Benefits			
CAN-DO Administration		\$	2,400
Legal		\$	300
Audit		\$	1,500
Telephone/Supplies/Postage		\$	200
<b>TOTAL ADMINISTRATIVE</b>			<b>\$ 6,918</b>
<b>Maintenance:</b>			
Janitorial Supplies		\$	500
Landscaping/Snow Removal		\$	1,500
Decorating/Repairs		\$	1,000
Exterminating		\$	300
Plumbing		\$	500
Lock and Key		\$	200
<b>TOTAL MAINTENANCE</b>			<b>\$ 4,000</b>
<b>Utilities:</b>			
Heat		\$	6,000
Common area electric		\$	600
Water/Sewer		\$	4,000
<b>TOTAL UTILITIES</b>			<b>\$ 10,600</b>
Replacement Reserve @\$500 per unit		\$	2,000
Operating Reserve @ 500 per unit		\$	2,000
Insurance		\$	4,000
Real Estate taxes		\$	8,022
			<b>\$ 16,022</b>
<b>TOTAL OPERATING COSTS</b>			<b>\$ 37,540</b>
<b>Debt Service (Interest &amp; Principal</b>			
<b>BANK</b>	600,000@.05.0	\$	45,084
<b>NHRF</b>	160,000@.00.0	\$	5,400
<b>TOTAL OPERATING &amp; DEBT SERVICE</b>			<b>\$ 82,624</b>
<b>NET CASH FLOW</b>			<b>\$ 1,320</b>

**LETTERS OF FINANCIAL  
COMMITMENT**



Massachusetts  
**Housing  
Investment  
Corporation**  
September 21, 2004

70 Federal Street  
Boston, MA 02110  
Tel: (617) 850-1000  
Fax: (617) 850-1100

Guilliaem Aertsen  
Chairman

Joseph L. Flatley  
President and CEO

Ms. Josephine McNeil  
Executive Director  
CAN-DO  
1075 Washington Street  
Newton, MA 02465

RE: Jackson Road and Falmouth Road Apartments  
20-22 Falmouth Road, Newton, MA  
163 Jackson Road, Newton, MA

Dear Ms. McNeil:

We are pleased to inform you that your loan application for an acquisition loan to purchase the above referenced properties has been approved by MHIC, LLC ("Lender"), subject to the terms and conditions hereinafter set forth in this letter and the attached General Conditions. Lender acknowledges that some provisions of the General Conditions do not pertain to acquisition loans.

**A. Project and Borrower**

**Borrower:** Citizens for Affordable Housing in Newton Development Organization, Inc. ("CAN-DO").

**Sponsor:** Citizens for Affordable Housing in Newton Development Organization, Inc.

**Property Address:** 20-22 Falmouth Road, Newton, MA 02465 and 163 Jackson Road, Newton, MA 02158

**Purpose:** The purpose of the loan is to fund the acquisition of two, two-family homes containing four (4) residential units, to be rented to households earning no greater than 80% of area median income. The intent, however, is to rent the 4 residential units to existing section 8 certificate holders.

**B. Terms of the Loan**

**Amount:** \$1,050,000

**Interest Rate:** Floating at 100 basis points above the Prime rate, as published in the Money Rate Section of *The Wall Street Journal*; provided that, if more than one Prime rate is published, the Prime rate for the purpose of this Loan shall be an average of the Prime rates published on such date. However, at no time shall the interest rate be less than 6.0% or greater than 7.5%.

**Term:** Twelve (12) months.

**Payment:** Interest only in arrears commencing with the funding of the first requisition after the date of closing, and calculated on the outstanding principal balance upon payment date; and the entire principal balance with interest then accrued, upon expiration or earlier conclusion of the term. Interest is due and payable on the first day of the month, or upon the funding of each approved requisition, and will be based upon a 360-day per diem factor applied to the actual number of days amounts are outstanding.

Ms. Josephine McNeil  
September 21, 2004

**Guarantor:** Citizens for Affordable Housing in Newton Development Organization, Inc

**Origination Fee:** \$5,250.00. Fifty percent (50%) or \$2,625.00 is payable upon acceptance of this commitment; the remainder of \$2,625.00 is payable at Loan closing. This origination fee is non-refundable.

**Prepayment:** Borrower may prepay the Loan in whole or in part at any time without penalty.

**Security:** Security for the Loan shall include the following:

- A. A first mortgage interest in Borrower's fee simple interest in the land and improvements thereon.
- B. A conditional assignment of all leases relating to the mortgaged premises and of all rents, issues, and profits derived from such premises.
- C. A first security interest in all fixtures, furnishings, equipment, materials, inventory and any other improvements and items of personal property forming a part of or used in connection with the Project or purchased from the proceeds of the Loan.
- D. A first assignment of all contracts, agreements, permits, licenses, and approvals entered into or obtained by Borrower or anyone acting as Borrower's agent or on Borrower's behalf relating to the construction, development and use of the Project.
- E. A first assignment of Borrower's rights and interest under any proceeds provided by the City of Newton.

### C. Sources and Uses of Funds

#### **Acquisition Budget:**

The total acquisition budget is estimated to be \$1,486,000. This includes acquisition, closing costs, other soft costs and interest carry for twelve months at 6.0% imputed interest, as set forth below.

<u>Use of Funds:</u>	
Acquisition	\$1,320,000
Architect and Engineering	10,000
Surveys and Permits	2,500 - 5022
Legal, title and recording	7,000
Real estate Tax	8,022
Insurance	17,000
Appraisal (quote)	600
Lead paint/asbestos removal	36,000
Consultant	10,000 **
Soft Cost Contingency @ 5%	6,628
Origination Fee	5,250
Interest @ 6.0%, 12 months	63,000
Total	<u>\$1,486,000</u>

\*\* Lender will work with CAN-DO in determining whether a consultant's services are warranted.

Lender acknowledges that the Jackson Road property must be purchased with a closing to occur on or before October 6, 2004. Therefore at initial closing, Lender's loan will be used to fund all costs of the purchase of Jackson over \$200,000. The \$200,000 is to be provided by the City of Newton under their Purchase and Rehab program.



Ms. Josephine McNeil  
September 21, 2004

**Repayment:** Repayment is expected to come from a variety of sources including but not limited to City of Newton CPA funds, Affordable Housing Trust Funds from MassHousing, permanent loan and other sources of funds to be secured during the acquisition loan to pay the cost of rehabilitation and asbestos remediation. In the event said sources of funding are not obtained, fall back for repayment is sale of properties.

**D. Lender's obligations hereunder are conditioned upon the following:**

**Subordinate**

**Funds:** Borrower shall provide satisfactory evidence of the commitment and availability of \$400,000 from the City of Newton from their Purchase and Rehab Loan Program, and \$36,000 from the City of Newton for lead and asbestos removal. The \$400,000 shall be available to purchase subject properties with \$200,000 allocated to each property.

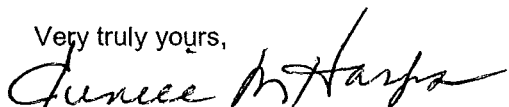
**Appraisal:** Loan closing is subject to receipt and approval of an appraisal from Boggini Realty Advisors which is expected to be published by September 30, 2004.

**Environmental:** Loan closing is subject to receipt and approval of the City of Newton's lead paid report. Lender acknowledges that asbestos removal will occur after additional funds are secured and renovations are commenced.

**Duration:** Unless sooner terminated as hereinafter provided, this commitment shall remain in effect until December 31, 2004. In the event the Loan set forth herein has not been closed by that date, all obligations of Lender to Borrower hereunder, *including holding the fixed rate floor and ceiling rates as set forth in the "Interest Rate" paragraph above*, shall cease. Upon our receipt of the accepted letter together with the required origination fee, we will be pleased to notify our attorney to proceed with the necessary documentation.

**Binder:** This Commitment may be accepted by the Borrower by executing and returning to the Massachusetts Housing Investment Corporation, 70 Federal Street, Boston, Massachusetts 02110, the enclosed counterpart, along with the required fee of \$2,625.00 within ten (10) business days from the date hereof. Lender and Borrower acknowledge that time is of the essence to close on the purchase of Jackson Road on or before October 6, 2004. Therefore it is important that borrower counsel contact Lender Counsel, Frances X. Hogan, Esq. at 617-523-6655 immediately.

Very truly yours,



Eunice M. Harps  
Senior Lender

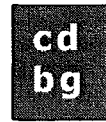
Signature Page to Follow



# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director



newton  
community  
development  
block  
grant  
program

David B. Cohen

Mayor

Ms. Josephine McNeil  
1075 Washington Street  
Newton, MA 02465

Sept. 28, 2004

RE: Upcoming CAN-DO Projects

Dear Josephine,

Per our recent conversation here is what we project will be available in NHRF Funding for these projects.

Below are our funding limits which are based on program guidelines for this occupancy and the projected type work needed. Please understand that final funding for the project will depend on final construction amounts for the total project and for the abatement of lead paint and asbestos hazard, etc.

163 Jackson Road - Two Family (Rental Units)

Direct Loan -30 year term (max)	\$80,000
Lead Paint Abatement Grant	\$30,000
Asbestos Abatement Grant	\$30,000

20-22 Falmouth Road Two Family (Rental Units)

Direct Loan -30 year term (max)	\$80,000
Lead Paint Abatement Grant	\$30,000
Asbestos Abatement Grant	\$30,000

As we discussed, asbestos abatement will likely be considerably less than the maximum and we anticipate actual NHRF funding in the \$6-8000 range for each project.

At present we have the ability to fully fund these projects so I can assure you funding until Feb. 1<sup>st</sup>, 2005 for these projects. While I anticipate no funding shortages next year, I cannot guarantee that will be the case. If we cannot close these cases prior to Feb. 1<sup>st</sup>, 2005, we will have to review our funding situation relative to extending a funding reservation for these cases.

Very truly yours,

Michael S. Duff

NHRF Program Manager

cc: Trish Guditz, Housing Department Coordinator

Housing and Community Development Division

492 Waltham Street, Newton, Massachusetts 02465

Telephone (617) 796-1120 Telefax (617) 796-1142

www.ci.newton.ma.us

September 7, 2004

Josephine McNeil, Executive Director  
CAN-DO  
1075 Washington Street  
Newton, MA 02465

**RE: 163 Jackson Road, Newton, MA**

Dear Ms. McNeil:

The Newton Community Development Authority, acting by and through the City of Newton Planning & Development Department, is authorized to offer to Borrower named below, permanent financing for the development of the property located at **163 Jackson Road, Newton, MA** (the "Property"), consisting of two housing units. These units shall be affordable housing as defined below in paragraph 9.

1. Borrower: Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO), a nonprofit corporation located at 1075 Washington Street, Newton, MA.
2. Lender & Financing Source: Newton Community Development Authority (NCDA), under the provisions of the Community Development Block Grant (CDBG) program.

The Borrower agrees to cooperate in satisfying all requirements of the funding source.

3. Loan Amount: \$200,000
4. Interest Rate: Zero per cent (0%) per annum.
5. Term: The loan shall be due and payable fifty years from the date of the receipt of final Certificates of Occupancy for the Property
6. Security: The loan shall be secured by a second mortgage on the Property, behind a first mortgage from a commercial bank.

Prior to loan closing, the Borrower shall provide the Lender with an appraisal that documents to the satisfaction of the Lender, sufficient value in the Property to secure both the Auburndale Cooperative Bank mortgage and the Lender's mortgage.

7. Loan Advances: Entire balance to be disbursed at closing for acquisition.
8. Terms of Repayment: Principal and interest on the loan shall accrue, but not be due and payable until the end of the term. All accrued principal and interest shall be forgiven at the end of the term, provided that the Property's Affordable Housing obligations specified below are continuously satisfied.
9. Affordable Housing: The two (2) units shall be for rental to persons of low or moderate income. Low income shall be defined as 50% or less of the area median income of the Boston MSA adjusted for family size; and moderate income shall be defined as 80% or less of the area income of the Boston MSA adjusted for family size as defined by the U.S. Department of Housing and Urban Development. The Borrower will enter into a deed restriction to be recorded with the deed that will fully describe the affordable housing obligations.

The obligation of the Lender to advance funds under this commitment is subject to the Borrower's full compliance with the following terms and conditions:

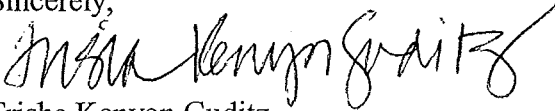
10. Documentation and Due Diligence Requirements: The loan will be documented in a manner satisfactory to the Lender, and the Lender will require usual and customary due diligence. Loan documentation will include but not be limited to: a Loan Agreement, Mortgage, Note, and deed restriction.
11. Evidence of Other Loan Commitments: The Borrower shall prior to closing provide firm commitments from the all sources of financing on terms and conditions acceptable to the Lender.
12. Project Budget and Other Financing: The Borrower shall submit a revised and up-to-date Project Budget 48 hours prior to closing which is satisfactory to the Lender in its sole discretion.
13. Funding Limits: No additional funding will be available to the project through the City's Community Development Block Grant, HOME or other funding programs administered by the Lender, beyond the commitment of funds outlined in this Commitment Letter.
14. Requirement to Maintain Non-Profit Status: These loans are conditional upon Borrower maintaining its non-profit status under Chapter 180 of the Massachusetts

General Laws or maintaining tax-exempt status as determined by the Internal Revenue Service. This requirement shall be satisfied by maintaining the non-profit status of CAN-DO. In the event the Borrower fails to maintain its non-profit status, the Lender may require full and immediate repayment of principal and interest.

15. Construction Plans: The Borrower shall submit construction plans and specifications that are satisfactory to the Lender in its sole discretion.
16. Acknowledgment: The Borrower shall acknowledge receipt and acceptance of this commitment by signing and returning the enclosed copies of this letter by September 10, 2004. This commitment will expire if not accepted by that date.

We look forward to working with you on this project.

Sincerely,

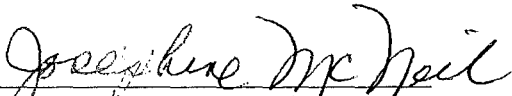


Trisha Kenyon Guditz  
Housing Development Coordinator

The undersigned hereby accepts the commitment and agrees to the terms and conditions thereof.

Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO)

By:

  
Josephine McNeil, Executive Director

9/24/04  
Date

September 23, 2004

Josephine McNeil, Executive Director  
CAN-DO  
1075 Washington Street  
Newton, MA 02465

**RE: 20-22 Falmouth Road, Newton, MA**

Dear Ms. McNeil,

The Newton Community Development Authority, acting by and through the City of Newton Planning & Development Department, is authorized to offer to Borrower named below, permanent financing for the development of the property located at 20-22 Falmouth Road, Newton, MA (the "Property"), consisting of two housing units. These units shall be affordable housing as defined below in paragraph 9.

1. Borrower: Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO), a nonprofit corporation located at 1075 Washington Street, Newton, MA.
2. Lender & Financing Source: Newton Community Development Authority (NCDA), under the provisions of the Community Development Block Grant (CDBG) program.

The Borrower agrees to cooperate in satisfying all requirements of the funding source.

3. Loan Amount: \$200,000.00
4. Interest Rate: Zero per cent (0%) per annum.
5. Term: The loan shall be due and payable fifty years from the date of the receipt of final Certificates of Occupancy for the Property.
6. Security: The loan shall be secured by a second mortgage on the Property, behind a first mortgage from a commercial lender.

Prior to loan closing, the Borrower shall provide the Lender with an appraisal that documents to the satisfaction of the Lender, sufficient value in the Property to secure both the Auburndale Cooperative Bank mortgage and the Lender's mortgage.

7. Loan Advances: Entire balance to be disbursed at closing for acquisition.
8. Terms of Repayment: Principal and interest on the loan shall accrue, but not be due and payable until the end of the term. All accrued principal and interest shall be forgiven at the end of the term, provided that the Property's Affordable Housing obligations specified below are continuously satisfied.
9. Affordable Housing: The two (2) units shall be for rental to persons of low or moderate income. Low income shall be defined as 50% or less of the area median income of the Boston MSA adjusted for family size; and moderate income shall be defined as 80% or less of the area income of the Boston MSA adjusted for family size as defined by the U.S. Department of Housing and Urban Development. The Borrower will enter into a deed restriction to be recorded with the deed that will fully describe the affordable housing obligations.

The obligation of the Lender to advance funds under this commitment is subject to the Borrower's full compliance with the following terms and conditions:

10. Documentation and Due Diligence Requirements: The loan will be documented in a manner satisfactory to the Lender, and the Lender will require usual and customary due diligence. Loan documentation will include but not be limited to: a Loan Agreement, Mortgage, Note, and deed restriction.
11. Evidence of Other Loan Commitments: The Borrower shall prior to closing provide firm commitments from the following sources of financing on terms and conditions acceptable to the Lender: \$1,050,000 from MHIC, LLC (Massachusetts Housing Investment Corporation), \$30,000 lead paint abatement grant, and \$6,000 asbestos abatement grant, all from the Newton Housing Rehabilitation Fund. The Borrower shall also provide a copy of the application for Affordable Housing Program funds or other funding source for \$100,000, and a letter or other documentation from the Community Preservation Committee outlining the schedule for funding review and award.
12. Project Budget and Other Financing: The Borrower shall submit a revised and up-to-date Project Budget 48 hours prior to closing which is satisfactory to the Lender in its sole discretion.

13. Funding Limits: No additional funding will be available to the project through the City's Community Development Block Grant, HOME or other funding programs administered by the Lender, beyond the commitment of funds outlined in this Commitment Letter.

14. Requirement to Maintain Non-Profit Status: These loans are conditional upon Borrower maintaining its non-profit status under Chapter 180 of the Massachusetts General Laws or maintaining tax-exempt status as determined by the Internal Revenue Service. This requirement shall be satisfied by maintaining the non-profit status of CAN-DO. In the event the Borrower fails to maintain its non-profit status, the Lender may require full and immediate repayment of principal and interest.

15. Construction Plans: The Borrower shall submit construction plans and specifications that are satisfactory to the Lender in its sole discretion.

16. Acknowledgment: The Borrower shall acknowledge receipt and acceptance of this commitment by signing and returning the enclosed copies of this letter by September 28, 2004. This commitment will expire if not accepted by that date.

We look forward to working with you on this project.

Sincerely,



Trisha Kenyon Guditz  
Housing Development Coordinator

The undersigned hereby accepts the commitment and agrees to the terms and conditions thereof.

Citizens for Affordable Housing in Newton Development Organization, Inc. (CAN-DO)

By:

  
Josephine McNeil, Executive Director

9/24/04  
Date



## Developer Application for Affordable Community Housing Funds

Please respond to the following and include supporting material as necessary.

1. **Goals:** What are the project goals?

**Goal is to create four permanent rental units to be occupied by families with Section 8 vouchers. To add to the city's affordable housing stock.**

2. **Community need:** Describe how the proposed project meets the housing needs identified in the *Newton Framework Plan* and the *FY01-05 Consolidated Strategy and Plan*.

**The units will address the Newton Framework Plan need to provide housing for Newton's diverse population. The Consolidated Plan has a strategy to "Acquire 2-family properties and deed restrict for long-term affordability" at page III-9. Another strategy is "Continue to support and finance housing rehabilitation programs" at page III-17.**

3. **Community support:** Describe the nature and level of community support for this project. Please attach support letters and any petitions.

**Letters of support will be mailed to the attention of Jennifer Goldson.**

4. **Plans to cultivate community support:** Describe plans to cultivate/build neighborhood support. Provide a description of any meetings with Ward Aldermen, the neighborhood, etc. that have been scheduled or have already occurred. If there has not been any neighborhood contact, then provide a brief description of how neighborhood residents will be involved in plans for the proposed project.

**All six of the Ward Aldermen were advised of CAN-DO's intent to purchase the properties. Since this is a by right use and no changes are being made to the site, there are no plans to involve the neighborhood residents. In fact given the strong NIMBYism existing in Newton, we might be open to a violation of fair housing if we were to do so in light of the fact that the housing is targeted to families with section 8 vouchers, a protected class under the federal Fair Housing Act.**

5. **Capacity:** Identify the members of the development team and describe their capacity to undertake the project. Identify the management entity if the project includes rental units. Describe how adherence to appropriate professional standards will be maintained:

**Contractor – Construction By Design. Ltd. CAN-DO will manage the property  
The scope of work does not require an architect.**

# **EVIDENCE OF SITE CONTROL**

**STANDARD FORM  
PURCHASE AND SALE AGREEMENT**

**From the Office of:**  
Suzanne Dooley, Esquire  
Posternak Blankstein & Lund LLP  
Prudential Tower  
800 Boylston Street  
Boston, Massachusetts 02199

16-41  
This ~~10~~<sup>16</sup>th day of August, 2004

1. **PARTIES AND MAILING ADDRESSES**  
Walter E. Tobin, as successor Trustee of the Tobin Nominee Trust, hereinafter called the SELLER agrees to sell and Citizens for Affordable Housing in Newton Development Organization, Inc., a Massachusetts charitable corporation with offices at 1075 Washington Street, West Newton, Massachusetts 02465 hereinafter called the BUYER or CAN-DO, agrees to BUY, upon the terms hereinafter set forth, the following described premises:
2. **DESCRIPTION**  
*(fill in and include title reference)*  
The land with buildings thereon known as and numbered 163 Jackson Road, Newton, Massachusetts, all as more particularly described in Book 26824, Page 507 as recorded in the Middlesex South Registry of Deeds (the "Premises").
3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES**  
*(fill in or delete)*  
Included in the sale as part of said premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to the SELLER and used in connection therewith including, if any, all wall-to-wall carpeting, drapery rods, automatic garage door openers, venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, garbage disposers, electric and other lighting fixtures, mantels, outside television antennas, fences, gates, trees, shrubs, plants, and, ONLY IF BUILT IN refrigerators, air conditioning equipment, ventilators, dishwashers, washing machines and dryers.
4. **TITLE DEED**  
*(fill in)*  
Said premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except
- \* *Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER's breach of SELLER's covenants in leases where necessary.*
- (a) Provisions of existing building and zoning laws;
  - (b) Existing rights and obligations in party walls which are not the subject of written agreement;
  - (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
  - (d) Any liens for municipal betterments assessed after the date of this agreement;
  - (e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the current use of said premises or with BUYER's intended use of the premises (including BUYER's anticipated improvements thereto);
- \* (f)
- [See Continuation in Rider]
5. **PLANS**  
If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.
6. **REGISTERED TITLE**  
In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.
7. **PURCHASE PRICE**  
*(fill in); space is allowed to write out the amounts if desired*  
The agreed purchase price for said premises is Six Hundred and Sixty Thousand (\$660,000.00) dollars, of which
- |               |   |
|---------------|---|
| \$ 19,000.00  | have been paid as a deposit this day and  |
| \$ 1,000.00   | paid with the Offer to Purchase   |
| \$ 640,000.00 | are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, treasurer's or bank check(s). |
- \$  
\$ 660,000.00 TOTAL
8. **TIME FOR PERFORMANCE; DELIVERY OF**  
Such deed is to be delivered at Noon on the 27<sup>th</sup> day of September, 2004, at the Middlesex South Registry of Deeds, or at the offices of counsel for Buyer's mortgage lender, unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement.

9. DEED *(fill in)*  
 POSSESSION AND  
 CONDITION OF  
 PREMISE.  
*(attach a list of  
 exceptions, if any)*
- Full possession of said premises free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled to personally enter said premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.
10. EXTENSION TO  
 PERFECT TITLE  
 OR MAKE  
 PREMISES  
 CONFORM  
*(Change period of  
 time if desired).*
- If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the the time for performance hereof shall be extended for a period of thirty (30) days.
11. FAILURE TO  
 PERFECT TITLE  
 OR MAKE  
 PREMISES  
 CONFORM, etc.
- If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on said premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.
12. BUYER's  
 ELECTION TO  
 ACCEPT TITLE
- The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against, then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either
- (a) pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or
  - (b) if a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be so paid over or assigned, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.
13. ACCEPTANCE  
 OF DEED
- The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.
14. USE OF  
 MONEY TO  
 CLEAR TITLE
- To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, or within a reasonable time thereafter, in accordance with customary closing practices.
15. INSURANCE  
*\*Insert amount (list  
 additional types of  
 insurance and  
 amounts as  
 agreed)*
- Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:
- |     | <i>Type of Insurance</i>   | <i>Amount of Coverage</i> |
|-----|----------------------------|---------------------------|
| (a) | Fire and Extended Coverage | \$As Presently Insured    |
| (b) |                            | \$                        |
16. ADJUSTMENTS  
*(list operating  
 expenses, if any,  
 or attach  
 schedule)*
- Water and sewer use charges and taxes for the then current fiscal year, shall be apportioned and fuel value shall be adjusted, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.

17. **ADJUSTMENT OF UNASSESSED AND ABATED TAXES** If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.
18. **BROKER'S FEE**  
*(fill in fee with dollar amount or percentage; also name of Brokerage firm(s))* A Broker's fee for professional services of 5% is due from the SELLER to Karp and Liberman RE Group, LLC and William Raveis Real Estate and Home Services, the Brokers herein, divided equally if, as and when papers pass and the deed is recorded and after the payment of the purchase price and not otherwise.  
[See Continuation in Rider]
19. **BROKER(S) WARRANTY**  
*(fill in name)* The Brokers named herein Karp and Liberman RE Group, LLC and William Raveis Real Estate and Home Services warrant that the Brokers are duly licensed as such by the Commonwealth of Massachusetts.
20. **DEPOSIT**  
*(fill in name)* All deposits made hereunder shall be held in escrow by William Raveis Real Estate and Home Services, as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending instructions mutually given by the SELLER and the BUYER.  
[See Continuation in Rider]
21. **BUYER'S DEFAULT; DAMAGES** If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and this shall be Seller's sole and exclusive remedy at law and in equity.
22. **RELEASE BY HUSBAND OR WIFE** The SELLER's spouse hereby agrees to join in said deed and to release and convey all statutory and other rights and interests in said premises.
23. **BROKER AS PARTY** The Broker(s) named herein join(s) in this agreement and become(s) a party hereto, insofar as any provisions of this agreement expressly apply to the Broker(s), and to any amendments or modifications of such provisions to which the Broker(s) agree(s) in writing.
24. **LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc.** If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.
25. **WARRANTIES AND REPRESENTATIONS**  
*(fill in); if none, state "none"; if any listed, indicate by whom each warranty or representation was made* The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has he relied upon any warranties or representations not set forth or incorporated in this agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either the SELLER or the Broker(s):  
None
26. **MORTGAGE CONTINGENCY CLAUSE**  
*(omit if not provided for in Offer to Purchase)* In order to help finance the acquisition of said premises, the BUYER shall apply for a loan of \$525,000.00 at prevailing rates, terms and conditions. If despite the BUYER's diligent efforts a commitment for such loan cannot be obtained on or before September 3, 2004 the BUYER may terminate this agreement by written notice to the SELLER and/or the Broker(s), as agent(s) for the SELLER, prior to the expiration of such time, whereupon any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.  
[See Continuation in Rider]

- 27. **CONSTRUCTION OF AGREEMENT**  
This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.
- 28. **LEAD PAINT LAW**  
The parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.
- 29. **SMOKE DETECTORS**  
The SELLER shall, at the time of the delivery of the deed, deliver a certificate from the fire department of the city or town in which said premises are located stating that said premises have been equipped with approved smoke detectors in conformity with applicable law.
- 30. **ADDITIONAL PROVISIONS**  
The initialed rider, attached hereto, is incorporated herein by reference.  
SEE RIDER

**FOR RESIDENTIAL PROPERTY CONSTRUCTED PRIOR TO 1978, BUYER MUST ALSO HAVE SIGNED LEAD PAINT PROPERTY TRANSFER NOTIFICATION CERTIFICATION**

NOTICE: This is a legal document that creates binding obligations. If not understood, consult an attorney.

TOBIN NOMINEE TRUST

By: Walter E. Tobin 4/21/04  
SELLER Walter E. Tobin, as Trustee

CAN-DO

By: Josephine McNeil  
BUYER Josephine McNeil, Executive Director

\_\_\_\_\_  
Broker(s)

**EXTENSION OF TIME FOR PERFORMANCE**

The time for the performance of the foregoing agreement is extended until \_\_\_\_\_ o'clock PM on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, the date still being of the essence of this agreement as amended. In all other respects, this agreement is hereby ratified and confirmed.  
This extension, executed in multiple counterparts, is intended to take effect as a sealed instrument.

\_\_\_\_\_  
SELLER (or spouse)

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
Broker(s)

*Cvet*

RIDER TO PURCHASE AND SALE AGREEMENT  
BETWEEN  
WALTER E. TOBIN,  
SUCCESSOR TRUSTEE OF TOBIN NOMINEE TRUST, AS SELLER  
AND  
CAN-DO, AS BUYER

CONTINUATION OF PRE-PRINTED FORM PROVISIONS:

1. CONTINUATION OF PARAGRAPH 4:

Notwithstanding the provisions of paragraph 4(e), it is expressly understood and agreed that the Buyer may object to title to the Premises if any easement or other instrument creates rights in others to access any portion of the Premises not located within ten (10) feet of any boundary line of the Premises, excluding, however, any easements for utilities exclusively serving the Premises for which the Buyer shall have no right to object.

2. CONTINUATION OF PARAGRAPH 18:

Buyer and Seller represent and warrant to each other that neither has contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker other than the brokers named herein. Buyer and Seller agree to indemnify and to hold the other harmless from any claim, loss, damage, cost or liability for any breach of the foregoing warranty and representation. The provisions of this paragraph shall survive delivery of the deed.

3. CONTINUATION OF PARAGRAPH 20:

Seller's delivery of the required deed to the Premises (the "Deed"), and Buyer's acceptance thereof (as evidenced by the recordation of the Deed in the appropriate land records) shall in all cases constitute the parties joint authorization for the release of all deposits held hereunder. So long as escrow agent serves in good faith, the escrow agent shall not be liable to anyone for damage, losses or expenses arising out of this Agreement or any action or failure to act by the escrow agent hereunder, and Buyer and Seller agree jointly and severally to hold escrow agent harmless from any such damages, losses or expenses, including reasonable attorney's fees. The escrow agent shall place such deposits in an interest bearing federally insured bank account and report interest for income tax purposes as being for the account of the party ultimately receiving the same. Seller's taxpayer identification number is [\_\_\_\_\_]. Buyer's taxpayer identification number is [\_\_\_\_\_]. Interest shall be paid to the Buyer if the deposits are returned to the Buyer or if the Deed is delivered and recorded; and interest shall be paid to the Seller if the deposits are paid to the Seller as liquidated damages.

4. CONTINUATION OF PARAGRAPH 26:

In no event will the BUYER be deemed to have used diligent efforts to obtain such commitment unless the BUYER submits a complete mortgage loan application conforming to the foregoing provisions on or before August 25, 2004. Buyer's obligations hereunder are further contingent upon Buyer receiving approval of the transaction contemplated by this Agreement by the City of Newton on or before September 3, 2004. If, despite Buyer's diligent efforts, such approval is not received and Buyer so notifies Seller on or before 5:00 p.m. on such date, all deposits shall be refunded and this Agreement shall be null and void and without recourse to any party.

ADDITIONAL PROVISIONS:

31. BUYER'S RIGHT OF INSPECTION. Commencing on the date of execution hereof, Buyer, its agents, employees and contractors shall have, upon notice to Seller, reasonable access to the Premises for purposes of taking measurements and making observations. Buyer has had the opportunity to have the Premises inspected by an inspector of their choosing and is satisfied with the results of said inspection.
32. SELLER'S DELIVERIES. At the closing, Seller agrees to execute and deliver such affidavits and other agreements as may be reasonably required by Buyer's title insurer and/or Buyer's mortgage lender, including, without limitation:
1. Parties in possession/mechanic's lien affidavit;
  2. UFFI Affidavit;
  3. Purchaser/Vendor Affidavit;
  4. FIRPTA Affidavit;
  5. a warranty bill of sale for all personal property included as part of the Premises, including an assignment of any and all builder's, seller's or manufacturer's warranties on the Premises or on any appliances or other property included as part of the Premises; and
  6. an affidavit furnishing the information required for the filing of Form 1099B with the Internal Revenue Service.
33. NOTICES. Any notice required or permitted to be given hereunder shall be in writing and delivered by a nationally recognized overnight courier service providing a receipt, by hand or mailed postage prepaid by registered or certified mail, return receipt requested, addressed:

To the Buyer: At the address set forth in Paragraph 1

With a copy to: Suzanne Dooley, Esquire  
Posternak, Blankstein & Lund, L.L.P.  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199  
Telephone: (617) 973-6145



Fax: (617) 722-4965

To the Sellers: At the address set forth in Paragraph 1

With a copy to: Ronald J. Ranta, Esquire  
Fisete & Ranta  
100 Cummings Center  
Suite 220B  
Beverly, MA 01913  
Telephone: (978) 927-8766  
Fax: (978) 927-7082

Any such notice so delivered by overnight courier or mailed shall be deemed properly served or delivered for all purposes hereunder at the time such notice is received. Any such notice shall also be considered as properly given if in writing and delivered by hand to Buyer's or Seller's attorney, as appropriate.

34. CONFORMITY WITH TITLE PROVISIONS. Seller agrees that the Premises shall not be deemed to be in compliance with the provisions of this Agreement with respect to title unless, without limitation:
- (a) All structures and improvements and all means of access to the Premises shall be wholly within the lot lines of the Premises and shall not encroach upon or under any property not within such lot lines;
  - (b) The Premises abut a public way, duly laid out or accepted as such by the town or city in which the Premises are located;
  - (c) No building, structure, improvement or property of any kind encroaches upon or under the Premises from other premises;
  - (d) The Premises are insurable by an ALTA title insurance company doing business in the Commonwealth of Massachusetts, with only those exceptions that are acceptable to the Buyer; and
  - (e) There are no restrictions, easements, agreements or other matters affecting the Premises which interfere with the use and enjoyment of the Premises as a single family residence.
35. BROOM CLEAN. The premises are to be in broom-clean condition and the grounds free of debris.
36. TITLE STANDARDS. In matters respecting the title to the premises, standards of the Real Estate Bar Association shall be determinative.

- 37. **SEPTIC SYSTEM/TITLE V INSPECTION.** Seller represents and warrants to Buyer that the Premises are served exclusively by a municipal sewerage system and that there is no septic system or other private waste water treatment system upon the Premises requiring compliance with Title V of the Massachusetts Environmental Code. Seller's representations and warranties under the paragraph shall survive Closing.
- 38. **TAX ADJUSTMENTS.** All references to the "then current year" and like references with respect to real estate taxes payable for the Premises shall be construed to mean the then current fiscal tax period within which such taxes are payable.
- 39. **UNDERGROUND STORAGE TANKS, ETC.** The Seller represents and warrants that to the best of the Seller's knowledge (i) there are no underground oil storage tanks located on the Premises and (ii) there has been no release of any oil or other hazardous or toxic material on the Premises. The Seller's obligations under this paragraph shall survive Closing.
- 40. **CASUALTY DAMAGE.** Notwithstanding anything contained herein to the contrary, in the event the Premises are damaged by fire or other casualty, which damage requires in excess of \$5,000 to repair, the Buyer shall have the option of terminating this Agreement by notice to Seller within 72 hours of the time that the Buyer is notified of such damage and the extent of any insurance proceeds available to the Seller to repair same. In the event this Agreement is so terminated, all deposit funds, including interest thereon, shall be forthwith refunded to the Buyer and all obligations of the parties hereto shall cease and this Agreement shall become void and without recourse to the parties hereto.
- 41. **CLOSING DATE.** In the event the date for closing is delayed due to the Buyer's lender, the Seller agrees to extend the time of closing without penalty or prejudice to the Buyer, said extension not to exceed ten (10) banking days. In no event shall the time for performance of this Agreement be extended for the Seller's performance hereunder beyond the date of Buyer's mortgage commitment expiration date or the Buyer's rate lock expiration date.
- 42. **CONFLICTS.** In the event of conflicts between the pre-printed purchase and sale agreement and any other rider or attachment and this Rider, the provisions of this Rider shall control.
- 43. **ENTIRE AGREEMENT.** This Agreement supersedes all prior agreements between the parties and represents the complete and full agreement between the parties. This Agreement may only be modified or altered by a writing signed by both the Buyer and the Seller. All prior offers and agreements between the parties with respect to the transactions contemplated hereby shall be null and void.

*WET*  
 \_\_\_\_\_  
 Initial/Walter E. Totia, Seller

*JM*  
 \_\_\_\_\_  
 Initial/Cast-Do, Buyer

CAN-DO  
1075 Washington Street  
West Newton MA 02465

AUBURNDALE CO-OPERATIVE BANK  
Auburndale, Newtonville &  
Wayland, Massachusetts

2179

53-71852113

DATE 8/16/04

PAY TO THE  
ORDER OF

*M. Rancie Real Estate*

\$ 19000<sup>00</sup>/<sub>100</sub>

*Nineteen Thousand and 00/100*

DOLLARS

MEMO 163 Jackson Rd.

*Josephine McNeil*

⑆211371858⑆ 1200009262⑆ 2179

## **Scope of Work and Pricing**

## Uses of Funds

*The Contractor certifies that, to the best of their knowledge, the construction estimates, and trade-item breakdown on this page are complete and accurate.*

8/13/04

105. Direct Construction:  
Who prepared the estimates?

Construction by Design *Donald H. Baker (rs)*  
Name Signature

106. Basis for estimates?

C.S.I. Estimate Format per Walk through Scope of Work 126 Jackson St.&20/22 Falmouth St. Newton

	DV	Trade Item	Amount	Description
107.	3	Concrete	\$1,000	Deck piers - Jackson St.
108.	4	Masonry	\$2,000	Repair one chimney, rebuild one chimney & paug
109.	5	Metals	\$0	
110.	6	Rough Carpentry	\$16,500	Repair porch - Falmouth, 1st & 2nd floor decks - Jackson
111.	6	Finish Carpentry	\$5,000	
112.	7	Waterproofing	\$0	
113.	7	Insulation	\$5,000	Attics & Basement ceiling - Falmouth
114.	7	Roofing	\$40,000	Strip and reshingle
115.	7	Sheet Metal and Flashing	\$0	
116.	7	Exterior Siding	\$2,500	Rear Jackson - vinyl
117.	8	Doors	\$10,000	C label unit entry, rework existing
118.	8	Windows	\$10,000	Attic windows - rework existing, replace basement
119.	8	Glass	\$0	
120.	9	Lath & Plaster	\$0	
121.	9	Drywall	\$7,500	Ceilings and patching
122.	9	Tile Work	\$2,000	
123.	9	Acoustical	\$0	
124.	9	Wood Flooring	\$6,000	Refinish
125.	9	Resilient Flooring	\$0	
126.	9	Carpet	\$0	
127.	9	Paint & Decorating	\$50,000	Interior & exterior
128.	10	Specialties	\$6,200	Door hardware
129.	11	Special Equipment	\$0	
130.	11	Cabinets	\$0	
131.	11	Appliances	\$0	
132.	12	Blinds & Shades	\$0	
133.	13	Modular/Manufactured	\$0	
134.	13	Special Construction	\$0	
135.	14	Elevators or Conveying Syst.	\$0	
136.	15	Plumbing & Hot Water	\$2,000	
137.	15	Heat & Ventilation	\$12,000	Boiler Falmouth St., one each & repair flues, service others
138.	15	Air Conditioning	\$0	
139.	15	Fire Protection	\$5,200	Unit smoke detectors
140.	16	Electrical	\$1,000	
141.		Accessory Buildings	\$0	
142.		Other/misc	\$0	
143.		<b>Subtotal Structural</b>	<b>\$183,900</b>	
144.	2	Earth Work	\$1,000	
145.	2	Site Utilities	\$0	
146.	2	Roads & Walks	\$2,000	Pave driveway Falmouth St. - top coat
147.	2	Site Improvement	\$0	
148.	2	Lawns & Planting	\$0	
149.	2	Geotechnical Conditions	\$0	
150.	2	Environmental Remediation	\$15,000	Asbestos and exterior lead paint
151.	2	Demolition	\$10,500	
152.	2	Unusual Site Cond	\$0	
153.		<b>Subtotal Site Work</b>	<b>\$28,500</b>	
154.		<b>Total Improvements</b>	<b>\$212,400</b>	
155.	1	General Conditions	\$21,240	
156.		<b>Subtotal</b>	<b>\$233,640</b>	
157.	1	Builders Overhead	\$23,364	
158.	1	Builders Profit	\$12,850	
159.		<b>TOTAL</b>	<b>\$269,854</b>	

160. Total Cost/square foot: N/A

Residential Cost/s.f.: N/A

## **FALMOUTH ROAD REPAIRS**

- Remove and replace roof shingles
- Install roof insulation and basement ceiling
- Demolish and rebuild part of rear porch
- New entry doors
- Delead and remove asbestos
- Repair basement windows
- Install hardwired smoke detectors
- Upgrade electrical systems
- New underlayment and new tiles in one bathroom
- Painting and refinishing floors
- Replace one boiler
- Install locks and master key system
- Interior and exterior painting
- Repave driveway

## **JACKSON ROAD REPAIRS**

- Remove and replace roof shingles
- Demolish and rebuild rear porches
- Install insulation
- Chimney repair
- Repair attic and basement windows
- Delead and remove asbestos
- Remove wallpaper
- Interior and exterior painting
- Install locks and master key system
- Install hardwired smoke detectors



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CONSTRUCTION BY DESIGN  
CONSTRUCTION SERVICES

August 5, 2004

Can-Do  
1075 Washington Street  
Newton, MA 02465

Attn: Josephine McNeil

RE: Budget quote 126 Jackson Street, Newton, MA

Dear Josephine:

We are pleased to provide you with our budget quote range of \$125,000.00 - \$150,000.00 for repairs, replacements and energy upgrades to above captioned property, based on our site visit and Inspector's Report. The following outlines the scope of our work:

1. General Conditions
  - A. Supervision
  - B. Stock and cleanup
  - C. Permits
  - D. Rubbish removal and disposal
  - E. Miscellaneous equipment
  - F. Temporary protection
  - G. Staging
  - H. Final cleaning
  - I. Insurances
    1. General Liability
    2. Workers' Compensation

2. Demolition
  - A. First (1<sup>st</sup>) and second (2<sup>nd</sup>) floor rear porches
  - B. Rear attic roof dormer
  - C. Strip roof shingles, chimney lead and penetration flashing
  - D. Insulation between attic roof rafters
  - E. Remove gutters and save for re-use
  - F. Interior door hardware
  - G. Front porch decking, as needed
  - H. Entry doors, front and rear stairways from units to stair halls
  - I. Attic window sash
  - J. Asbestos pipe insulation, basement heat piping
  
3. Masonry
  - A. Rebuild chimney above roof
  
4. Carpentry
  - A. Rough
    1. Rear porches
    2. Rear porch decking
    3. Rear porch railings, per code
    4. Strap all ceilings with 1'x1' block ceilings
  - B. Finish
    1. Entry door casings from stair halls to units, front and rear
  
5. Moisture and thermal
  - A. Twenty-five (25) year 3-tab roof shingles
  - B. Ice and water shield, eaves
  - C. 15-lb. felt underlayment
  - D. Ridge vent
  - E. Re-lead chimney
  - F. Roof pipe penetration flashing
  - G. Galvanized steel drip edge
  - H. Fiberglass insulation
    1. Attic R-38
  - I. Block rafter bays at outside walls for airflow



6. Windows and doors

- A. New unit entry doors from stair halls to units, front and rear, C-label 6-panel steel insulated doors with weather stripping
- B. Vinyl replacement attic windows, insulated glass and screens
- C. New Schlage locks
  - 1. Entry doors A-series with dead bolts
  - 2. Privacy and passage sets F-series
  - 3. Locks keyed alike, front and rear doors, each unit, separate keys each unit, front and rear exterior entry doors keyed to unit entry doors
  - 4. All keyed locks to be keyed to master key
- D. Repair existing basement windows or replace with vinyl awning windows with insulated glass and screens

7. Finishes

- A. Exterior painting
  - 1. Prepare and prime exterior windows, casings, doors, decks, railings and miscellaneous trim
- B. Interior painting
  - 1. Prepare
  - 2. One (1) coat primer, as needed
  - 3. Two (2) coats finish
    - a. Ceilings
    - b. Walls
    - c. Doors
    - d. Windows
    - e. Trim
- C. Board and finish all ceilings, ready to finish, where strapped

8. HVAC

- A. Duct bathroom fans to exterior

9. Electrical

- A. Supply and install smoke detectors per code

Excluded:

1. Replace exposed brass water piping
2. Re-grading site or landscaping
3. Removal or disposal of hazardous materials, except as noted in budget quote

NOTE: This is a budget estimate subject to change, pending final scope of work as provided by owner.

Please feel free to contact us with any questions you may have.

Yours truly,

A handwritten signature in black ink, appearing to read "Daniel H. Baker". The signature is fluid and cursive, with a large initial "D" and "B".

Daniel H. Baker  
/dmp/4100c1



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CONSTRUCTION BY DESIGN  
CONSTRUCTION SERVICES

August 5, 2004

Cari-Do  
1075 Washington Street  
Newton, MA 02465

Attn: Josephine McNeil

RE: Budget quote 20/22 Falmouth Street, Newton, MA

Dear Josephine:

We are pleased to provide you with our budget quote range of \$100,000.00 - \$125,000.00 for repairs, replacements and energy upgrades to above captioned property, based on our site visit and Inspector's Report. The following outlines the scope of our work:

1. General Conditions
  - A. Supervision
  - B. Stock and cleanup
  - C. Permits
  - D. Rubbish removal and disposal
  - E. Miscellaneous equipment
  - F. Temporary protection
  - G. Staging
  - H. Final cleaning
  - I. Insurances
    1. General Liability
    2. Workers' Compensation

2. Demolition

- A. First (1<sup>st</sup>) and second (2<sup>nd</sup>) floor bathroom floor tile
- B. Strip roof shingles, chimney lead and penetration flashing
- C. Remove gutters and save for re-use
- D. Interior door hardware
- E. Rear deck railings
- F. Rear porch decking at entry door from deck
- G. Entry doors, front and rear stairways from units to stair halls
- H. Attic window sash
- I. Gas fired steam boiler, one (1) each
- J. Asbestos pipe insulation residue, basement heat piping

3. Masonry

- A. Remove loose attic chimney pauging and replace with new cement pauging

4. Carpentry

- A. Rough
  - 1. Rear deck railings, per code
  - 2. Rear porch decking at entry door from deck
  - 3. Bathroom floor, plywood underlayment
  - 4. Strap living room ceiling
- B. Finish
  - 1. Entry door casings from stair halls to units, front and rear

5. Moisture and thermal

- A. Twenty-five (25) year 3-tab roof shingles
- B. Ice and water shield, eaves
- C. 15-lb. felt underlayment
- D. Ridge vent
- E. Re-lead chimney
- F. Roof pipe penetration flashing
- G. Galvanized steel drip edge
- H. Fiberglass insulation
  - 1. Attic R-25 over existing R-19
  - 2. Basement ceiling, R-19
- I. Block rafter bays at outside walls for airflow
- J. Abatron rear porch windowsills per manufacturer's specifications

6. Windows and doors

- A. New unit entry doors from stair halls to units, front and rear,  
C-label 6-panel steel insulated doors with weather stripping
- B. Vinyl replacement attic windows, insulated glass and screens
- C. New Schlage locks
  - 1. Entry doors A-series with dead bolts
  - 2. Privacy and passage sets F-series
  - 3. Locks keyed alike, front and rear doors, each unit,  
separate keys each unit, front and rear exterior entry doors  
keyed to unit entry doors
  - 4. All keyed locks to be keyed to master key
- D. Repair existing basement windows or replace with vinyl awning  
windows with insulated glass and screens

7. Finishes

- A. Exterior painting
  - 1. Prepare and prime exterior windows, casings, doors, decks,  
railings and miscellaneous trim
- B. Interior painting
  - 1. Prepare
  - 2. One (1) coat primer, as needed
  - 3. Two (2) coats finish
    - a. Ceilings
    - b. Walls
    - c. Doors
    - d. Windows
    - e. Trim
- C. Wood floors
  - 1. Screen strip
  - 2. Three (3) coats clear satin urethane
- D. Bathroom floor, ceramic floor tile
- E. Board and finish living room ceiling, ready to finish

8. HVAC

- A. New gas fired steam boiler, one (1) each
- B. Duct bathroom fans to exterior
- C. Replace boiler and hot water tank metal flues to masonry chimneys

9. Electrical

- A. Supply and install smoke detectors per code

10. Finish pave existing asphalt driveway, 1 1/2" thick finish coat

Excluded:

1. Replace exposed brass water piping
2. Re-grading site or landscaping
3. Removal or disposal of hazardous materials, except as noted in budget quote

NOTE: This is a budget estimate subject to change, pending final scope of work as provided by owner.

Please feel free to contact us with any questions you may have.

Yours truly,

A handwritten signature in black ink, appearing to read "Daniel H. Baker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel H. Baker  
/dmp/4099c1