

Newton First Time Homebuyer

Analysis and Report

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Newton First-Time Homeowner Assistance

Introduction

This report documents the analysis authorized by the City of Newton's First Time Homebuyer Assistance Program project.

The project started with creating the list of the deed restricted homeownership units in Newton, and by examining each unit's history, deed restriction, and resale provisions, and resulting database was created.

The project scope from the RFP included:

1. Assess the City of Newton's First Time Homebuyer Assistance Program portfolio and associated materials;
2. Identify categories of units with similar deed restrictions and/or resale and recapture provisions;
3. Define a series of options for the City in terms of how to manage these different categories of units moving forward;
4. Develop a recommended plan of action for each category;
5. Create a step-by-step process for the future resale of units that remain in the portfolio, including how to manage a lottery and potentially how to make these units SHI eligible, as well as a process for the release of restrictions for units that the City decides should be removed from the portfolio
6. Assess the City's other policies related to affordable homeownership, including its Down payment and Closing Cost Assistance Program and the provisions related to ownership units in its Inclusionary Zoning ordinance and Comprehensive Permit Board Orders, and provide recommendations for areas of improvement. [Staff and consultants agreed that this did not warrant further exploration.]
7. Hold a series of in-person and phone meetings with Planning staff to gather necessary information and discuss project progress, as well as present draft and final reports to the Community Preservation Committee (CPC) at its regularly scheduled evening meetings
8. Deliverables to include a draft and final written report including the above-mentioned analysis and recommendations.

Summary of Findings

The project started with a portfolio inventory of 50 properties and finalized the inventory with a total of 79 restricted homeownership units in Newton after research and review. There are 60 units are registered on the State's Subsidized Housing Inventory.

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Four different types of deed restrictions were identified, each having a specific resale price determination method:

- 50 Universal deed restriction
- 16 Change in AMI method
- 5 Discount Rate method
- 8 Base Price method

The report identified eight units where an estimated \$726,707 of buy-down funds could be invested to maintain affordability for eligible purchasers (see attached Table A).

This important result of the analysis is the review of the resale price, and resulting buy-down funds required to maintain and preserve affordability using current parameters, including estimated condominium fees and capital improvement allowances.

The decision to provide buy-down funds can be made on a unit by unit basis. The decision points include:

- Provide buy-down funds to continue affordability, and utilize a Universal Deed rider to preserve perpetual affordability, or
- Revise affordability target to greater than 80% AMI or,
- Release property from restriction and recapture excess funds when sold at market, if no CPA or other subsidy involved.

Resale Process

The resale process for all restricted properties follows the following steps. The further details for each step are found in the specific affordable housing restrictions, covenants or deed riders:

1. Seller provides Conveyance Notice: The owner gives conveyance notice to the Monitoring Agent starting the resale process. The seller provides information regarding the property, including the appliances, condo fees, and other important information needed for the resale process including an appraisal if required. The DHCD Property Information Form can be used to assist in this purpose.
2. Monitoring Agent provides Maximum Resale Price: The Monitoring Agent promptly notifies the seller of the Maximum Resale Price, and other details to formalize the process:
 - a. Identify the Monitoring Agent and the role of the City. The Monitoring Agent is responsible for ensuring the resale is completed in accordance with the deed restriction, including either performing the resale or finding an experienced resale agent.

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For MassHousing 40B units, the Monitoring Agent is a third-party agent identified in the Regulatory Agreement (Housing Solutions, MetroHousing Boston) who performs the resales themselves using the resale fee (up to 2.5%) as compensation. For DHCD LIP units, DHCD is the lead monitoring agent with the City and DHCD hires a separate lottery/resale agent for their units (2% resale fee). The City is the Monitoring Agent for the remaining units in the portfolio. The City can proactively procure lottery/resale agent services on a retainer basis ahead of specific resale transactions. Some of the city restrictions allow for a negotiated resale fee to be included, a few specify 2% fee, and most specify no resale fee.

- b. Calculate the Maximum Resale Price (price to seller). These calculations will vary by method and defined further in the restriction, summarized below.
- c. Determine the Resale Purchase Price (price to buyer). In some cases (those units with the %AMI and Discount Rate methods), the Maximum Resale Price will not be affordable to an Eligible Purchaser. This is best done using the standard calculator, which includes current condo fee, interest rate, municipal tax rate, and the income limits for the desired AMI percentage with an affordability window if specified in the deed restriction. Note: In this analysis condo fee estimates have been used (in orange highlight) where the actual condo was not available.

To this figure, add the allowable capital improvement amounts and resale fee (where resale fee is allowable in the restriction). The difference between the Maximum Resale Price and this calculated price is the buy-down potential.

The decision to provide buy-down funds can be made on a unit by unit basis. The Maximum Resale Price may be affordable to a household earning 120% AMI, which may also create a moderate-income housing opportunity – also a needed price point. If the unit was created with CPA funds, the AMI cannot be greater than 100%. If the unit was created with HOME funds, the affordability period must be maintained (5 years for under \$15k, 10 years for \$15k - \$40k, 20 years for over \$40k).

- d. Set forth the marketing period timeline and identify the lottery/resale agent. The letter to the seller should identify the time period to locate an Eligible Purchaser, and the contact information of the resale agent.
 - e. This would be the time to determine the form of restriction to be used at the resale, including evaluating using the Universal Deed Rider on resale if applicable and adding the unit to the SHI if not already there. This may require working with DHCD on this important point.
3. Conduct marketing: The resale agent markets the unit to locate an Eligible Purchaser. In most cases, the main marketing period is 90-days, with additional

time frames as needed for details of closing and the like. The City has the ability to purchase the unit during the marketing period.

The resale agent prepares the application and advertisements, outlining the eligibility requirements, the unit description, the application process, and preferences used in selection, and a description of the deed restriction in accordance with Affirmative Fair Housing Marketing guidelines.

Wide marketing is undertaken by the agent to solicit interest from eligible applicants. This includes posting to the MassAccess Housing Registry (the state's affordable housing search site sponsored by CHAPA), municipal website and notices, local organizations, and other outlets. Paid advertising while not required but might be helpful if the applicant pool is thin.

The selection of buyer should be made by lottery. Given the 90-day period to find an eligible buyer, the application period should be open for 10 business days, with the lottery shortly after the application period ends. Lottery administration is best handled by an experienced agent to ensure that Affirmative Fair Housing Marketing guidelines are followed.

In most cases, after the 90-day period, the unit can be sold to an 'Ineligible Purchaser' (not income and assets eligible), with the restriction staying on the property. Each restriction will need to be reviewed carefully for the particulars if an ineligible purchaser cannot be found.

4. Close to the new buyer: Once a buyer is selected through the lottery, the process completes much like a standard real estate closing process. The buyer is given an opportunity to see the unit and have a home inspection. The buyer and seller complete a Reservation Form, or similar, to outline their intention to transact, to exchange attorney information, to outline the Purchase & Sale date and closing.

Before the Purchase & Sale is executed, the buyer is presented for approval to by the Monitoring Agent. This approval constitutes an approval to purchase.

Once the mortgage commitment is received, the Monitoring Agent reviews the final documents (including updated income/assets is older than 60days), and prepares the closing documents, including Compliance Certificate, Resale Price Certificate, and form of restriction.

5. Post-purchase verification. Ensure the documents are recorded, update tracking systems in this ending set of activities.

Resale Valuation Methods

Below is an explanation of the deed rider methodologies used in Newton as excerpted from the deed riders/restrictions. For Methods #1, 3 and 4 there will be no buy down subsidies necessary to maintain affordability. We have identified eight properties where the Maximum Resale Price is calculated by Method #2: % AMI Change, that will not be affordable to a 80% AMI low income household. This is discussed further below.

Method#1: Universal Deed Rider.

This method is found for most (50) of the ownership units in the portfolio, including the units in Millhouse Commons, Court St, Coyne Road, Ellis Heights, Linden Green Homes, Parkview Homes, Woodmere Commons (recent resales), Walnut St /Oxford House, Waban Village, and Covenant Commonwealth. This form of restriction is used on both the 80% AMI units and the fewer (5) higher income limit CPA units. Most (all but 1) of the 80% AMI units are on the SHI.

This is the current standard for affordable housing deed restrictions, developed by the State Department of Housing and Community Development in 2006, and used by all subsidizing agencies including MassHousing for the 40B units, and DHCD for the LIP units.

It is known as the Universal Deed Rider and has many useful features, including survives foreclosure, as approved by FNMA, and the provision to sell to an Ineligible Purchaser retaining the affordable housing restriction on the property in perpetuity.

The restrictions for these units are recorded as a deed rider attached to the unit deed.

This rider calculates the Maximum Resale Price so that the price will always be affordable. No buy-down funds are needed for units protected through the Universal Deed Rider. The formula evaluates three values to calculate the Maximum Resale Price: the Calculated value, the Continued Affordability value and the Purchase Price.

The Calculated value uses the Resale Price Multiplier, which is the number calculated by dividing the Property's sale price by the Base Income Number (the Area Median Income for a four (4)-person household) at the time of the unit's sale. This value is found in the deed rider as well as a separately recorded Resale Price Certificate.

The Maximum Resale Price is the Calculated value provided it is less than the Continued Affordability value and greater than the Purchase Price.

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Below is the language from the deed rider.

Maximum Resale Price means the:

*sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); **(Calculated value)***

provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked []

*_____ percent (___%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); **(Continued Affordability value)***

*and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price. **(Purchase Price)***

Method#2: % AMI Change.

This method is found for sixteen (16) units in scattered site properties, sold under the Newton Homebuyer Assistance Program, with initial sales in the 2003-2009 timeframe, and resales of those units. Some of these units are on the SHI.

The restrictions for these units are often recorded as a separate covenant document.

This restriction calculates the Maximum Resale Price as a function of the change in the 80% Area Median Income from initial purchase to time of sale.

For some units, the Maximum Resale Price calculated price will not be affordable to an 80% AMI low income household. This may be due to an original purchase price that was high for a household at the income limit, but the housing was affordable for a specific buyer with their own funds for additional down-payment. The homebuyer program did not impose consistent asset limits or exempted down payments from the asset determinations.

Eight units have been identified where the calculated resale price is currently unaffordable to an 80% AMI household, sold with a 10% affordability window (see attached Table A). The decision to provide buy-down funds can be made on a unit by unit basis. The options would be to provide buy-down funds to continue affordability (and utilize a Universal Deed rider to eliminate future issue), revise affordability target

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to greater than 80% AMI or, release property from restriction and recapture excess funds when sold at market. The Maximum Resale Price may be affordable to a household earning 120% AMI, which may also create a moderate-income housing opportunity – also a needed price point. However, if the unit was created with CPA funds, the AMI cannot be greater than 100%. If a buydown is required and the City would like to have the unit utilize a Universal Deed rider, then it is advisable to buy down the price so that it is affordable to the 70% AMI level as is typically required with future resales.

Most of the restrictions allow for an increase to the calculated price equal to 1% percent of the Initial Sales Price per year of ownership, subject to the review and approval of Municipality for Capital Improvements made by the owner. If this is factored into the units requiring a buydown then the buydown amount would increase. Below is the language from the affordable housing restriction.

Maximum Resale Price means the Initial Sales Price multiplied by a fraction, the numerator of which is 80% of Newton Area Median Income as of the date of receipt of the Conveyance Notice and the denominator of which is 80% of Newton Area Median Income as of the date of the Closing of the Initial Sale, plus Improvements, as more fully described herein.

Subject to the review and approval of Municipality, in its sole discretion, documented out-of-pocket costs for Improvements completed by the Initial Owner may be added to the Maximum Resale Price; provided, however, that total adjustment for such Improvements shall be limited to one (1 %) percent of the Initial Sales Price per year of ownership. Improvements that are funded by Federal, state or local grant programs are not eligible to increase the Maximum Resale Price.

Method#3: Discount Rate.

This method is found for five (5) units in the Homes at Auburndale Yard and Woodmere Commons developments.

In this method, the Maximum Resale Price means the full and fair market value of the Property determined without regard to any restrictions contained in this Deed Rider multiplied by the Discount Rate recorded in the affordable housing deed restriction, reduced to an affordable price if that is not affordable to an eligible purchaser. This price can be reduced to an affordable basis, calculated using the standard calculator.

This method is in use for units sold in the 1998-time frame, with some restricted under the MassHousing NEF FHLBB program. This method was replaced by the resale price multiplier-based method in the 2004-2005-time frame as it generated maximum resale prices above affordable levels. The restriction is released upon resale if no eligible purchasers are located.

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"Maximum Resale Price" equal to the appraised fair market value of the property at the time of resale, as determined by the Monitoring Agent, (as specified in the Regulatory Agreement) multiplied by the applicable Discount Rate (as hereinafter defined), or, if there is no eligible purchaser who can qualify to purchase the property at the normal Maximum Resale Price, then to an eligible purchaser for a price defined as the "Certified Sale Price" herein and in the Regulatory Agreement equal to the price which an eligible purchaser can pay as determined by the Monitoring Agent;

If the Grantee is unable to locate an eligible purchaser within one hundred twenty (120) days from the date the Property is put on the market, the Grantee may convey the Property to any third party at fair market value, free of all restrictions set forth herein, provided, however, all consideration and payments of any kind received by the Grantee for the conveyance of the Property to the third party which exceeds the Maximum Resale Price shall be immediately and directly paid to the Municipality....

Method#4: Base Price

This non-standard method is found in the restrictions of the eight (8) condominiums at Crescent Street, initially sold in 2000.

The "Base Price" shall equal the purchase price paid by the Owner PLUS: the cost of the appraisal, the approval capital improvements and excise taxes incurred in connection with the sale of the Property; PLUS, a return on the Owner's investment equal to the product of:

- (i) the sum of the Owner's original down payment plus one-half of the aggregate of regular principal payments made by the Owner on the allowable secured debt on the Property multiplied by
- (ii) a fraction, the numerator of which shall be the Price Index for the last month preceding the Notice minus the Price Index for the month preceding the Owner's purchase of the Property and the denominator of which shall be the Price Index for the month preceding the Owner's purchase of the Property.

The "Price Index" shall mean the "Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items

**Table A
Newton Homebuyer Assistance
Potential Buy-Down units
April 2020**

#	Unit Address	Unit Size, Purchase Date	Original Purchase Price	Calculated Resale Price	Resale Price 80% Afford.	Resale Price 70% Afford.	Max. Allow. Capital Improv.
1	Boylston Street, 96, Unit 1	1	\$162,500	\$236,442	\$233,200	\$194,000	\$22,750
	Buy Down Required	6/27/2006			\$3,242	\$42,442	
2	California Street, 246-250, Unit 250	4	\$305,000	\$443,783	\$350,500	\$297,500	\$45,750
	Buy Down Required	10/4/2005			\$93,283	\$146,283	
3	Centre Street, 548, Unit 3C	1	\$153,750	\$223,710	\$240,600	\$201,300	\$19,988
	Buy Down Required	8/22/2007			No Buydown	\$22,410	
4	Christina, 90-94 Unit 92B	3	\$265,000	\$407,123	\$343,500	\$294,500	\$0
	Buy Down Required	10/1/2003			\$63,623	\$112,623	
5	Hawthorn Street, 101	3	\$365,184	\$433,403	\$392,500	\$343,400	\$7,304
	Buy Down Required	1/25/2018			\$40,903	\$90,003	
6	Langley Road, 412, Unit 6	1	\$180,000	\$261,905	\$264,500	\$225,100	\$27,000
	Buy Down Required	11/1/2005			No Buydown	\$36,805	
7	Playstead Road, 33, Unit 2	2	\$200,000	\$296,154	\$280,000	\$235,700	\$16,000
	Buy Down Required	9/28/2012			\$16,154	\$60,454	
8	Whittemore Road, 16, Unit 1	3	\$309,206	\$380,820	\$362,300	\$313,200	\$9,276
	Buy Down Required	2/8/2017			\$18,520	\$67,620	
					Resale Price 80% Afford.	Resale Price 70% Afford.	Max. Allow. Capital Improv.
	Added Buydown Costs				\$235,724	\$578,639	\$148,067
	TOTAL Buydown Potential for Resale Price @ 70% Affordable + Capital Improvements						\$726,707