



CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

Memorandum

[via email]

Setti D. Warren
Mayor

From: Kathy Laufer, Chair

Candace Havens
Director
Planning & Development

To: Planning and Development Board
Community Preservation Committee
Candace Havens, Director

Robert Muollo, Jr.
Housing Planner

Date: November 21, 2013

Re: Fair Housing-related testimony at the Community Preservation Committee/Planning and Development Board public hearing held on November 4, 2013.

Members
Kathy Laufer, Chair
Susan Paley, Vice-Chair
Karen Allschwang
Philip Herr
Ald. Ted Hess-Mahan
Josephine McNeil
Sheila Mondschein
Esther Schlorholtz
Keisha Willis

At its meeting on November 6, 2013 the members of the Newton Fair Housing Committee discussed two fair housing related concerns about the Myrtle Village proposal that were raised by attendees at that public hearing. We concluded that in neither case were the applicant's actions inconsistent with Fair Housing practices.

1. IS IT UNFAIR TO GIVE PRIORITY FOR NEWLY BUILT OR REHABBED HOUSING UNITS TO HOUSEHOLDS BEING DISPLACED BY A PROJECT?

Displacement of households in order to carry out development has a regrettable but sometimes unavoidable impact on those persons who are displaced, regardless of the efforts by developers to mitigate and offset the financial costs of that displacement. Federal policy calls for efforts to minimize such impacts. In fact, HUD requires developers to pay relocation fees including the difference between the current rent and the rent at a new location for up to 4 years as well as moving expenses.

In this instance, there are three households resident on the affected premises. All three have been notified of the property owner's intention to conduct development on those premises, and of the developer's offer to enable them to be temporarily relocated until such time as the premises in which they formerly resided are complete and ready for occupancy, as long as those households continue to be eligible in terms of income and household size.

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In discussion, the Fair Housing Committee members found no reason to object to that arrangement, but rather applauded it as a commendable effort to minimize the otherwise disruptive impacts of development upon those households.

Newton's Zoning Ordinance at §30-24(f)(8) specifies how eligible applicants for affordable units are to be selected, but it does not specifically enable preference for displaced households. As proposed more than a year ago by this Committee, an amendment to that Ordinance was drafted, clarifying the City's intention to allow such arrangements, and detailing the process through which it is to be implemented. Earlier this week that amendment was adopted by the Board of Aldermen.

Even more importantly for this instance, this development is being proposed under the provisions of Chapter 40B, MGL which enables affordable developments to be approved by the Board of Appeals despite any Zoning provisions with which it does not comply. Should the adoption of the amendment proposed by this Committee not be timely, the Board of Appeals still could properly allow the priority for displaced households. In short, we find nothing inconsistent with fair housing practices in allowing preference to be given to those who will be displaced by the development.

2. DOES PROVIDING PUBLIC FUNDS FOR DEVELOPMENT BY A CHURCH-CREATED ORGANIZATION RESULT IN DISCRIMINATION?

The Myrtle Church is investing a great deal of effort, time, and valuable real estate in support of this development's creation. However, the church is not the developer. The developer is Myrtle Village LLC, which operates independently of the Church. Each step in the development process as proposed will be guided by City, State and federal regulations, including the selection of those households to which the units will be rented, with strict rules regarding qualification of applicants and their selection through a lottery. In any event, there is no prohibition to religious institutions receiving public funds as long as they are used for a public purpose.

The Committee observed that the carefully designed and administered process assures that there will be no religion-based discrimination in the selection process or other arrangements. It is hardly a singular case for a religious body in Newton to provide efforts and resources for the creation and operation of affordable housing: a number of the City's largest providers of such housing were created by religious organizations. In short, we find nothing problematic in use of public funds for this proposed development; rather, we are gratified by the efforts made by such organizations to serve public needs and to promote diversity through housing efforts.