



Zoning & Planning Committee Report

Part 2

City of Newton In City Council

Monday, September 27, 2021

Present: Councilors Crossley (Chair), Albright, Leary, Wright, Baker, Krintzman, Danberg and Ryan

Also Present: Councilors Downs, Kelley, Greenberg, Bowman and Lucas

City Staff: Deputy Director of Planning and Development Jen Caira, Planning Associate Cat Kemmett, Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee, CPA Program Manager Lara Kritzer, Housing Development Planner Eamon Bencivengo, Director of Housing and Community Development Amanda Berman

Planning and Development Board: Peter Doeringer, Barney Heath and Jennifer Molinsky

Community Preservation Committee: Vice Chair, Jennifer Molinsky

Newton Housing Partnership and Community Preservation Committee: Eliza Datta

Newton Housing Authority: Amy Zarechian

Cascap, Inc.: Marcia Hannon, Project Management Consultant

Others Present: NewTV

#528-20 **Requesting review and possible amendment to Local Preference in Chapter 30**
COUNCILORS ALBRIGHT, NORTON, CROSSLEY, BOWMAN, NOEL, HUMPHREY, WRIGHT,
LAREDO, KALIS, RYAN, LIPOF AND DANBERG requesting a review and possible amendment to the Local Preference Ordinance in Chapter 30 sections 5.11.8. This section requires an Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP) for all Inclusionary Units which provides for a local preference for up to 70% of the Inclusionary Units. Various groups including The Fair Housing Committee and the Newton Housing Partnership have questioned whether the percent of local preference to current Newton residents should be lowered with the goal of increasing racial diversity in Newton.
Zoning & Planning Held 04/12/21, 07/26/21

ACTION: Zoning & Planning Held 8-0; Public Hearing scheduled for 10/25/21

NOTE: Chair Crossley noted that the Newton Housing Partnership (NHP) voted to recommend reducing the local preference rate in the inclusionary zoning ordinance from 70% to 25% to make deed-restricted affordable housing more accessible to more people. (NHP letter attached).

Director of Housing and Community Development Amanda Berman joined the Committee for discussion on this item.

Ms. Berman presented a summary of the (PowerPoint attached) year of discussion and analysis on this item, including the Barrett Report, the proposed amendment and recommended actions beyond the scope of this one item.

Ms. Berman described the Barrett Planning Group's analysis and report, which assessed the impacts of Newton's local preference policy on the demographics of both local and non-local applicant pools versus the demographics of final tenant selection. The data shows a negative impact on people of color. Three recent rental housing lotteries were examined to assess the effect of Newton's 70% local preference policy, including TRIO on Washington Street, 28 Austin Street and the Hancock Estates at Kessler Woods.

Key findings include that the households that benefits the most from Newton's current local preference policy are white, non-Hispanic households that qualify as "local preference" applicants. Although a majority of applicants in these case studies were minority populations, selection rates were higher for white applicants in all three developments than for minority applicants overall. Non-local preference pools were overwhelmingly made up of minorities. It is important to note that applicants that qualify as "local preference", who do not make the cut in the first local preference pool, get a second chance in the general pool. In addition, of the nine accessible affordable units within these three developments, only four were initially leased to tenants with disabilities. Further study is necessary to understand these results, but pricing of these units may still be too high for people with disabilities. The NHP and Housing division will continue to examine other barriers to selection and share findings with the committee at a later date. However, the recommendation is to take this one action now.

Ms. Berman stated that the proposed amendments to IZ Ordinance: Sec. 5.11 is as follows:

1. To the extent permitted by law, such plan must provide for a local preference for ~~up to 70%~~ up to 25% of the inclusionary units in a project and at least one of the local preference units must be a fully accessible unit.

Committee members comments, questions and answers:

It is necessary for people with disabilities to be able to afford accessible apartments in the City.

It is concerning that people with intellectual disabilities perhaps cannot afford apartments in the City. Perhaps the 50% level of income is too high for people with intellectual disabilities. We need to work on making units available at a lower AMI, like 35%, where perhaps they would qualify. Ms. Berman answered that someone with an intellectual or developmental disability doesn't necessarily require the features of a disabled-accessible or hearing-impaired unit and, therefore, would not be given top priority for these units or any of the other affordable units in a project, even if they qualify as a local preference applicant. In order to qualify for a disabled-accessible unit, applicants must provide a note from a medical professional who treats the disability, stating that they need the special features in the unit. Perhaps the NHP can review the suggestion to look further into the need for more staffed housing to meet the specific needs of individuals with intellectual and physical disabilities, which is different than the units provided through Inclusionary Zoning projects.

Would a home built to universal design standards benefit people with cognitive disabilities? Chair Crossley answered that the universal design does not specifically benefit those with cognitive disabilities but noted that many staffed group homes for adults managing such disabilities exist in Newton.

Several Councilors have expertise with managing and running group homes.

Could the City require units be designed to universal design standards?

How can the City assist people (to obtain affordable accessible units) who have physical disabilities?

Ms. Berman answered that Ms. Fairley, ADA Coordinator, expressed concern on this. By law, all units in a newly constructed residential building with 3 or more dwelling units must be built to standards that make them "visitable" and as well must be adaptable in case the unit must be modified to accommodate a disabled tenant. Any person requesting a reasonable accommodation to meet their disability, must be accommodated. For newly constructed residential buildings (dwelling units not for sale) which have 20 or more dwelling units, at least 5% of these units must follow Group 2 requirements, the more fully accessible requirements.

Perhaps the NHP and the Planning Department can begin discussions on people with disabilities and their needs. The NHP, Planning and ADA Coordinator Fairley intend to continue these discussions and seek solutions to accommodate more persons with disabilities.

Some residents have expressed concern on lowering the local preference rate and how that may impact the City's front-line workers. Fire Department data shows that 80 out of 199 firefighters live in the City. Police Department data was not available.

Others felt the proposed 25% rate is very reasonable.

The City benefits when accessible apartments are available. Housing is necessary for all people with any type of disability.

Councilor's suggestions, questions and answers:

Since local preference includes people working in the city, what type of outreach is made to facilities such as Newton Wellesley Hospital (a diverse workforce)? Ms. Berman answered when a project is being developed, the lottery agent works on putting together an affirmative fair housing marketing and resident selection plan. Chapter 40B guidelines specify what is necessary to be included in the affirmative fair housing marketing and resident plan. The DHCD oversees local preference and the affirmative fair housing marketing and resident selection policy for the affordable units. The plan must be approved by DHCD prior to the commencement of any marketing of the development.

Please provide the outreach process for Newton Wellesley Hospital employees.

When Police and Fire Department personnel are first hired, they are required to have a connection to the city (live in the City). If we can increase diversity in the selection process, this may bring diversity to filling these positions.

It is important to notify the established organizations within the City including the Police and Fire Departments, Commission on Disability, teachers, Newton Housing Partnership, Fair Housing Committee, Planning Board, FORJ (Families Organized for Racial Justice), local unions and other groups representing minorities of the public hearing date.

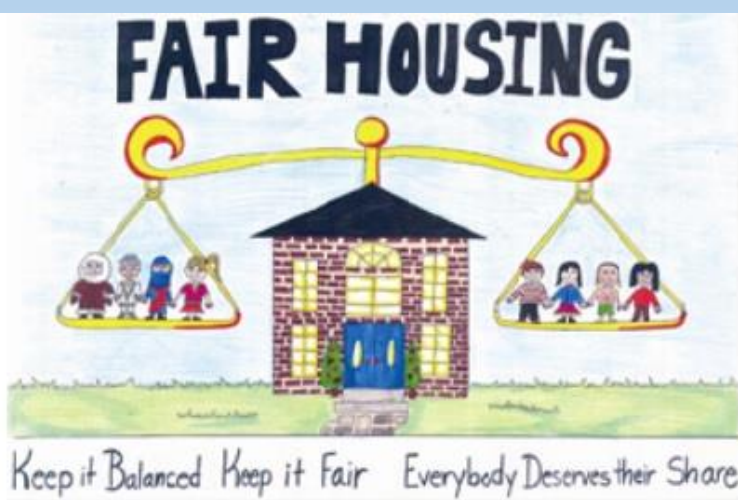
Committee members thanked Ms. Berman and the NHP for their diligence.

Without further discussion, Councilor Ryan made a motion to schedule a public hearing for October 25, 2001. Committee members agreed 8-0. Councilor Leary made a motion to hold the item. Committee members agreed 8-0.

The Committee adjourned at 9:35 p.m.

Respectfully submitted,

Deborah J. Crossley, Chair



Newton's Local Preference Policy Recommended Changes

ZAP Meeting
September 27, 2021

The City of Newton
Planning & Development Department

A Year of Discussion & Analysis

- **Newton Housing Partnership July 2020 Vote**
 - Voted to adopt 0% local preference policy for Riverside to “send a strong message that Newton will not perpetuate policies that keep non-white people out of our City.”
- **WestMetro HOME Consortium’s FY21-25 Analysis of Impediments to Fair Housing Report**
 - Obligation of each consortium community to take affirmative action to ensure that people of color, and other protected classes, have equal access to housing in that community
- **Fair Housing Committee Analysis of Lottery Results**

A Year of Discussion & Analysis, cont'd

- **Barrett Planning Group's 2021 Analysis and Report**
 - Does Newton's Local Preference Policy create a disparate impact on people of color?
- **Newton Housing Partnership Discussions and Recommendation**
 - Reduce requirement from 70% to 25%
- **Zoning & Planning Committee Discussions**
 - April 12; July 26; and September 27

The Barrett Report

➤ Scope of Analysis

- To assess the effects of Newton's 70% local preference policy in three recent rental housing development lotteries: TRIO, 28 Austin Street, and Hancock Estates

➤ Key Findings

- The community that benefits the most from Newton's local preference policy is White, non-Hispanic local households
- Selection rates were higher for White applicants in each of the researched developments than for minority applicants overall
- Non-local preference pools were overwhelmingly made up of minorities

The Barrett Report

Local Preference Applicant Pool	LP Tenants (44/61)	Non-local Preference Applicant Pool	Non-LP Tenants (17/61)	General Applicant Pool	General Pool Tenants
51% White	61% White	30% White	12% White	35% White	47.5% White
49% Minority	39% Minority	70% Minority	88% Minority	65% Minority	52.5% Minority

The Barrett Report

❖ Accessible Affordable Units

- 9 accessible affordable units across 3 projects that were analyzed
- Only 4 were initially lease to tenants with disabilities
- Further study needed to understand these results
- Pricing of these units may still be too high for people with disabilities

From Analysis to Action

- The identified correlation between Newton's 70% local preference policy and the percentage of minorities, particularly Black and African American applicants, that sign leases for these affordable units, as compared to their White, local-preference counterparts, sheds light on the [need to enact a change to the long-standing requirement.](#)

Recommendations for Changes to the Local Preference Requirement #528-20

Recommendations:

70%  25%

- 1) The Newton Housing Partnership voted on 8/17/21 to recommend a reduction in the policy from 70% to 25% to “mitigate the discriminatory effect of the policy and to affirmatively further fair housing outcomes”, and
- 2) To assess other “policies that prevent project sponsors from discriminating during the tenant selection process”
- 3) Require that at least one of the local preference units be a fully accessible affordable unit

Proposed Amendments to IZ Ordinance: Sec. 5.11

#528-20

- C. An Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP) for all Inclusionary Units, including Tier 2 Middle-Income Units, which, at a minimum, meets the requirements set out in in the Comprehensive Permit Guidelines of the DHCD, Section III., Affirmative Fair Housing Marketing and Resident Selection Plan, as in effect December 2014 as the same may be amended from time to time and:
1. To the extent permitted by law, such plan must provide for a local preference for ~~up to 25%~~ **70%** of the Inclusionary Units in a project **and at least one of the local preference units must be a fully accessible unit;**
 2. Where a project results in the displacement of individuals who qualify for a unit in terms of household size and income, first preference must be given to those displaced applicants, unless such preference would be unallowable under the rules of any source of funding for the project;

Next Steps

- ZAP to schedule a Public Hearing

September 27th ZAP Mtg.

Questions / Comments?

Thank you!