
METROWEST REGIONAL AFFORDABLE HOUSING TRUST project Final Report

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I. Introduction

MetroWest is a dense, diverse, and congested hub of economic activity. With the continued growth of the region comes an increase in demand for employment and housing. MetroWest communities struggle to increase the supply of housing that is available to and affordable by low-income, moderate-income, and middle income households, and to ensure that such housing remains affordable over the long term.

MetroWest communities agree that the housing problem is regional in nature. Local municipalities face the common challenges associated with the provision and maintenance of affordable housing on a daily basis, but in many instances, they do not have the staff necessary to adequately address the needs of the community. MetroWest planners began discussing tools to foster and improve housing opportunities in the MetroWest region in 2006.

Regionalization of housing activities and services could be a valuable collaborative approach to affordable housing solutions. By assisting communities with the implementing their goals to create permanently affordable homes for individuals and families with low, moderate, and middle incomes, the MetroWest Regional Affordable Housing project could help maintain balanced and diverse housing options.

MetroWest Growth Management Committee received a District Local Technical Assistance grant through Metropolitan Area Planning Council to research MetroWest housing activities and opportunities to collaborate regionally. Additionally, MWGMC would research regional housing trust models and design a model to support MetroWest regional housing activities. For the first task, staff began working in August to create and administer a survey to MetroWest communities, including outreach to communities from the Southwest Area Planning Council and Minuteman Advisory Group on Interlocal Coordination (MAGIC) subregions of the Metropolitan Area Planning Council. The survey was designed to identify:

1. Municipal and private affordable housing activities;
2. Municipal and private affordable housing goals;
3. Housing contacts from housing agencies, organizations, and town committees/commissions;
4. Assistance needed from municipality to address affordable housing issues;
5. Capacity of municipality to address affordable housing issues (staff, funds, etc.);
6. Activities for/ services of a regional affordable housing trust; and a
7. Lead contact person responsible for housing activities in each municipality.

The following answers were collected from the communities of Bedford, Bolton, Concord, Framingham, Holliston, Lincoln, Maynard, Marlborough, Natick, Southborough, Sudbury, Wayland, and Wellesley.

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II. Survey Results

Does your municipality have a committee or task force focused on housing? Please provide the name and accompanying information.		
What is the name of the committee or task force?	How and when was it established? (ad hoc, by Selectmen, by Mayor, other)	What is the group's mission or key priorities?
Wayland Housing partnership	1988, selectmen and planning board	
Southborough Housing Opportunity Partnership Committee (SHOPC)	Created by Town Meeting as a standing committee in the code	To study, promote, and act as facilitators to create affordable housing in the Town of Southborough.
Maynard Affordable Housing Trust	By Board of Selectmen/Town Meeting, 2008	Just starting, forming committee and conducting a housing needs assessment. Then evaluate methods for providing more affordable housing opportunities.
Bolton Affordable Housing Partnership (BAHP)	Board of Selectmen	Affordable housing
Sudbury Housing Trust	April 2006 Annual Town Meeting	To provide for the preservation and creation of affordable housing in the Town of Sudbury for the benefit of low and moderate income households
Concord Housing Development Corporation	Established by legislation and the Board of Selectmen in 2007-08	To develop affordable housing opportunities, primarily home ownership
Holliston Housing Committee	Board of Selectmen	To increase the number of affordable units in Holliston
Foreclosure Task Force	Town Manager/Board of Selectmen	To manage the foreclosures in Framingham
Natick Affordable Housing Trust Fund	February 2008 by Town Meeting	To create and preserve affordable housing for the benefit of low and moderate-income households.
Wellesley Housing Development Corporation	Town Meeting established in 1991	To sponsor and assist in the development of affordable housing opportunities for persons of low and moderate income in the Town of Wellesley, Massachusetts in order to implement the Town's Affordable Housing Policy.
Bedford Housing Partnership	By vote of Board of Selectmen as an ad hoc committee in the early 1990's	To promote affordable housing development
Housing Troika	Ad Hoc	To integrate the work of various housing agencies

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Please identify other contacts that are assisting your community with affordable housing goals, if applicable.

Housing Authority	Non-profit organization	Other
Brian Boggia, ED (Wayland)	Wayland Housing Associates	
Lynne Moreno, ED (Southborough)	Southborough Affordable Housing Trust	
Bob Barrell, ED (Stow)		
Jo Ann Howe, ED (Sudbury)		
Judy Lincicum, ED (Concord)	Concord Housing Development Corporation	
Brenda Farrell, ED (Holliston)	Holliston Community Preservation Committee	
Ed Santos, ED (Natick)	Natick Community Development Advisory Committee	
Pamela Clark Allen, ED (Wellesley)		
Barbara Peacock, ED (Bedford)	Bedford Municipal Affordable Housing Trust	
	Lincoln Foundation	Affordable Housing Trust

Please describe your group's affordable housing goals.

Response Text
<p>Wayland - The Wayland Housing Partnership was appointed by the Board of Selectmen in 1988 to study the need for affordable housing and to recommend procedures for the implementation of Wayland Affordable Housing Policy. The WHP reviews all private and public affordable housing initiatives before the Town. The Wayland Housing Policy was approved by the Wayland Board of Selectmen, Planning Board, Housing Partnership Committee and Wayland Housing Authority in 1987.</p>
<p>Southborough - Affordable housing in Southborough, both for renters and those seeking home ownership, is far out of reach for many. The Housing Needs Assessment clearly shows a critical need for affordable housing of both categories. A diverse housing stock, comprised of single-family homes (particularly small lot), duplexes, condominiums, and multi-family rental units must be provided for all areas of need, both ownership and rental to reflect basic requirements and to provide choice. Affordable housing must be made available for seniors (both active and those in need of assisted-living care), families, young people and young couples, those with special needs or disabilities, and everyone in between. The strength of a community is apparent when people of all ages and income ranges can live and work there. Very little affordable housing is currently available in Southborough, and those units that are affordable rarely become vacant. A range of affordable housing options that accommodates many kinds of populations and their housing desires and that preserves our historically rural small town character is our goal.</p> <ul style="list-style-type: none">- Maximize local control over the development of affordable housing.- Provide affordable housing for several key population segments. The target segments include; retired seniors and 55+ active adults, families, young people, people with special needs, and Town employees.- Affordable housing projects will be designed and built in accordance with the standards typical in Southborough and that are fitting with our culture and character.- Affordable Housing will be inclusive, diverse and evenly distributed throughout all of Southborough.- Southborough affordable housing stock will provide for middle, moderate, and low-income households. <p>2008 Master Plan Housing Goal Statements</p> <p>H-1 Ensure that future generations of Southborough citizens and people who work in Southborough are able to remain as residents of the Town.</p> <p>H-2 Encourage a more diverse population.</p> <p>H-3 Expand the housing choice in Southborough for families.</p>

H-4 Encourage small lot zoning in villages and other appropriate areas in Town.

H-5 Allow shared septic systems to encourage alternatives to single-family homes.

H-6 Encourage multi-family housing in appropriate locations and at an appropriate scale.

H-7 Maintain Southborough's attractive and aesthetically diverse housing stock and continue to promote quality in future development.

2008 Master Plan Housing Implementation Steps

1. Develop a master plan for use of CPA funds

2. Continue to use CPA funds for variety of affordable housing strategies:

- rehabilitation of existing housing stock (loan program)
- develop creative financing mechanisms to assist income eligible households
- purchase existing multi-family homes for rental housing administered by SHA
- buy-down existing housing stock
- construct septic systems for non-profit affordable housing development
- provide matching funds for partnerships with non-profits
- provide housing for disabled and elderly residents

3. Encourage development on in-fill and non-conforming parcels

4. Encourage re-use of commercial buildings for loft apartments and/or live-work space

5. Encourage a greater diversity of housing options (apartments in 40B projects; accessory apartments, deed restrictions in existing dwellings, etc.)

6. Allow shared septic systems to encourage alternatives to single-family homes.

Bolton - In response to the need for varied affordable housing, the Long-Range Planning Committee recommended the formation of the Bolton Affordable Housing Partnership (BAHP) in 2002. The creation of the Bolton Affordable Housing Partnership was endorsed by a Town Meeting vote in November 2002. The Partnership's guiding principles are:

1. Maximize local control over the development of affordable housing. Foremost, this will be achieved when we reach the 10% threshold. This will also be accomplished by taking a proactive approach, by establishing locally directed initiatives, by clearly articulating a strong

vision for what we want, and by our willingness to take the necessary steps to achieve that vision.

2. Provide affordable housing for several key population segments. The target segments include; retired seniors and 55+ active adults, families, young professionals, town employees and persons with special needs. Housing should include a mixture of single-family homes, condominiums and apartments with both ownership and rental units at affordable rates. The percent allocation between Senior and family units, ownership vs. rental will change over the years. Initial target numbers have been developed with information from the survey and population task groups of the Long-Range Planning Committee in 2002.

3. Affordable-housing projects will be designed and built in accordance with the standards typical in Bolton and that are fitting with our culture and character.

a) Height limitations and construction style of all buildings must be in accordance with the standards set by other buildings in Bolton

b) No clear-cut properties

c) No cookie cutter, mass-produced units.

d) Housing that reflects the rural character of the Town

4. Establish maximum density target for affordable housing developments: Current single-family house lot size requirement is 80,000 square feet. The suggested maximum density targets are the numbers of units in an affordable housing project per buildable lot of land on a given site.

Single Family Homes 2: 1

Town House/Condominiums 6: 1

Apartments 10: 1

5. Affordable housing will be inclusive, diverse and evenly distributed throughout all of Bolton. Affordable housing in Bolton will not be located in one part of town, nor in one project, nor in any way excluded from the mainstream of our community. The Bolton Affordable Housing Partnership will promote mixed-use developments and will site affordable housing developments throughout the geography of the town.

6. Negotiate with developers over comprehensive permit or local initiative projects to provide for:

a) A level of local preference

b) Affordability in perpetuity through deed restrictions and/or rental guidelines

c) Monitoring and reporting to the town by the development regarding ongoing affordability

- d) Local legal review of regulatory and monitoring agreements and documents
- e) A minimum of 25% affordable units, a maximum of 50% affordable units, and a target of 35% affordable units.
- f) Infrastructure or other benefits to the town
- g) Limitation on profitability to the developer
- h) Provide both moderate and low-income affordable housing stock for Bolton households. Affordable housing is defined as affordable to those who earn at or below 80% of the median area income. Low income is defined as at or below 50% of the area median income.

7. Critical decisions about affordable housing projects should be made by a diverse group of informed citizens in the community. Membership of the Bolton Affordable Housing Partnership will be diverse, committed, and informed to provide the leadership the town needs to meet this challenge. All potential affordable housing projects must be reviewed, analyzed and assessed based on these guiding principles and on the potential financial impact to the community. A clear set of guidelines for this review process will include an assessment of the social, municipal, environmental and financial impacts of the proposed project.

Sudbury - The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Sudbury for the benefit of low and moderate income households.

Concord - The following goals are taken from the 2005 Comprehensive Long Range Plan - A Vision for 2020.

1. Increase the variety of housing types to meet the needs of Concord's diverse population.
2. Accommodate the evolving needs of individuals, families, the elderly and municipal employees to enable them to move into or remain in Concord.
3. Provide affordable housing that is in keeping with the character of Concord and meets the State goal of 10% affordable housing in the Town.
4. Retain the classic New England character of Concord which optimizes smart growth principles and fosters strong neighborhood identities.

Holliston - It is our goal to work with the Community Preservation Committee and the appropriations voted in at Town Meetings to increase the number of affordable units in Holliston.

Framingham – The Town completed a housing plan in 2007, which sets forth the Town's goals and policies. Framingham meets the Chapter 40B 10% requirement. Our goal is to maintain that status.

Natick - Provide housing opportunities for those at the entry level of homeownership, "empty nesters," young families and other households in the "lower-middle" income range that are priced out of the market, elder residents, and those requiring housing assistance and rental housing units. Utilize limited funds to facilitate creation and or perpetuation of affordable units

for eligible individuals and families.

Wellesley - Town of Wellesley Affordable Housing Policy

"Wellesley is an outstandingly attractive residential community, enriched by the diversity of its residents. Wellesley seeks to maintain and enhance its present character by preserving a mix of housing stock that includes low income, moderate income and market rate housing." In establishing this Affordable Housing Policy, Wellesley seeks to control its own growth and development. Affordable Housing is housing which, under the guidelines and regulations promulgated by Massachusetts General Laws, Chapter 40B, is defined as low or moderate income housing, or housing which may otherwise be determined by vote of Wellesley Town Meeting to be affordable housing

Bedford -

1. Preserve existing affordable stock.
2. Expand moderate and modest market housing.
3. Add approx. 6 affordable units to meet post 2010 40B target.
4. Detailed plan and goals may be found in Town's affordable housing plan available on Town web site.
5. Increase staff capacity to oversee town owned housing and to perform monitoring function.

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Please describe your municipality's capacity to implement affordable housing goals. Explain your available staff, funding, and other support or resources.

Responses
<p>Southborough – Staff: Town Planner as staff to SHOPC and the Trust Fund. Funding: CPA funds as managed by the Trust Fund.</p>
<p>CPA has funds set aside. In addition, we have an overlay in downtown that we require affordable units. No current staffing or funding. New endeavor, although we have a proposed friendly 40B with Avalon Bay that may or may not go forward. Asst Town Administrator takes the lead generally.</p>
<p>Bolton - BAHP is a volunteer committee. The town has a town planner to assist the BAHP but is very limited in time and resources to assist the BAHP.</p> <p>In 2005 the Town meeting approved the creation of a Municipal Affordable Housing Trust to assist in the creation and preservation of affordable housing in Bolton for the benefit of low and moderate income households. The funds received by the trust may include donations and other income streams as well as money collected as part of the inclusionary Zoning bylaw. These funds may be used to purchase and improve land, to purchase dwelling units or to develop new or rehabilitate existing dwelling units for purchase or rental by qualified affordable housing purchasers or tenants or to preserve existing affordable housing in the affordable housing inventory.</p>
<p>Sudbury - The Sudbury Housing Trust is supported by a Community Housing Specialist and has appropriated CPA funds for the housing programs.</p>
<p>Concord - The Town has limited resources to implement affordable housing goals. The Town relies heavily upon the Planning Division (three full-time planners and two administrative assistants) to implement the community's affordable housing goals in addition to many other planning related goals; this staff also serves many other committees including the Planning Board, Board of Appeals, Community Preservation Committee, Historic Districts Commission, Historical Commission, Sustainable Energy, West Concord Task Force and Bruce Freeman Rail Trail Advisory Committee, in addition to serving on various other working groups. Therefore, staff time is limited to helping market units that become available for sale; working with developers and local non-profits to design and permit their projects, and working with State agencies to secure funding and approvals as needed.</p> <p>Funding is limited to Town authorization for special projects or Community Preservation funds. Limited funds for consultants to assist with marketing units or for advertising units is taken from the current Planning budget. If Concord's membership in the WestMetro Home Consortium is approved this month, limited additional HUD funds would be available in 2011.</p>
<p>Holliston - We are a volunteer organization. Holliston's Town Planner has been helpful to us. Our total funds come from the Community Preservation Committee.</p>
<p>Framingham – CDGB Program = \$530,000 - 3 staff HOME Program = \$300,000 Neighborhood Stabilization Program Funding = \$700,000 - 1.5 Staff The town coordinates this program with the Framingham Housing Authority staff (2).</p>
<p>Natick - The Town of Natick has been highly successful in creating new affordable units within the community as part of 40B projects and other special permit projects which have been before the local</p>

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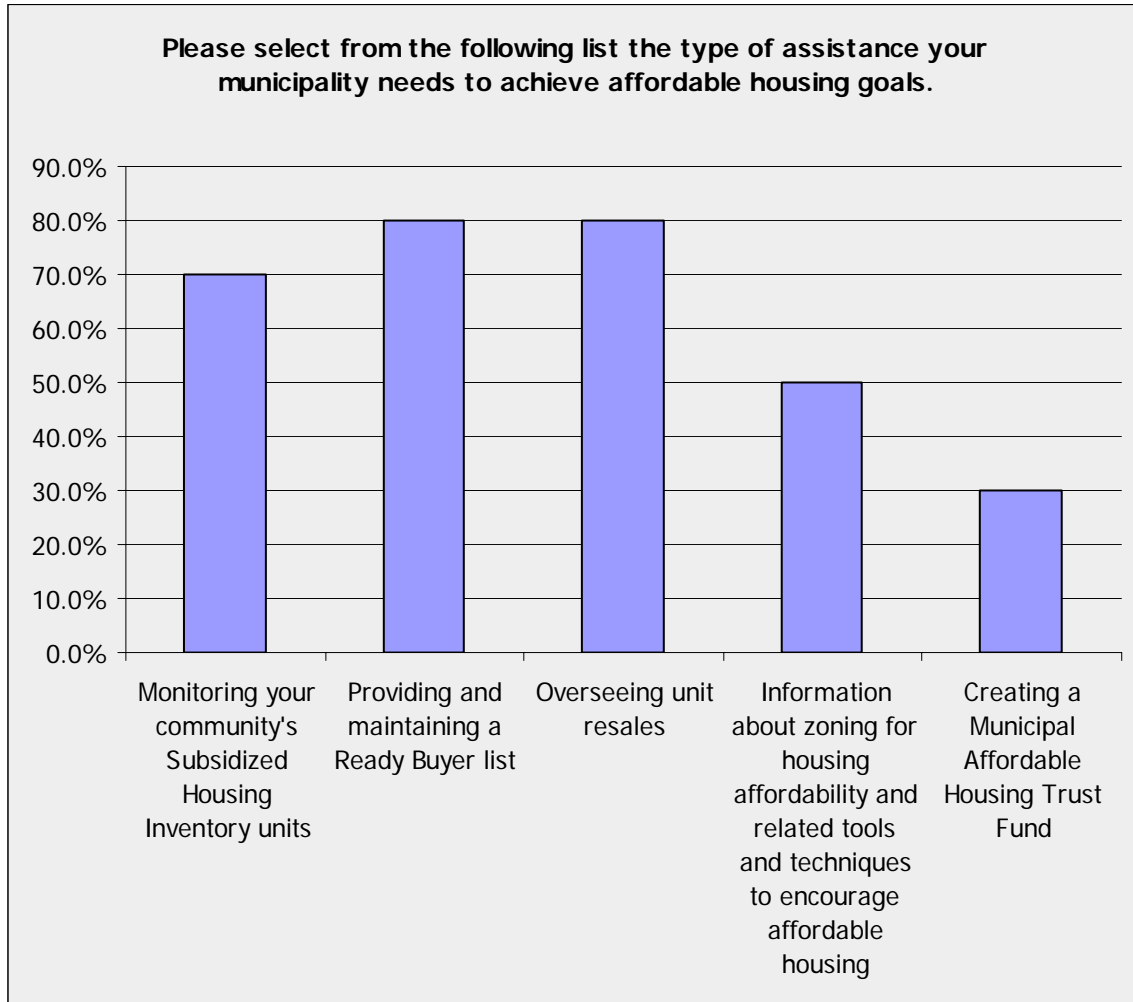
Planning Board. Chrysler Apartments was permitted with 407 units of which 25% or 102 are affordable. Natick approved a 40R District in Natick Center on the former Paperboard manufacturing site and approved a development consisting of 138 units of which 28 will be affordable. 20 South Avenue was completed and the 5 affordable units were sold at lottery. 8-10 Grant Street which was permitted earlier has started construction on 24 apartments of which 6 will be affordable. Natick Armory has also started construction and will be providing 23 units of which 4 will be affordable. These units are being marketed at present. These projects have been generated as private projects but have been overseen by the Town. No units have been generated with the limited HOME funds awarded to the Town.

Wellesley - The Wellesley Housing Development Corporation does not have any staff. The Planning Department assists with some staffing needs. Funding comes from either CPA funds or cash payments in lieu for Inclusionary Zoning. The town uses inclusionary zoning to generate affordable units. Since 2004 over 50 units have been approved and 7 units have been constructed to date.

Bedford - Staffed through the Town Manager's Office with principal support provided by Assistant Town Manager; Bedford also retains the services of an affordable housing consultant.

1. No full-time staff support. Rely heavily on volunteers and local NFP.
2. Affordable Housing Trust and CPA have been invaluable source of funds.
3. Currently exploring opportunities to share housing staff with area towns.

Please select from the following list the type of assistance your municipality needs to achieve affordable housing goals.



Please list any other types of assistance your municipality needs to achieve affordable housing goals.
Developing and managing other ways to provide affordable housing (housing rehab loans, down-payment assistance, etc.).
Technical assistance in conducting housing needs assessment.
Regular education and outreach to the local residents; maintaining statistics about housing needs in the community; education of developers about the need for affordable housing and working with said developers to create housing that works for a variety of households.
Sharing housing information and approaches.
To date the topics above have been maintained by the Housing Development Corporation and the Planning Department. As CPA funds decrease, funding will become an issue.

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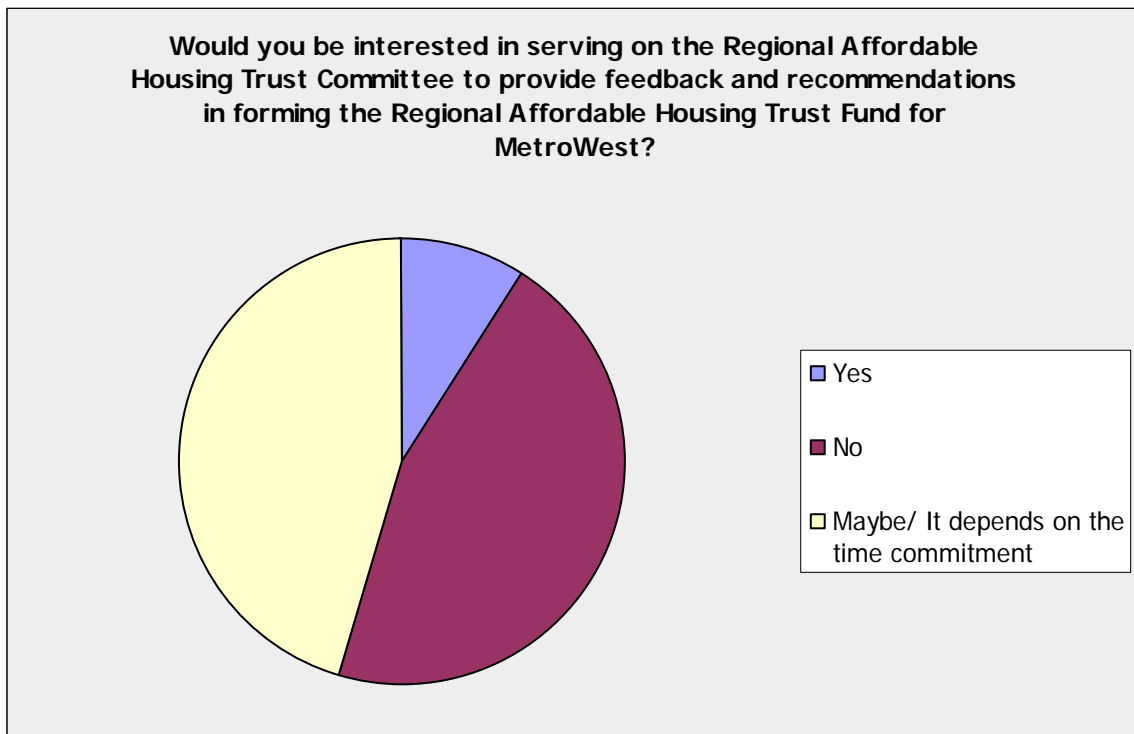
Regionalization of affordable housing services might help the MetroWest region achieve a number of municipal as well as regional affordable housing goals. From the following options, please select the types of activities and services you believe would be most useful to the MetroWest region. (Please select one or more of the following).

Answer Options	Response Percent	Response Count
Work in collaboration with other regional entities to promote homebuyer and homeowner education activities	81.8%	9
Provide regional advocacy and promotion for affordable housing activities	27.3%	3
Work with the MA Department of Housing and Community Development and quasi-public State agencies to further advocate for regional affordable housing goals	27.3%	3
Secure funding to achieve regional affordable housing goals	54.5%	6
Help my municipality to achieve affordable housing targets	18.2%	2
Benefit from sharing the capacity and saving costs on staffing affordable housing programs	81.8%	9
Learn from best practices	72.7%	8
Participate in regional programs such as employer assisted housing	45.5%	5
Pool and coordinate interested homebuyers	45.5%	5
Monitor existing subsidized housing units	54.5%	6
Please describe any other types of activities and services you believe would be most useful to achieving MetroWest regional affordable housing goals.		3
Providing specific technical assistance on projects with direct staff support.		
Education and outreach of residents; market analysis on the advantages and benefits of having diverse affordable housing available in the community; identifying methods to retain affordable housing, keeping units affordable in this market/economy; helping homebuyers qualify for and obtain mortgages they can afford.		
Evaluation and financial analysis of affordable housing project proposals.		

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Would you be interested in serving on the Regional Affordable Housing Trust Committee to provide feedback and recommendations in forming the Regional Affordable Housing Trust Fund for MetroWest?		
Answer Options	Response Percent	Response Count
Yes	9.1%	1
No	45.5%	5
Maybe/ It depends on the time commitment	45.5%	5
Other (please specify)		1

A representative from the Housing Development Corporation may be interested.



III. Regional Affordable Trust Fund – Models, Organizational Structures & Funding Opportunities

Introduction

Based on the needs identified by MetroWest communities through the survey, MWGMC conducted research on Regional Trust Fund models, organizational structures, and funding opportunities.

Model # 1 – No Dedicated Revenue (ARCH – A Regional Coalition for Housing)

Overview

ARCH is a unique collaboration between several local municipal and county governments¹ in the Bellevue Washington area. ARCH's mission to preserve and increase the supply of housing for low and moderate-income households in East King County and was created through an inter-local government agreement. The primary objective behind the creation of ARCH was to create the expertise and resources necessary to help local governments respond to the challenge of affordable housing. Working as a regional entity, ARCH provides smaller local governments (Member communities' populations range from 121,347 to 300) with the ability to access the tools, resources, and expertise usually only available to larger municipalities.

Organizational Structure

ARCH is under the direction of an Executive Board comprised of city and county managers from participating jurisdictions who oversee operations. A 12 to 15 member Citizen Advisory Board is responsible for recommending the use of local government resources and to maintain an understanding of affordable housing issues throughout the community.

Funding

Administrative/Operational funding – This allocation is for staff, office, materials, etc. The total amount is shared by the participating communities in the form of an assessment based on population.

Housing Trust Fund- Each participating jurisdiction contributes funds to ARCH on the basis of a parity program. The parity program identifies funding goals for each jurisdiction using a formula that establishes a range of ideal funding amounts. Accomplishments are measured over a five-year period, allowing for fluctuations within any given year. Local governments are encouraged to meet their funding goals in a variety of ways, including: direct monetary assistance, indirect monetary assistance, and in-kind contributions such as donated land. (Staff time and office space is not considered an in-kind contribution). Actual revenue source contributions include general funds, CDBG funds, and payments by developers, loan repayment interest earnings, fee waivers, infrastructure improvements, and land. Funding to the Trust Fund is not contractual or mandated. This gives municipalities the ability to be flexible in their contributions to the Trust Fund given the variety of challenges facing local budgets. The parity program was designed with this flexibility in mind.

¹ 13 local, city, and County governments

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Parity Program

The ARCH housing trust is a model for how a trust can operate without dedicated revenue. Local governments have found a variety of local, state, and federal dollars for the housing trust fund. ARCH’s parity program is a flexible way for local governments to discuss and provide funding to the trust fund using the premise that there is no right way to measure a community’s fair share; rather there are many ways. The table² below offers an example of how the program works:

City	Population	Housing Demand Planned	New Housing Target Projection	Average
Bellevue	603,420	524,430	395,116	\$507,655
Kirkland	251,732	159,202	268,311	\$226,415
Redmond	243,153	552,525	453,924	\$416,534
Bothell	151,719	104,942	78,104	\$111,588
Mercer	124,081	31,840	74,429	\$76,783

The table below illustrates how different formulas create different funding goals for each local government. The results of the three formulas are average to create an annual average contribution. Local governments try to meet that average annual contribution over a 5-year period. The table below³ shows how much local governments actually contributed in 1999 and where the funds came from (general funds, CDBG, waivers, etc). Note that Mercer Island contributed \$225,000 in 1999, although their suggested average is only \$76,000 through the parity program. On the other hand, Redmond put in \$290,000 when the parity program suggests that their contribution should be \$416,000. Although communities may contribute more or less than their stated average annual contribution in any given year, the parity program suggests that contributions in subsequent years usually make up the difference.

City	CDBG	General Fund	Other	TOTAL
Bellevue	\$128,900	\$412,000	\$620,200	\$1,161,100
Kirkland	\$137,628	\$77,000		\$214,628
Redmond	\$90,000	\$200,000		\$290,000
Bothell	\$106,977			\$106,977
Mercer	\$60,195	\$165,000		\$225,165

ARCH’S Primary Services

- Assistant Households looking for affordable rental and ownership housing.
- Provide financial support to groups creating affordable housing units.
 Assist member communities in developing housing policies.

² Housing Trust Fund Progress Report 2007 (www.communitychange.org/our-projects)

³ Housing Trust Fund Progress Report 2007 (www.communitychange.org/our-projects)

Model #2 – Dedicated Revenue (Montgomery County Housing Trust Fund)

Overview

The Trust Fund was established in 1990 and is supported by a special \$1 million appropriation from the County government. The funds are from a one-half cent sales tax collected for affordable housing, economic development and arts and cultural programs. The County is currently in the midst of a ten year commitment to continue their annual appropriation.

Organizational Structure

The management and operational responsibilities of the Trust Fund have been assigned through a contract to the County Corporation. This is a development corporation created by the county that focuses on housing and economic development. As a result of being part of a larger organization, the administrative costs of operating the Trust Fund are quite low (approximately 15% of the fund (\$150,000)). Two staff positions provide administration with accounting, legal services and other administrative support provided by the County Corporation. A seven member Housing Advisory Board provides oversight and direction to the staff. Members of the Advisory Board must be knowledgeable about housing, finance and development.

Funding

Twice a year the County Corporation accepts applications for funding. Each time, \$500,000 is made available. This fund is considered “gap” financing and is usually the last source of funds that are made available for projects. They require a 50% match, which can include grants, loans and owner equity or other contributions. The following is the three step allocation process:

Step 1:

A Technical Review Committee that includes representatives from the Housing Advisory Board, county staff, and the President and Vice President of the County Corporation review proposals. This group thoroughly reviews proposals based on financial feasibility, market acceptance, organizational capacity and past performance on similar projects and decides how much funding to recommend.

Step 2:

The Housing Advisory Board holds a public hearing which includes presentations from the applicants. The Board usually supports the funding recommendations of the Technical Review Committee.

Step 3:

The Housing Agency Committee of the County Corporation makes the final award. The County Corporation is responsible for negotiating agreements and assuring that the funds are used as intended. Decisions do not have to be confirmed by the County Commission; however, monthly progress and status reports are required.

Model #3 – Private/Public Partnership (Housing Trust of Santa Clara County, CA)

Overview

The Housing Trust of Santa Clara County is a private/public partnership that has established a revolving loan fund and grants that will complement and leverage other housing resources throughout Silicon Valley. The trust fund has raised more than \$20 million to date in the form of five year pledges. This fund has largely been supported through contributions from area employers to address the gap between rapid new job creation and affordable housing within the County. For example, three area homebuilders contributed \$400,000 in 2000 to support the fund while Intel launched a \$1.25 million fund to help public school teachers buy housing by paying a portion of the mortgage. Local governments also contribute to the fund, although there is not a “parity formula” similar to the one used in Model #1. Local government revenue generally comes from the Redevelopment Authority or general fund of each municipality. While communities do not contribute CDBG funds or federal dollars, they are currently collaboration on a fundraising campaign in an attempt to raise \$2 million from local businesses.

Initially the trust fund was expected to be financed through a ballot initiative. Officials from the county completed a poll that indicated that people thought affordable housing was a critical and important issue, however would not support a tax. Therefore, the employer supported fund was formed.

Organizational Structure

The Housing Trust Fund of Santa Clara County has a 23 member board. Local governments, employers and non-profit entities each make up one-third of the board. The Board oversees an Executive Director with expertise in non-profit organization management and fund raising. The current director consults on a regular basis with local governments regarding housing policy. The director is supported by a Finance Manager who manages the fund assets, including booking loans, and an administrative support team.

Funding

The Santa Clara trust fund provides loans, and in few instances, grants. A loan program was selected because it “revolves” the funds, which was an important selling point to employers contributing to the fund. Deed-restrictions limiting appreciation is not part of the program. The trust offers the following three primary products.

- 1.) Predevelopment Loans for non-profit organizations. These loans range from \$50,000 to \$150,000 and cover costs associated with planning, design, market analysis and preparation of projects for development review. The loans are deferred until completion of the project, at which time they are repaid. Loans for special needs projects, including the homeless and seniors, are often forgiven. The Trust Fund found that predevelopment loans were critical to supporting development efforts of non-profit organizations.
- 2.) Gap financing for special projects is also provided. These tend to be loads on projects for homeless. The length of the loan may vary depending upon the development, but carries a 3% interest rate.

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- 3.) Buyer assistance is the largest product offered by the Trust. In Santa Clara County, the average priced home is over \$550,000 and the median income is \$115,000. Two types of assistance are provided. These can be provided together and are often layered with other programs available in the area. Households must contribute at least 1% of the purchase price. The two primary programs include:
- 4.) Households earning up to 120% of the Area Median Income can receive a loan that is up to 5% of the purchase price to buy a home that does not cost more than \$550,000. This is a second mortgage that carries a 3% interest rate and is deferred until the home is refinanced or sold. Owners who refinance to lower their total monthly payment and who do not take out any equity are not required to repay the loan at that time.

The Trust Fund works with lenders who provide 97% mortgages. Of the 6% down payment assistance, 3% is used to fund the difference between the mortgage and down payment and the balance is used to pay the private mortgage insurance required on these times of loans. Santa Clara chose these types of programs to fund because the amount of funding needed was low enough to provide immediate success. In the past year and a half, 25 owners have used down payment assistance and 460 have used closing cost loans. In addition, the average income of buyers is \$70,000 compared to the median income of \$115,000; therefore they are addressing a need.

A loan committee separate from the Board of Directors makes funding decisions. The board focuses on policy, staff oversight and fund raising.

Other Housing Trust Models

Mile High Housing Fund (Denver, Colorado)

The Mile High Fund was created in May 2000 to increase affordable housing production by area non-profit developers. The City of Denver began exploring the creation of such a fund because non-profit developers were unable to locate a source of inexpensive financing that would allow them to compete with private sector developers for acquisition of existing housing and/or affordable housing development.

The idea for starting the fund had been discussed for several years, with work beginning in the late 2000. The former director of the Fannie Mae Foundation was from Denver and was interested in starting a program for non-profit developers. He worked closely with the City of Denver, which contributed \$3,275,000 to the initiative. The startup contribution from Denver was sufficient to attract \$1 million in loan funds and \$250,000 in grant dollars from the Fannie Mae Foundation and additional \$1 million in loan funds and \$500,000 in grant funding from the Enterprise Foundation.

Additionally, the Mile High Fund became certified as a Community Development Financial Institution (CDFI) within five months of starting and received a technical assistance grant award of \$25,000 in 2000. More recently, the Fund received a \$1 million grant from the U.S. Treasury Department of Community Development Financial Institutions to issue additional loans.

The Colorado Housing Finance Authority (CHFA) also awarded the Mile High Fund \$500,000 for predevelopment in 2002. In addition, the fund instituted a “pay to play” strategy, where local governments could contribute to the fund and therefore allow non-profit developers in their areas to have access to the loan. This option was more easily accomplished because many of the local governments received a “rebate” when the bonds on the Rockies Stadium were retired early.

Local lenders also became involved with this initiative, most notably US Bank and Key Bank. Both lend money to the fund at a very low rate (1% to 4%).

Eligible Projects

- Only non-profit developers may apply and funding is targeted towards those earning less than 80% of the Area Median Income. For-profit developers are considered if they are partners with a non-profit.
- Only projects located in communities that have contributed funds are eligible to apply. Contributions tend to range from \$50,000-\$75,000 and no minimum contribution is required, nor is there a limit to much money could be lent in these communities.

Key Success Factors according to The Mile High Fund

- Denver, the largest contributing member took a lead role from the time of the Fund’s inception.
- Investors remain very committed. Enterprise staffed the fund at no cost for one year and the City of Denver provided staff support.
- An operating reserve was included as part of the budget since the beginning of the fund.

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- Have a strong organizational infrastructure, including a clear set of lending policies, risk analysis policies and on-going reporting.
- The Board is very active in fund raising efforts and takes a leadership role in the area. The Board's diversity is also an asset.
- The Mile High Fund is often the first source of funding committed to projects, making it easier to leverage other financing.

Columbus/Franklin County Housing Trust Fund (Columbus, Ohio)

Established in 2001, the Columbus/Franklin County Affordable Housing Trust Corporation operates as a separate, independent, non-profit organization. The City of Columbus committed hotel/motel taxes to the Fund and the County committed general fund revenues, until 2006, when it committed half of the revenue from the increase in the real estate conveyance tax to the Fund. The Corporation hires its own staff to operate the trust fund and is accountable to an appointed-eleven member Board of Trustees. Both City and the County with the Corporation to administer the funds committed to the Trust Fund. Revenues now are expected to reach \$4 million annually.

The Housing Endowment and Regional Trust (HEART) (San Mateo County, CA)

The Housing Endowment and Regional Trust of San Mateo County have created a Joint Powers Agreement signed by the County and seventeen jurisdictions within the County. Created in 2003, its Board is made up of representatives from each participating municipality, included the county. In signing the Joint Powers Agreement, each participating jurisdiction annually commits revenues for the administration of the trust fund based according to a formula that is based on population.

Staffing and general management is provided on a contract basis by the Housing Leadership Council of San Mateo Council, while Program management is provided by the County of San Mateo Department of Housing. Member communities may withdraw at any time. To date, program funds have been committed only by San Mateo County, along with additional support from both area corporations and foundations. Efforts are currently underway to secure dedicated public revenues. To date, HEART has received in excess of \$5 million to supports its affordable housing efforts.

Napa County, California

The County of Napa, California and the cities of Napa, St. Helena and the Town of Yountville have entered into an agreement to cooperatively address affordable housing issues in Napa Country through the Community Affordable Housing Advisory Board. Funds to support affordable housing initiatives are available from the CAHAB member jurisdictions and can be distributed throughout the year following guidelines established by CAHAB. Each participating city and the County have committed developer and inclusionary zoning in-lieu fees to the Housing Trust Fund. While a joint process has been created through this collaboration, the funds are spent within the municipality of origin for the funding available.

Sacramento City and County, California

The City and County of Sacramento have both passed virtually identical linkage ordinances that give them the ability to collect fees from developers of non-residential development and mitigate

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the impact on the supply of affordable housing for the workforce. Both ordinances establish housing trust funds to receive the fees and are administered by the Sacramento Housing and Redevelopment Authority. Similar to the Napa County model, the funds collected in the city and in the county are spent in their respective jurisdictions. Last year, these funds collected in excess of \$3 million and supported 375 units of affordable housing.

San Luis Obispo County, California

The San Luis Obispo County Housing Trust was created in 2003 through the cooperative efforts of local services providers, businesses, and government agencies. It has collected revenue from six municipalities within the County, the County, and the County Housing Authority. In addition to the municipal contributors, the Trust Fund has received support from local businesses and private donations. The Fund is certified as a Community Development Financial Institution which supports an objective of establishing a loan pool, which is contributed to by three banks and other supporters.

The Fund is governed by an independent Board of Directors, but a Commission, serving as the Fund's loan committee, has representation by local governments that also provide financial support for the fund. A Steering Committee is comprised of community leaders who participated in created the Fund. The Fund closed their first two loans in 2005.

The Lowcountry Housing Trust (Charleston, South Carolina)

The Lowcountry Housing Trust in Charleston, South Carolina was created in 2005 to increase the inventory of affordable housing in Berkeley, Charleston and Dorchester counties. It operates a gap financing loan fund and a predevelopment revolving loan fund, as well as an incentive program to create greenery for supported homes and a program to defer and reduce water and wastewater impact fees for eligible households. Funds have been collected from the City and County of Charleston, the City of North Charleston and several other partners, both public and private.

Local, State, & Federal Housing Funding Sources

There are dozens of potential funding sources for affordable housing initiatives on the local, state, and federal levels. Many local options do however require either Legislative Action or must be placed on a local ballot.

Local

Down Payment Assistance

A consortium of local realtors, lenders and mortgage brokers can establish a program that generates revenues through fundraising and interest from escrow accounts. These types of funds can be used to help first-time home buyers to cover closing costs. These types of initiatives require a great deal of community participation.

Business License Fees

Local communities could adopt a business license fee, or increase an existing license fee which provides direct revenue to the Housing Trust. This has been considered reasonable in many communities as housing demand is driven by employment opportunities. This technique was used in a trust operating in Colorado and generated an average of \$53,000 annually. The fee schedule is tiered based upon the number of employees employed by a given business.

Other Local Fees

There is considerable variety in the sources of revenue for Regional Housing Trust Funds. Across the nation, Developer fees are collected by ten county/regional housing trust funds, including developer impact fees, residential inclusionary zoning in-lieu fees, and conversion fees. Three existing regional trusts collected real estate transfer taxes, while two collect portions of the sales tax, and one uses property tax revenues. Dade County, Florida uses the food and beverage tax for its housing trust fund. Given the tax structure in Massachusetts, many of the tax options listed above would not be feasible without Legislative action. Revenue from municipal general funds is likely needed in order to leverage additional state, federal, and private sector revenues as part of any Housing Trust initiative in Massachusetts.

State & Federal

Tax Credits

The Tax Credit program was established in 1986 and is intended to increase the supply of low income rental housing. Each state is allocated annual supply of credits based on its population, which are then allocated to developers, typically in a competitive process. After receiving an allocation, developers often sell credits to private investors. Generally, investors are recruited by syndicates and ownership rights are controlled by limited partnership agreements. The money private investors pay for the credits is paid into the project as equity financing. This equity financing is used to fill the gap between the development costs and the traditional financing sources that could be expected to be repaid from rental income. Investors who purchase tax credits provide equity to an affordable housing project that can range from 70 to 80 percent of construction costs, depending on the circumstances of each development.

HOME Funds

HOME Funds are federal housing subsidies that are made available to state and local agencies. The program was created by Congress in 1990 and is designed to increase the level of affordable housing for low income households. The program has stringent requirements related to income eligibility and affordability. No funds can be used to assist households earning more than 80 percent of AMI. Unlike Block Grants, HOME Funds must be used exclusively for housing projects. The following activities are eligible for funding; Rehabilitation, conversion, new construction, acquisition, relocation costs, and some administrative costs.

Community Development Block Grants

The Community Development Block Grant program (CDBG) is a federal program that began operation in 1975 administered by HUD. The primary objective of community development block grant funds is to improve communities by providing “decent housing, a suitable living environment, and expanded economic opportunities” all “principally for persons of low and moderate income.” Each state is allocated funds annually, based on its population. The entitlement communities in each state receive funds directly from HUD, while the balance of funding is directed toward states. The Department of Housing and Community Development administers funding through the Small Cities Program: Community Development Fund I and Community Development Fund II.

While the intended purpose of the Block Grant program is to direct these funds to low and moderate income households, the broad definition of eligible uses often dilutes the impact to this portion of the population. Eligible services include housing rehabilitation and construction, services such as child care, health care, transportation, police, public works, construction or rehabilitation of parks and recreation facilities, economic development activities (job training, business loans, commercial building rehabilitation), and administration costs.

IV. Meeting Summary/ November 20, 2009

Following the research of Trust models, the **MetroWest Growth Management Committee hosted a Regional Housing Trust Discussion at Weston Town Hall on November 20th, 2009. The following summarizes what that meeting and outcomes.**

Jennifer Raitt, MAPC Chief Housing Planner provided an overview of the project, which has been funded through the District Local Technical Assistance Program.

Jennifer explained that the project is aimed at researching potential collaborations on affordable housing solutions through technical assistance, education and advocacy. The hope is that through the trust, staff would be able to assist MetroWest communities with the creation of permanently affordable homes for individuals and families with low, moderate, and middle incomes. The MetroWest Regional Affordable Housing Trust could then help our region remain both balanced and diverse.

The first steps of the project were to identify:

- Municipal and private affordable housing activities;
- Municipal and private affordable housing goals;
- Housing contacts from housing agencies, organizations, and town committees/commissions;
- Assistance needed from municipality to address affordable housing issues (staff, funds, etc.);
- Capacity of municipality to address affordable housing issues (staff, funds, etc.);
- Activities for/services of a regional affordable housing trust; and
- Lead contact person responsible for housing activities in each municipality

Jennifer identified the next steps as the following:

- Form a Committee to provide feedback and recommendations in forming the Regional Affordable Housing Trust Fund for MetroWest;
- Based on needs identified by MetroWest communities, conduct research on Regional Trust Fund models and provide options for Committee review to guide decision making for creating and appropriate model and action plan for the MetroWest region;
- Review MetroWest regional affordable housing needs and goals;
- Research regional and inter-local collaborative affordable housing models in the U.S.;
- Prepare report with accompanying decision-making matrix for Committee review; and
- Create next steps and develop a pilot proposal to be funded by DLTA.

Jennifer proposed the following models:

Regional Housing Nonprofit – An Executive Board would oversee staff that worked at securing funding opportunities and provide technical assistance through marketing and organizing the lottery system. This model would be funded through service-based fees.

Regional Municipal Housing Model. An Executive Board would oversee staff that worked at securing funding opportunities, offered support with policy development, and provided technical support through marketing and organizing the lottery system. This could be funded through various funding options, including a flexible contribution or parity system.

Regional Public/Private Partnership Model – A Board consisting of government officials, employers, and nonprofits would oversee a staff. This model would offer revolving loan funds for predevelopment, gap, and buyers. This model would be supported by employers with some public match.

At the conclusion of her presentation, Jennifer Raitt facilitated a dialogue with representative from various communities. The following is a summary:

Steve Dungan from Stow said that he believes municipalities will have problems financing this Regional Trust and that it would be difficult to ask individuals from the individual towns to volunteer more of their time to an initiative such as this. He added that he would like to see grant writing services offered through any proposed program.

Elizabeth Barnett, Town of Carlisle, noted that the Merrimack Valley Housing Trust has had problems being recognized by the State and has not been able to apply for state funds, she said it would be important to coordinate our efforts with DHCD. She also added financing may be an issue and asked whether or not the powers of the Housing Authority could be expanded.

Meghan Jop, Town of Wellesley, said that their Housing Authority deals with very low income and elderly populations. She said that they are too busy with refurbishing units that are current are not able to be occupied. Currently the Housing Authority maintains over a ten year waiting list.

Gene Kennedy, Town of Framingham, asked that a financial feasibility analysis be done to see if part of a community's assessment to their RPA could go towards financing this initiative.

Jody Kablack, Town of Sudbury, said that this initiative could be largely funded through developer and 40B fees. She added that the more you know about your constituent needs, the more successful this trust can be.

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Aaron Henry, Town of Lexington, agreed the parity program concept that formulates a community's assessment based upon the number of units they have, relative to the overall number participating in the trust.

Elizabeth Barnett, Town of Carlisle, asked whether or not a regional tax on private 40B's could be a way to fund the Trust.

Barbara Morse, Concord Housing Development Corporation, asked whether or not a community would be able to purchase services through the trust when needed.

Jody Kablack added that a community would be part of a consortium and would be able to access professional services whenever they needed them.

Carl Valente, Town of Lexington, recommended that MWGMC staff sit down with each individual community in order to determine the specific needs of each town.

Rick Reed, Town of Bedford, said that he was concerned with the scale of this program and would be opposed to it including too many communities. He said that groups of communities participating in this will have different ready-buyer lists than others, thus making it difficult to include too many. Carl Valente added that it is important to have economies of scale, so that if one community leaves the trust, it remains sustainable.

V. Regionalization of Municipal Affordable Housing Trust Funds

Further research was conducted regarding the legal framework for creating a regional affordable housing trust fund. The research results are outlined in the following memo from Metropolitan Area Planning Council Policy Counsel, Jennifer Garcia.

To: Jennifer Raitt
From: Jennifer R. García
Date: December 18, 2009
Re: Regionalization of Municipal Affordable Housing Trust Funds

Issue:

Could municipalities use Massachusetts General Law (MGL) Chapter 40, Section 4A, or the Intermunicipal Agreement law (the IMA law), to regionalize Municipal Affordable Housing Trust Funds?

Short Answer:

The IMA law does not expressly prohibit its use for the creation of regional trust funds. However, the law has been used primarily for providing or sharing services between municipalities and, in cases where new regional entities are to be formed, Massachusetts law provides a specific legal framework in a separate statute. It is likely necessary to amend MGL Chapter 44, Section 55C, the Municipal Affordable Housing Trust Fund law, to allow several municipalities to join together to create a regional affordable housing trust fund.

Discussion:

The IMA law allows a municipality to enter into an intermunicipal agreement upon the approval of its board of selectman (in a town) or its city council and mayor (in a city). The law states:

“The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit may, on behalf of the unit, enter into an agreement with another governmental unit to perform jointly or for that unit's services, activities or undertakings which any of the contracting units is authorized by law to perform, if the agreement is authorized by the parties thereto, in a city by the city council with the approval of the mayor, in a town by the board of selectmen and in a district by the prudential committee . . . ”

Nothing in the law expressly prohibits its use for the creation of a trust fund of any kind. It does state that a municipality may jointly perform undertakings which it is authorized by perform on its own; this could be interpreted to include the formation of a trust fund. However, the law has been used primarily for providing and sharing traditional municipal *services*, such as animal control, public health, water and sewage. Moreover, it provides a legal framework for situations in which a municipality sells services to other municipalities, two or more municipalities join together to hire personnel or purchase equipment for use by all of the joining municipalities, or municipalities share essential services with each other in

emergencies. See the Pioneer Institute's website for examples of the different types of agreements that have been created in Massachusetts (<http://www.pioneerinstitute.org/clearinghouse.php>).

In cases where municipalities form a new regional entity, there are other laws providing the applicable legal framework. For example, Regional Health Districts are governed by MGL Chapter 111, Sections 27A, 27B and 27C, Regional School Districts are created under MGL Chapter 71, Section 15, and Regional Veterans' Services Districts are allowed under MGL Chapter 115, Section 10. If the Legislature intended to provide the opportunity for the creation of regional trust funds, it would have likely included such language in the Municipal Affordable Housing Trust Fund law.

Even if municipalities were to try to use the IMA law to regionalize affordable housing trust funds, the IMA law and the Municipal Affordable Housing Trust Fund law require two different methods of municipal approval. The IMA law requires executive approval, or city council with mayor approval for a city and board of selectmen approval for a town. In contrast, the Municipal Affordable Housing Trust Fund law requires a majority vote of the municipality's legislative body. This complicates the process of creating a regional fund. If both executive and legislative approval is required, it is likely that a municipality would have to first vote to create a fund and then vote to regionalize. Intermunicipal agreements take careful planning and time to negotiate, draft and approve, even when all parties are in agreement about the major provisions. Requiring both levels of approval would lengthen the amount of time and effort required to create a regional fund.

If several municipalities were able to obtain the proper approval and succeed in creating a regional affordable housing trust fund, there would still be a least one complication. Under the Municipal Affordable Housing Trust Fund law, money paid into a trust fund that is not spent by the end of the fiscal year shall remain property of the trust fund. See MGL Chapter 44, Section 55C, Subsection (d). Under the IMA law, municipalities that enter into agreements are able to withdraw from the agreement at any time, and must include the relevant provisions to do so in the agreement. It could be a disincentive for municipalities to regionalize their trust funds if money contributed to the trust would remain its property even after a municipality withdraws from the agreement.

Alternatively, one could make the argument that the trust fund itself is a governmental unit that is authorized under the IMA law to contract with another trust fund to jointly perform the trust funds' services. In other words, after several municipalities create trust funds, the funds then enter into an intermunicipal agreement to regionalize into one fund. There are several problems with this approach. The IMA law requires that the chief executive officer of a government unit seek approval to enter into the agreements; however, there is no chief executive officer of a municipal affordable housing trust fund. The Municipal Affordable

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Housing Trust Fund law only provides for a board of trustees to manage the fund. See MGL Chapter 44, Section 55C, Subsection (b).

The law also provides specific situations in which a trust fund can be considered a governmental unit, including:

- Subsection (i) – the trust is a governmental body for purposes of MGL Chapter 39, Sections 23A, 23B and 23C (The Open Meeting Law); and,
- Subsection (j) – the trust is a board of the city or town for purposes of MGL Chapter 30B and Chapter 30, Section 15A (The Procurement law & the Transfer of Land law).

If the Legislature intended to give municipal affordable housing trust funds the authority to enter into IMA agreements, it would have given it that authority in the Municipal Affordable Housing Trust Fund law. Alternatively, the IMA law could have given trust funds the authority to enter into such agreements as it did for cities, towns, districts, and municipal boards or commissions.

Special Legislation

It is likely necessary to pass special legislation to allow for the regionalization of municipal affordable housing trust funds. This could be done by amending the current law to add language allowing two or more municipalities to create a regional fund. For examples where the Legislature has allowed the creation of regional entities, see the following:

- Regional School Districts (MGL Chapter 71, Section 15)
- Regional Health Districts (MGL Chapter 111, Section 27B)
“Two or more municipalities may, by vote of their respective boards of health and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, in other cities by vote of the city council and approval of the mayor, and by vote of a town at a regular annual town meeting, form a regional health district which shall consist of a regional board of health, a director of health and staff thereof. Towns and cities may, in a like manner, join a regional health district previously formed with the approval of the regional board of health of such district.”
- Veterans’ Services Districts (MGL Chapter 115, Section 10)
“Two or more adjoining towns, or two or more adjoining municipalities only one of which is a city, may, in a city by vote of the city council thereof, and in a town by vote of the selectmen thereof, form a district for the purposes set forth in the first paragraph of this section, including the appointment and compensation of a director of veterans’ services . . .”

Conclusion:

Given the limitations of the IMA law, it is likely necessary to amend MGL Chapter 44, Section 55C, the Municipal Affordable Housing Trust Fund law, to allow several municipalities to join together to create a regional affordable housing trust fund.

CHAPTER 40. POWERS AND DUTIES OF CITIES AND TOWNS

Chapter 40: Section 4A. Governmental units; joint operation of public activities; termination of agreement; "governmental unit" defined; financial safeguards

Section 4A. The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit may, on behalf of the unit, enter into an agreement with another governmental unit to perform jointly or for that unit's services, activities or undertakings which any of the contracting units is authorized by law to perform, if the agreement is authorized by the parties thereto, in a city by the city council with the approval of the mayor, in a town by the board of selectmen and in a district by the prudential committee; provided, however, that when the agreement involves the expenditure of funds for establishing supplementary education centers and innovative educational programs, the agreement and its termination shall be authorized by the school committee. Any such agreement shall be for such maximum term, not exceeding twenty-five years, and shall establish such maximum financial liability of the parties, as may be specified in the authorizing votes of the parties thereto. A governmental unit, when duly authorized to do so in accordance with the provisions of law applicable to it, may raise money by any lawful means, including the incurring of debt for purposes for which it may legally incur debt, to meet its obligations under such agreement. Notwithstanding any provisions of law or charter to the contrary, no governmental unit shall be exempt from liability for its obligations under an agreement lawfully entered into in accordance with this section. For the purposes of this section, a "governmental unit" shall mean a city, town or a regional school district, a district as defined in section 1A, a regional planning commission, however constituted, a regional transit authority established under chapter 161B, a water and sewer commission established under chapter 40N or by special law, a county, or a state agency as defined in section 1 of chapter 6A.

All agreements put into effect under this section shall provide sufficient financial safeguards for all participants, including, but not limited to: accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received; the performance of regular audits of such records; and provisions for officers responsible for the agreement to give appropriate performance bonds. The agreement shall also require that periodic financial statements be issued to all participants. Nothing in this section shall prohibit any agreement entered into between governmental units from containing procedures for withdrawal of a governmental unit from said agreement.

All bills and payrolls submitted for work done under any such agreement shall be plainly marked to indicate that the work was done under authority thereof. Any reimbursement for or contribution toward the cost of such work shall be made at such intervals as the agreement provides. The amount of reimbursement received under any such agreement by any governmental unit shall be credited on its books to the

account of estimated receipts, but any funds received under the provisions of section fifty-three A of chapter forty-four for contribution toward the cost of such work may be expended in accordance with the said provisions. The equipment and employees of a governmental unit while engaged in performing any such service, activity or undertaking under such an agreement shall be deemed to be engaged in the service and employment of such unit, notwithstanding such service, activity or undertaking is being performed in or for another governmental unit or units.

CHAPTER 44. MUNICIPAL FINANCE

Chapter 44: Section 55C. Municipal Affordable Housing Trust Fund

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

- (1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking

relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether

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or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

VI. Conclusion/ Next Steps

The MetroWest Regional Affordable Housing Trust project will continue with the launch of a pilot project based on this research report. Funded by the District Local Technical Assistance Program, the next phase will develop the trust and work to launch the program to serve communities in both the MetroWest and MAGIC subregions of MAPC. In preparation for this next step, the MWGMC staff will present the material contained in this report to the West Suburban Managers group in order to gain input and discuss the project with the key community stakeholders: Town Managers. A smaller group comprised of individuals who expressed interest from the 11/20 meeting will also be convened.

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