

# **NEWTON HOUSING PARTNERSHIP**

Newton Housing & Community Development Program  
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## **November 12, 2009 Meeting Minutes**

Members present: Phil Herr, Chairman, Jeanne Strickland, Deb Crossley, David Stein, John Wilson, Josephine McNeil, Peter Macero, Dan Violi, Bart Lloyd, Henry Korman, and Andrew Franklin

Visitors: Mr. Sierra (resident), Mr. Lepie (resident)

Staff: Trisha Guditiz, Robert Muollo, Jr.

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### **1. Review and approval of October 14 minutes**

It was noted that the minutes should state that Josephine removed herself from the table, not that Phil asked Josephine to move from the table. October minutes were approved, as amended.

### **2. Discussion about 192 Lexington Street and a letter in support to the Zoning Board of Appeals Public Hearing**

Phil explained that complex questions have surfaced regarding handicapped accessibility requirements at 192 Lexington Street. Phil distributed a second draft of a letter of support to the members for discussion and approval.

Phil explained that to his understanding the wording in this letter is consistent with HUD's and the Planning Department's understanding of the applicable laws and regulations and what the Developer seeks to do.

Phil then explained the lottery process for applicants with disabilities as it applies to applicable laws and regulations and also said he believed that at least one of the units of the Development will be made accessible. Phil suggested that the lottery process follows Newton's Local Preference, but pointed out that because the project is under 40B guidelines, Newton's Local Preference Policy is not required.

Partnership members inquired about the project's site and unit specifications, in relation to where an accessible unit could be placed on the site.

Henry explained the legal framework behind the Development and noted that an ambiguity exists: HUD's applicable regulations regarding accessibility for homeownership uses were derived from nonexistent or currently obsolete programs. Henry explained that Section 504 of the ADA is the applicable law in this case.

Phil explained the need for the development of a City policy that is clearer, rational and goes beyond existing regulations.

Dan asked what the correct way was to proceed, per HUD regulations. Phil explained that the Developer is handling the process and requirements in the correct way as required by law, but noted that local advocates voiced that the Development go above and beyond the regulations. Both Josephine and Peter expressed agreement that going above the regulations should be norm.

The Partnership then had a discussion on the lottery process the Developers intended to use, as required by law.

Henry believed there were two decision trees for the Partnership to consider: what the context of the Letter will be and the general procedures and policies for the future. Henry believed that the letter as stated, meets the requirements of the applicable laws, but that this issue should come back to the NHP at another time for discussion. Henry made the point that by providing the accessible unit in the Development now, turnover would not be precluded in the future.

Trisha asked what an ideal situation would be going above the requirements of the law. Henry responded by suggesting that all developments are treated as rental projects, whether homeownership or not. Henry also stated that although the laws are different for each type of housing program, all programs should account for accessibility. Bart believed this to be a good policy and expressed concern because more assurance is needed that the Developer would meet this standard and the Letter does not state that such a standard is being applied to this Development.

Bart asked if the Developer is conducting affirmative marketing. Trisha explained that the developer is doing extensive outreach efforts, as approved by DHCD.

Peter asked if the site plan has changed and what the contingency plan was for an accessible unit. Phil said that he had not seen a contingency plan. Trisha said the building permit can be made contingent on providing this information.

Andrew said that the benefits of the project are a basis for not changing the requirements as outlined in the current Letter.

Henry reiterated that HUD's policy for homeownership is at best unclear and specific policy says that recipients are not required to build accessible units, but are encouraged to do so. Deb suggested that this point be stated in the Letter and that a request be made to the Developer that an approved schematic for the site plan showing the additional

accessible unit be shown to the Partnership before the Public Hearing. Josephine felt that these requests should not be included in the letter to the ZBA, but rather ask the Developer if this information already exists. Andrew questioned if this information request goes beyond the purview of the NHP.

Henry believed that because the Comprehensive Permit will state that the developer is to make the disability requirements clear anyway; it is not necessary to have the developer come back to the NHP.

Henry proposed that the following changes be made to the draft letter:

Language under condition #2 stating: *“in the event that an income qualified applicant household has a member having a disability requiring such design features, with any necessary adaptations to be made at the expense of the developer”* be removed and *“mobility”* added before *“disabilities...”*.

For condition #3, Henry proposed that the last sentence, *“If there are no such applicants, no unit will be designed and built so to be fully accessible”* be removed. Henry motioned that the Letter be approved, as amended.

The Partnership voted 3-7-0 in opposition to approving the Letter, as amended.

A motion was made to approve letter as drafted. The Partnership voted 8-2-0 to approve and send the Letter to the ZBA, as is.

### **3. Description of letter for support of “Veteran’s House Project”**

Phil summarized the approved letter of support from the Partnership. It was noted that a comma should replace a period where the letter states that CAN-DO is applying for \$360,000. Henry confirmed that legally, the project does not need to be accessible because it is two units of rental housing.

### **4. Feedback for FY11- 15 Analysis of Impediments to Fair Housing Choice**

Tabled for discussion

### **5. Review of HAPI projects in Process:**

#### **a. Austin Street Development**

David applauded the fact that the Austin Street development process has not been truncated. David asked what the next producible documents were in the process after a Request for Information is submitted. Phil answered that a request for proposals would be issued six months after the RFI.

Phil explained that HAPI is doing the work a developer would do to make the land look attractive for future development.

b. “Mixed – use Friendly Zoning” memo

Tabled for discussion

**6.** Phasing pre-development information for Project Review

Tabled for discussion