

- Purpose: Affordable Housing
 Historic Preservation
 Conservation/Open Space
 Recreation

**Town of Lincoln, Massachusetts
Community Preservation Committee
Project Submission Sheet**

Requests received by November 14, 2005 will be considered for recommendation at the March 2006 Town Meeting.

Project Name: Seed Money - Housing Trust Fund

Submitted by: Timothy Higgins Submission Date: 3/7/06

Address, Phone, E-mail: On behalf of selectmen

Town Committee or Organization (if applicable): _____

Brief description of the project: Please refer to attached memo

Time frame for completion of the project:

How does this project help preserve Lincoln's character or further its mission?

Helps to facilitate the creation of affordable housing, a goal that is designed to satisfy the Town's legal obligations under MGL chapter 40B while also promoting diversity of our housing stock.

What are your funding requirements?

Fiscal Year	Implementation Costs	Maintenance Costs	Total Costs	Other Funding Sources (and \$ amount)	CPC Funds Requested
2006					
2007				TBD	750,000
2008					
Total					

PLEASE ATTACH SUPPORTING DOCUMENTS OR OTHER INFORMATION

For CPC Use:
Received on: ___/___/___

Received by: _____

Determination: _____
Reviewed on: ___/___/___

2007-07

TOWN OF LINCOLN



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TOWN ADMINISTRATOR
Timothy S. Higgins

TO: J. Koenig, Chair
Community Preservation Committee
FR: T. Higgins, Town Administrator
On behalf of the Selectmen
DT: March 7, 2006
RE: **Housing Trust Fund**

As you know, the Board of Selectmen is sponsoring an article to create a Housing Trust Fund to provide a more flexible mechanism for the Town to utilize when pursuing affordable housing opportunities. I've enclosed some of the background materials explaining the authorities that would be vested in the Trust.

The Selectmen would like the CPC to consider an appropriation to the Trust, assuming that the Town Meeting supports the motion to create the Trust. There are a number of potential affordable housing projects that the Trust could evaluate, including the Deaconess' senior living proposal, additional buy-downs at Minute Man Commons, a number of possible options in the South Lincoln/Mall area and others.

At this time, the Board is requesting an appropriation from the CPC in the amount of \$750,000. Our request is not based on specific project estimates. At this stage, our request is intended to provide sufficient capital to enable the Trust to play a meaningful role in creating affordable housing should the right opportunity/ies arise. As this is "start-up/seed" money rather than project specific funding that we are requesting, we certainly defer to the CPC's judgment as to the specific amount of funding that may be appropriate to transfer to the Trust at this point in time.

As you requested, I have asked Town Counsel to provide guidance as to the ability of the CPC to condition any grants to the Trust (i.e., sunset provisions, imposing a cap on the amount that may be expended for condominium buy-downs, and others). I will contact you as soon as I have Town Counsel's input, which I anticipate receiving within a day or so.

Thank you for considering our request.

Motion under ARTICLE 24 Selectmen

Moved: That the Town accept G.L. c.44, §55C, and establish a Municipal Affordable Housing Trust Fund to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households, said trust fund to be managed, pursuant to G.L. c.44, §55C, by a five-member Board of Trustees which shall have the full range of powers and duties specified in G.L. c.44, §55C, said Trustees to be appointed by the Board of Selectmen for terms not to exceed two years, of whom at least one member shall be a Selectman.

Overview of Municipal Affordable Housing Trust MGL, c. 44, s.55C

The concept of the Municipal Affordable Housing Trust was an outgrowth of the 40B reform effort. The cities and towns made the case that one of the major impediments to affordable housing was the lack of a legal vehicle enabling us to respond quickly and flexibly when properties of interest are offered for sale.

Housing Commissions, by the limits of their statutory authorities, tend to be better managers than developers of affordable housing. The Lincoln Housing Commission authorized by an act of the Legislature (Chapter 359 of 1979), and created by vote of special town meeting (November 5, 1979) is no exception.

- Required to work through the customary Town Meeting process in order to access funds.
- Cumulative cap of \$2.5 million on projects that can be undertaken

We argued the need for a streamlined process that would allow us to act as quasi-developers of affordable housing.

The Municipal Affordable Housing Trust Fund Act (MGL, c.44, s.55C) was approved last January.

The law allows towns to collect funds for housing, segregate them out of the general budget into an affordable housing trust fund, and use them without going back to town meeting for further approval. It also permits the trust to own and manage real estate, not just receive and disburse funds. The Town can somewhat tailor the particular authorities via the motion at town meeting. Agreements and conveyances between the Trust and other agencies of the Town are exempt under 30B.

The trust has particular advantages for CPA communities. CPA funds may be appropriated to the trust fund and the trust can expend them in a more streamlined manner. Although affordable housing is one of the four eligible uses of under the CPA, the act has been interpreted in a way that restricts the type of projects that can be undertaken (i.e., the type of fee interest that the town must hold, limits on borrowing, etc.).

Acceptance can only be at Annual Town Meeting

Trustees are appointed by the Selectmen. At least 5 trustees, one of whom must be a member of the Board of Selectmen. For 2 year terms

An independent audit is required annually. Is subject to the Open Meeting Law.

Last Year's Housing Fund

- Created a fund, separate from the general fund, for the Town to deposit CPA and other sources of funds (i.e., funds generated by the Inclusionary Zoning Bylaw, private gifts, etc.).

- Provides the vehicle to segregate funds for housing but does not permit them to be expended without first going back to Town Meeting.



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New law boosts affordable housing trusts

(MHP periodically issues e-bulletins to help local communities develop affordable housing. This e-bulletin explains the new law for municipal housing trust funds. If you have a comment or want to suggest another topic, [click here](#)).

In a move designed to help cities and towns create housing, Governor Mitt Romney has signed a law that simplifies the process of establishing a local housing trust fund, and gives communities greater ability to help in the development of affordable housing.

Called the Municipal Affordable Housing Trust Fund Act, the measure was approved by the legislature last year and signed into law by Governor Romney on January 7, 2005.

In response, MHP and The Citizens' Housing and Planning Association (CHAPA) sponsored an informational workshop on Tuesday, March 8, in Worcester. More than 100 people attended. Municipal lawyer Kathleen O'Donnell of Kopelman & Paige discussed the new law's implications and later issued an advisory, which has been posted on the [MHP web site](#).

What does the law mean?

The law gives all communities the local option to create municipal affordable housing trust funds. Previously, cities could create trusts through their own resolution, but towns had to get approval from the legislature through what is known as a home rule petition.

In addition, the law sets forth clear guidelines as to what trusts can do. It allows communities to collect funds for housing, segregate them out of the general budget into an affordable housing trust fund, and use these funds without going back to town meeting for approval. It also allows trust funds to own and manage real estate, not just receive and disburse funds.

The law's impetus came from the state legislature's joint Housing and Urban Development committee, which noticed more interest by cities and towns to create either affordable housing trust funds, or other local organizations that perform similar activities.

CHAPA helped get this bill passed during the final days of the legislative session. [Click here](#) to read the full text of the bill.

What role can a local housing trust play?

The law should help communities use their housing funds. Cities and towns should be able to respond more quickly to secure a piece of land or a building for future affordable housing development.

The law permits a municipal housing trust fund to:

- Accept or purchase property.
- Sell, lease or exchange property.
- Employ consultants and other advisors.
- Participate in a variety of real estate transactions such as recapitalizations or mergers; borrow money; manage or improve real estate.

Also, funds paid into the trusts are the property of the trust and need no additional spending approvals. Funds may be received from fees, private contributions, Community Preservation Act (CPA) funds and payments associated with zoning ordinances.

Communities that have passed CPA may benefit most from this law because it gives them a more streamlined way to spend its CPA dollars on housing. For more information on the CPA, go to the [Community Preservation Act](#) web site, look at the left-hand column and click on "implementation."

Useful pages on the CPA site include [potential uses](#) for CPA funds; a list of [CPA communities](#); a [project data base](#); and examples of [CPA implementation](#).

Municipal Constraints Still Apply

While the creation of a municipal housing trust gives communities additional flexibility to be a participant in making affordable housing happen, the legal restrictions and regulations governing cities and towns still apply.

The law requires that local housing trusts be governed by a five-member board of trustees, most typically appointed by either a mayor or town manager, and confirmed by the city council or board of selectmen.

The new trusts must be in compliance with Chapter 30B, the law which governs public procurement, as well as the public bidding and construction laws that regulate public construction projects.

It's likely that most municipal trust funds will opt to dispose of property through a sale or long term lease to a developer so as to clearly differentiate any affordable housing development project from a public construction project.

Additional information on developing affordable housing on public land can be found in [MHP's ebulletin archive](#). Go to this page, scroll down and read the ebulletin entitled "Using Public Land for Housing."

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