



# Trusts as a Tool for Affordable Housing

Affordable Housing Trust Conference • October 13, 2018





# Welcome!

## Please introduce yourself.

Your name

Organization you represent

Community



# Massachusetts Housing Partnership

## MISSION

Use private investment to bring **more affordable housing** to Massachusetts

- Privately-funded public non-profit organization
- Communities, non-profit, for-profit developers



### Lending

- Over \$1B for over 22,000 units
- Affordable rental

### ONE Mortgage

- First time homebuyers
- Fixed-rate, 30-year

### Community Assistance

- Technical assistance
- 40B program

### Center for Housing Data

- Collect, analyze & share info for effective policy creation



# MHP Services

## Community Assistance Team



**MISSION** To increase the supply of affordable housing by **fostering local leadership** and **providing technical support** to municipalities, non-profits and local housing authorities

# Massachusetts



## Trainings

- Housing Institute
- Chapter 40B
- Fair Housing
- Affirmative Fair Housing Marketing

## Technical Assistance

- Pre-development
- RFPs
- Zoning
- Housing Authorities

## Housing Trusts

- Conference & trainings
- Resources
- Technical assistance



# Today's agenda

October 13, 2018



**Trusts**  
Overview, operations  
& best practices

Developer's  
perspective



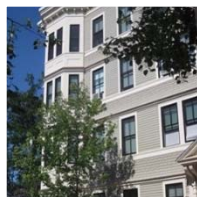
← Break



**What is zoning?**

← Lunch

**Case Study**  
Break out groups



**Roundtable  
discussion**

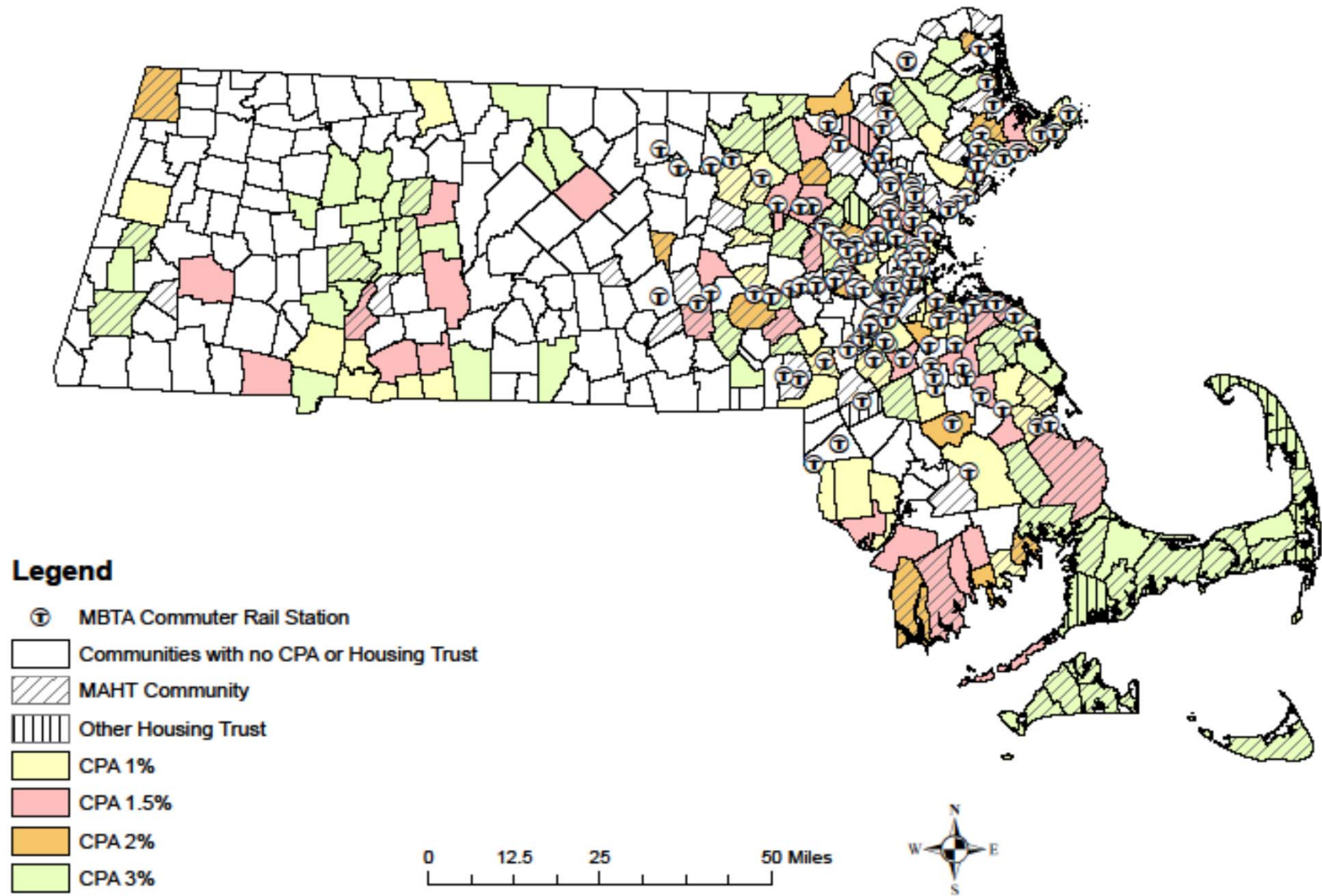
# Municipal Affordable Housing Trusts

Chapter 44, section 55c



# MA Communities with CPA or Housing Trust, 2017

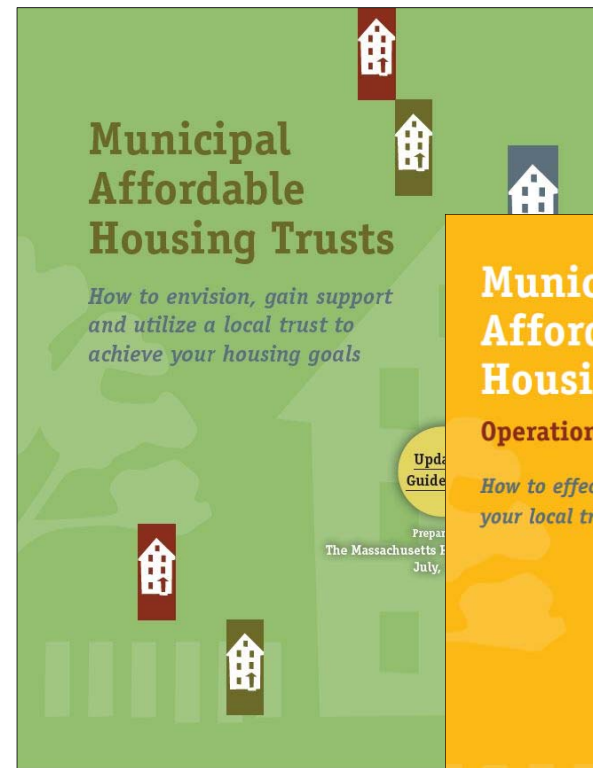
About 109 total = 98 MAHT and 11 non-MAHT





# What is a Municipal Affordable Housing Trust (MAHT)?

- Public entity
- Created by local legislative body
- Create & preserve affordable housing
- Led by Board of Trustees



**Subject to public procurement, designer selection, conflict of interest and public meeting laws**



# Trust Statute – MGL Ch.44, Sec 55c

## PURPOSE

*“...to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households...”*

- Limited scope
- Low and moderate income only



# Changes to Statute – H. 4565

1. Expands allowable activities for MAHTs to match those of community housing as defined by CPA.



# Changes to Statute – H. 4565

2. Clarifies that **all** rules and restrictions of CPA (Ch.44b) **remain in force** after transfer to MAHT.



# Changes to Statute – H. 4565

3. Requires trusts to track CPA funds separately and annually account for funds in CP-3 report to DOR.

## MUNICIPAL AFFORDABLE HOUSING TRUST

Annual Report to the Community Preservation Committee (CPC)

Municipal Affordable Housing Trusts (MAHT) created under MGL Chapter 44, section 55c are required to report Community Preservation Act (CPA) expenditures to the CPC on an annual basis. This form can be used to list CPA expenditures and should be filed with the municipal official responsible for completing the CPA Projects Report (CP-3). Since the CP-3 is due to the Department of Revenue by September 15, this form should be submitted to the CPC by September 1 or another agreed upon date.

TRUST NAME: Name FISCAL YEAR: Year

YOUR NAME: Name EMAIL: Email

PHONE NUMBER: Phone number

PROJECT #1	
Project name	Name of project.
Project address	Enter street number, street name, town and zip code.
Approval date	Date the trust approved project.
Project status	Choose an item.
Description	Provide description of project. Max. 150 words.

Does this phase of the project include acquiring real property (such as ownership of land or buildings) or acquiring a real property interest (a legal interest in land such as an affordable restriction)? Yes or No.

HOUSING UNITS ANTICIPATED or CREATED	
Number of new units created	Number of units.
Number of units supported	Number of units.
LAND	
Number of acres acquired for housing	Number of acres.
AFFORDABLE PROJECT RESTRICTIONS FOR THIS PROJECT	
Entity holding restriction	Name of entity holding restriction.
Date recorded	Date restriction was recorded.
Book and page of restriction	Enter book/page here.
Registry of Deeds	Choose registry of deeds.
If no restriction, please explain why.	If no restriction, please explain why.

CPA PROJECT FUNDS FROM MAHT = Enter dollar amount.  
Other Municipal Funds = Enter dollar amount. Private Donations = Enter dollar amount.  
State Funds = Enter dollar amount. Federal Funds = Enter dollar amount.  
Other Funds = Enter dollar amount. Please describe other funding: Enter other funding sources.  
TOTAL PROJECT COST = Enter total project cost.

Created by MHP with support from The Kuehn Charitable Foundation.





# Changes to Statute – H. 4565

4. Authorizes MAHTs to **execute** grant agreements.

# What can a Trust do?

- Actively address affordable housing needs
- Support local control of housing initiatives
- Engage in real estate activity
- Make timely decisions related to housing
- Accumulate funds from variety of sources





# Eligible Activities for Trusts





# Barnstable

## Cromwell Court Apartments



- 124 units of family rental housing
- Built in 1973. Acquired and rehabilitated in 2011.
- \$500,000 CPA funds

# Northampton

## Enhanced Single-Room-Occupancy (SRO)

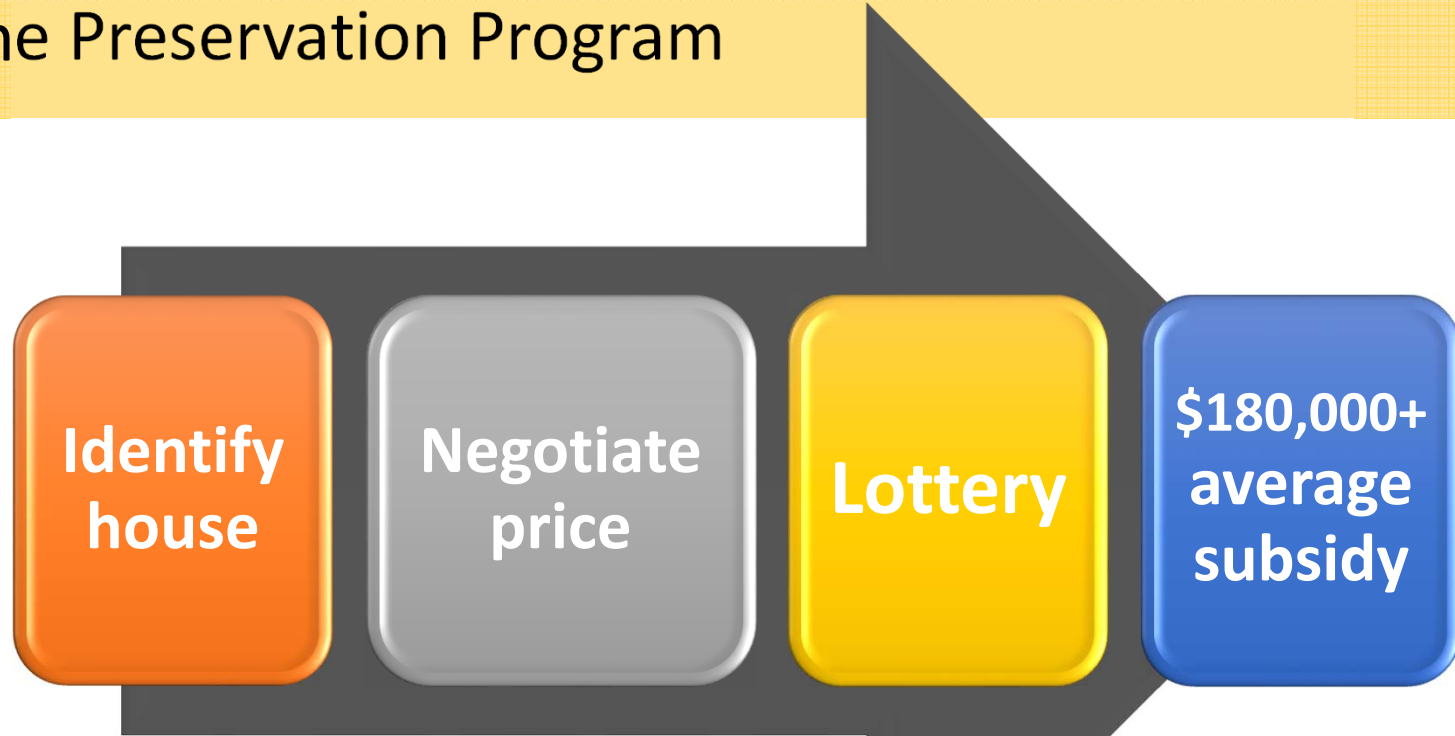


- 10-units of enhanced SRO on King Street for 5-homeless & 5-very low income individuals
- \$225k CPA funds out of \$2.1 million budget



# Sudbury MAHT

## Home Preservation Program



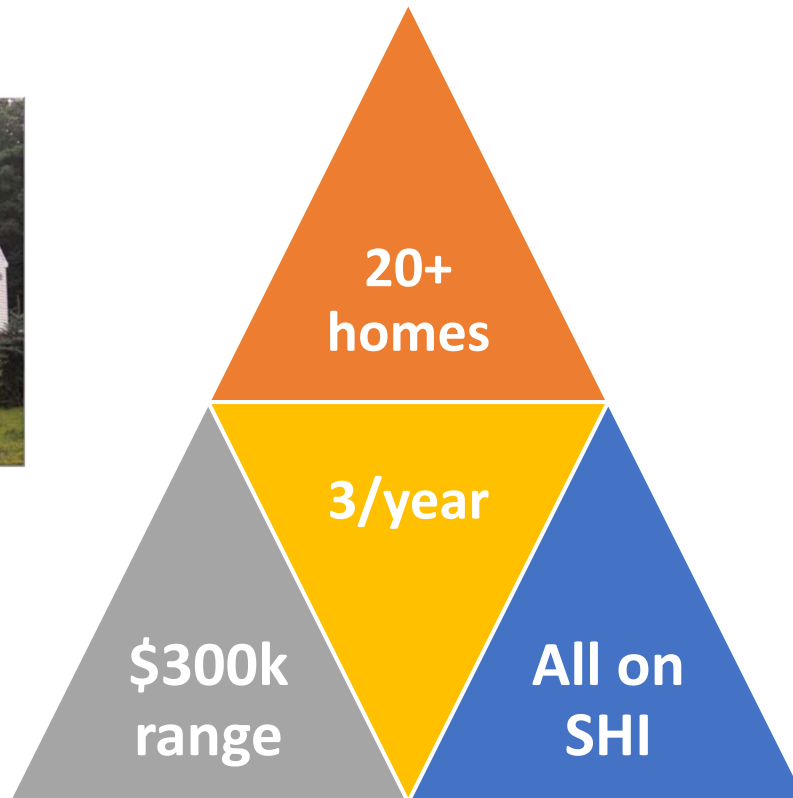


# Norfolk MAHT

## Small Scale Homeownership



Sold for \$155k in 2015



Sold for \$140k in 2014





# Leverett

## Homeownership Assistance Program



**Max purchase price: \$275,000**

**Up to 20% (\$50,000) of sale price**

**Managed by Regional Planning Agency**

# Create



# Small Scale Development

Thankful Chase's Pathway  
Harwich, MA  
12 family rental units  
Opened in  
Developer: Cape Community Development  
Partnership



Paradise Pond  
Northampton, MA  
12 family rental units  
Opened in 2007  
Developer: HAP Housing



Butternut Farm  
Amherst, MA  
26 family rental units  
Opened in 2011  
Developer: HAP Housing



Baker Street Apartments  
Foxboro, MA  
20 family rental units  
Opened in 2005



# Dennis

## Melpet Farm

- New construction
- Disposition town owned land
- 27 affordable townhouses, 1-, 2-, 3-bedroom units
- 60% AMI, family rental housing
- \$475,000 CPA funds





# Westport

## Noquochoke Village

- New construction on town owned land
- 50 affordable apartments, 1-, 2-, 3-bedroom
- 60% AMI, family rental housing (five at 100% AMI)
- Up to \$1 million from MAHT (including predevelopment, acquisition, development)



# Yarmouth

## Yarmouth Commons



- Former Cavalier Motor Lodge on Route 28
- 69 affordable apartments, 1-, 2-, 3-bedroom units
- 60% AMI (62 units), 30% AMI (7 units)
- \$2.07 million from MAHT (\$30,000 per unit)

# Norwell

## Herring Brook Hill



- Former police station, declared surplus in 2014 and voted to be transferred to trust in 2015
- Trust issued RFP in 2016
- 18 units of senior rental housing
- One- and two-bedroom units up to 100% AMI
- \$1.2 million from the trust and CPC



# Cambridge

## Port Landing



- 20 units of family rental (1-, 2-, and 3-bedroom units)
- Occupancy November 2016 in Kendall Square
- \$3,048,656 CPA funds thru trust (\$9m total budget)

# Infill Housing

## Boston



Front elevation



50 Peacevale Rd

Disclaimer: This rendering represents the Design Intent. Exact details and dimensions may change during construction.



First Floor



50 Peacevale Rd

Disclaimer: This rendering represents the Design Intent. Exact details and dimensions may change during construction.



## NEIGHBORHOOD HOMES INITIATIVE

the process



site + home selection  
DND + neighborhood create plan



builder selection  
builders respond to RFP; selected on set criteria



predevelopment  
presentation of plan to community



conveyance  
DND formally sells property



financing  
builders begin arranging financing and permitting



developer selection  
DND formally selects developers



construction monitored by DND



pre-sale through Boston Home Center



sale to homebuyer sale to selected homebuyer



# Re-use



**Shoe Shop  
Place**  
Middleboro  
25 rental  
(family housing)

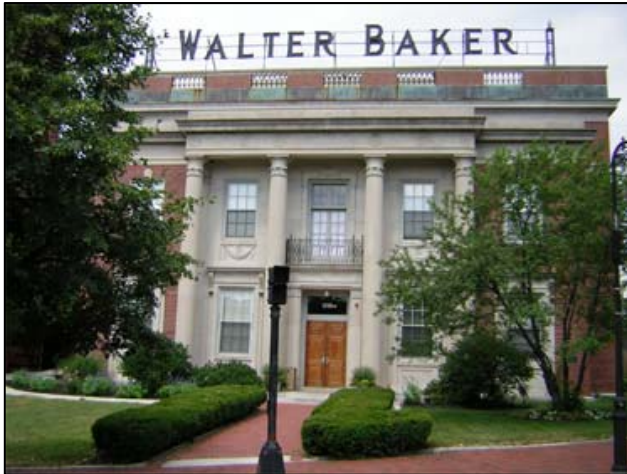


**Stevens Corner**  
North Andover  
42 rental  
(family housing)



**Rockport HS  
Apartments**  
Rockport  
31 rental  
(age restricted)

# Preservation





# Amherst

Rolling Green affordable units preserved



- 204 unit multi-family development
- Refinanced in 1998 under Mass Housing's 80/20 prepayment program (15 year restrictions)
- **41 affordable units/Section 8 vouchers, \$1.25m bonded w/CPA**



# Cambridge

## Bishop Allen apartments preserved



- 32 units of family rental (27 three-bed & 5 two-bed) in four buildings
- Purchased in March 2012 – restrictions due to expire in April 2012
- \$4,638,750 CPA funds through the local Affordable Housing Trust

# Support



**Pre-  
develop-  
ment**

**Housing plans  
and needs  
assessments**

**Rental  
Assistance**

# Lenox

## Sawmill Brook site

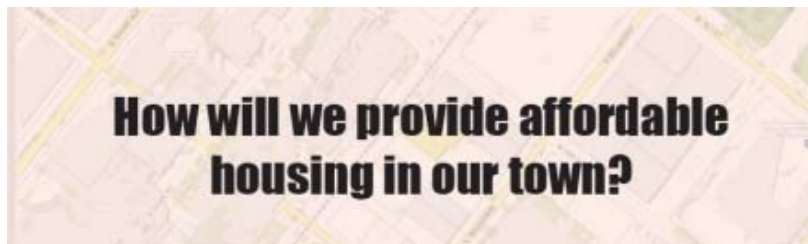


- Town acquired land
- MAHT and town planner working with MHP on RFP
- Flexible, but affordable housing is priority



# Wellesley Housing Production Plan

Wellesley  
Housing  
Production  
Plan



### Do you know ...

- What is affordable housing?
- Why is it needed?
- Why is it so difficult to create affordable housing?
- What can the Town do?
- How does increasing the supply of affordable housing relate to Wellesley's new Unified Plan?

## Wellesley Housing Production Plan

Join our community conversations about this important challenge for Wellesley!

- Tuesday, March 13, 7-9:30 pm: Sprague School Gym, 401 School Street
- Thursday, May 3, 7-9:30 pm: Sprague School Gym, 401 School Street
- Tuesday, June 12, 7-9:30 pm: Wellesley High School Cafeteria, 50 Rice Street
- Monday, Sept. 10 (TBD): Joint Board of Selectmen-Planning Board Meeting, Town Hall (hearing on the draft Housing Production Plan)

For more information, contact the Wellesley Planning Department, 781-431-1019, ext. 2232.



Town of Wellesley  
Administration, Inc.

Consultants



J.M. Goldstein  
COMMUNITY DEVELOPMENT  
CONSULTANTS

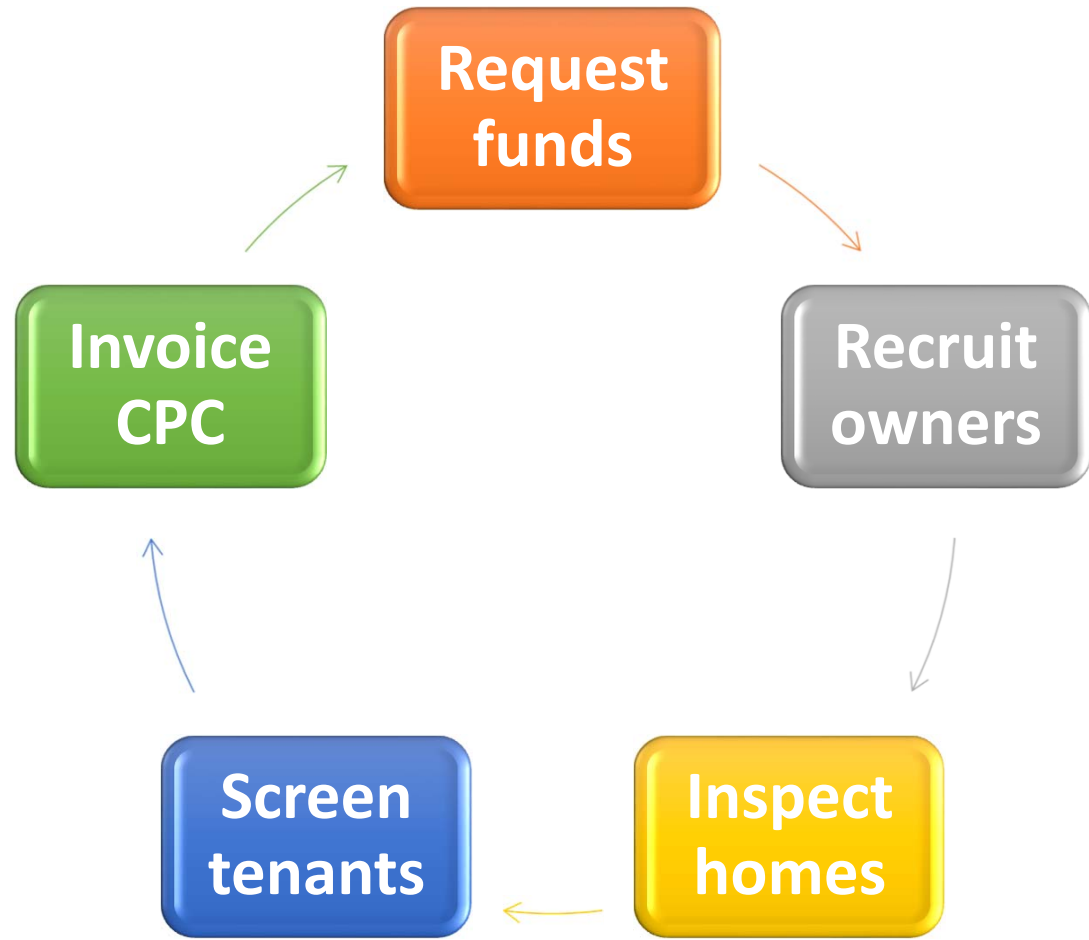


**Certified plans:** Ashland, Chelmsford, Medfield, Medway, Norfolk, Reading, Swampscott, Westford



# Rental Assistance

Dukes County Regional Housing Authority



# Martha's Vineyard FY2014

- 66 rental assistance subsidies
- 147 people on waiting list
- \$543,000 CPC appropriations
- Average monthly subsidy = \$499
- Average income served = 45% AMI





# Regional Housing Services Office

Two in the Greater Boston area

- Acton, Bedford, Burlington, Concord, Lexington, Sudbury, Wayland and Weston
- Metro North – Reading, North Reading, Wilmington and Saugus

Developed with support by MAPC

Monitoring

Program  
admin

Project  
development

Resident  
assistance



# You've created a Municipal Affordable Housing Trust (MAHT)

**Now what?**







# Board Powers

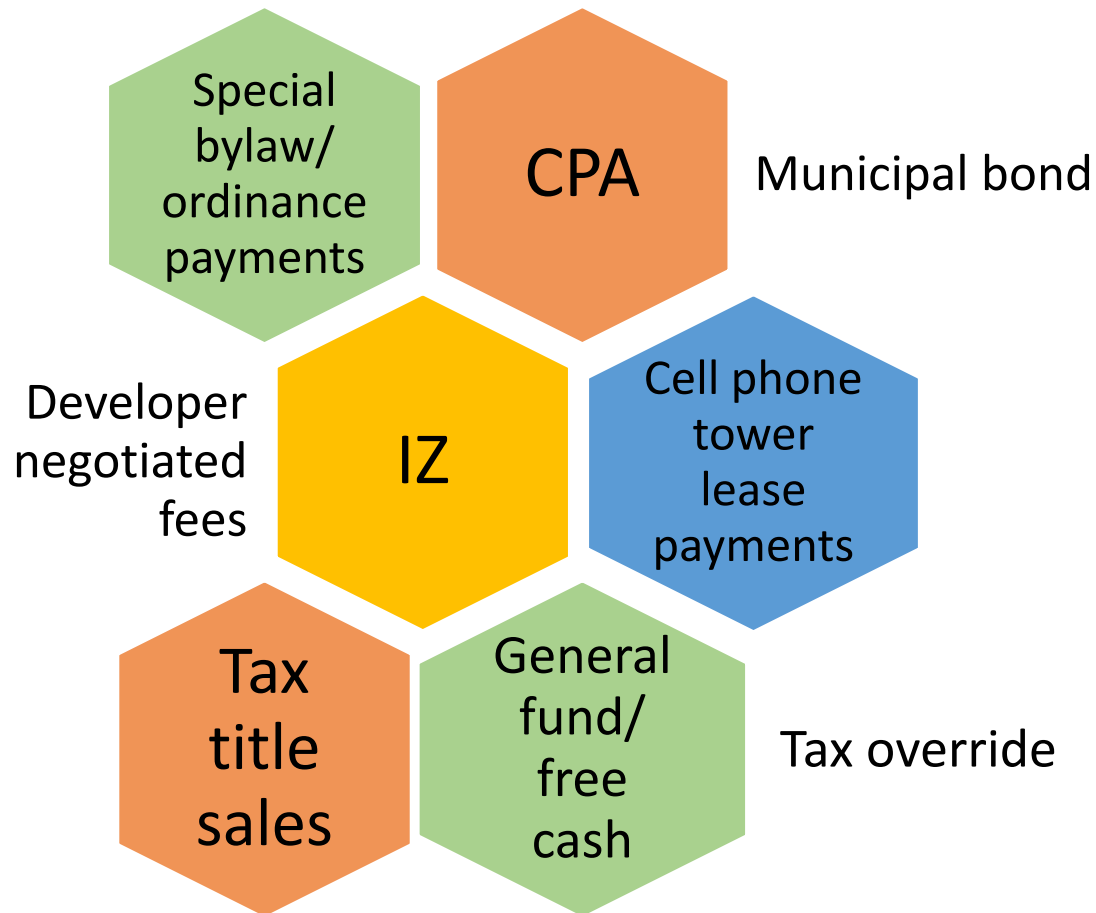
- **Accept and receive real property, personal property or money**, by gift, grant, or contribution...including but not limited to money, grants of funding or other property....
- **Purchase and retain real or personal property**, including instruments
- **Sell, lease, exchange or convey** any personal, mixed, or real property at public auction or by private contract...

# Keys to Success

1. Money
2. Vision
3. Leadership
4. Transparency



# What funds can be used?



# Set up the trust fund account

- **Common** = municipal account through municipal treasurer
- All funds in account remain trust property
- **Track revenue sources**

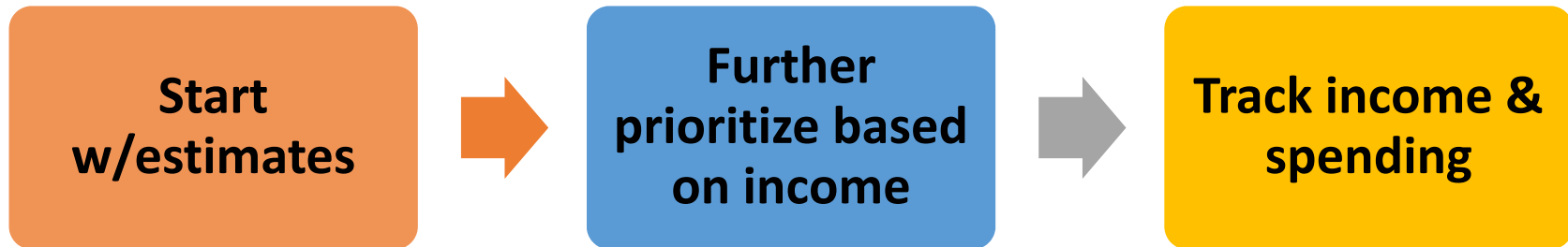




# Set a budget



Where will your income come from?



Cambridge = 80% CPA

Somerville = 45% CPA

# What do you want to accomplish?



Determining needs



Setting priorities



Create benchmarks



# Create a Mission Statement

Example of Grafton



## Mission Statement:

Adopted February 17, 2010

*To provide for the creation, preservation and retention of affordable housing and rental housing in the Town of Grafton for the benefit of low and moderate income households through a variety of programs including education and advocacy.*



# Guidelines or Action Plan

## BEVERLY AFFORDABLE HOUSING TRUST HOUSING GUIDELINES AND APPLICATION PACKAGE



Beverly, Massachusetts



**Beverly Affordable Housing Trust**  
Michael P. Cahill, Mayor  
Bryant Ayles  
Aaron Clausen, AICP  
Richard Dinkin  
Susan Gabriel

City Staff: Darlene Wynne, AICP

December 2017

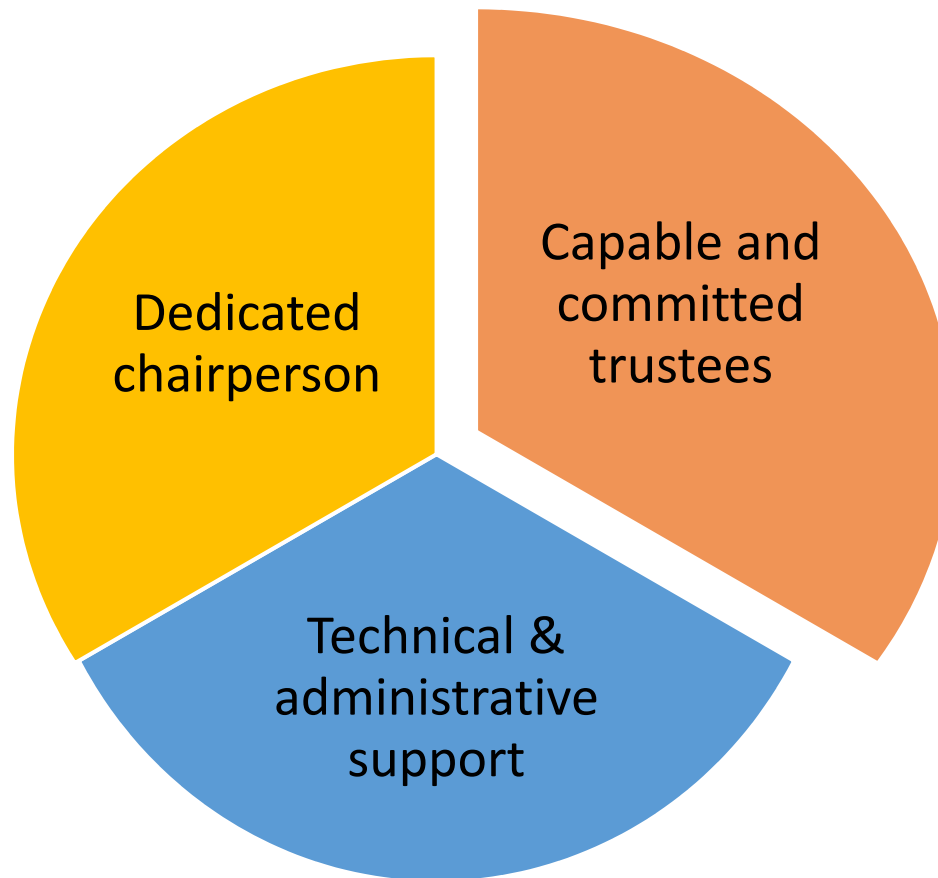
### IV. Eligible Activities

Funds requested in support of these strategies and the following activities will be eligible for funding:

- **Predevelopment Activities** – Includes costs related to architect and engineering fees, legal fees, financial feasibility analyses, permits, appraisals, 21E reports, property acquisition, and other costs associated with examining the feasibility of a potential development including improving projects such as septic upgrades, creating additional open space, designing passive/active recreational space, etc. (*Note: The items listed above are limited to funding through loans only, with the exception that the BAHT Trustees may authorize a self-initiated grant for any amount for projects included in this category.*)
- **Development Activities** – Includes costs related to filling the gap between total project costs (minus other private and public funding) and what qualifying occupants (owners or renters) can afford to pay. Development activities include new construction, rehabilitation and redevelopment of affordable residential housing, and may include mixed-income and mixed-use development opportunities.
- **Housing Preservation and Improvement Activities** – Includes costs related to preserving the relative affordability of private unsubsidized housing units owned or occupied by eligible households, ensuring continued affordability by maintaining affordability restrictions on the property for the life of the incentive and including the property on the Subsidized Housing Inventory (SHI) list, and making necessary improvements or replacing unsound structures, thus stabilizing both residents and neighborhoods.
- **Direct Assistance Activities** – Includes direct support to eligible households to lower the costs of obtaining housing in Beverly and/or remaining in the community (such as funding for downpayment and closing costs; first and last month's rent plus security deposit; rental assistance). Such direct assistance, as it relates to renters, would likely address the local needs of some of the community's most "at risk" residents.
- **Multiple Use Activities** – Includes support for developments that incorporate housing and one or more of the other categories of CPA funding – historic preservation, open space preservation and eligible recreational opportunities.



# It takes teamwork





# Clarify roles

Example of Manchester-by-the-Sea (HPP)

HOUSING STRATEGIES	Priority for Implementation		# AH units	Lead
	Years 1-2	Years 3-5		
<b>CAPACITY BUILDING</b>				
Establish & capitalize MAHT	X			BOS/CPC
Secure professional support	X			BOS
Ongoing education	X			MAHT+
<b>ZONING</b>				
Pursue 40R/40S	X			PB/MAHT
Modify multi-family requirements		X		PB/MAHT
Modify accessory bylaw		X		PB/MAHT
<b>DEVELOPMENT</b>				
Pursue mixed-use TOD	X		5	PB/MAHT
Public property for AH	X		16	BOS/PB/MAHT
Small-scale infill & conversions	X		48	PB/MAHT

# Ensure transparency



## Communicate

Report  
back  
regularly

Promote  
efforts

Use  
webpage  
and social  
media



# Westport Affordable Housing Trust

## Webpage

### Affordable Housing Trust Fund

The mission of the Trust Fund is to help people with modest incomes afford the cost of living in Westport in three primary ways:

- Convert existing buildings to affordable homes,
- Ease home costs for existing residents in need,
- Construct new affordable homes.

### Staff Contacts

Name	Title	Phone
Leonardi Aray, AIA	Housing Specialist	(774) 264-5126

### Board of Trustees

Name	Title
Elizabeth Collins	Chair
Craig J. Dutra	Vice Chair
James Sabra	Member
Henry Lanier	Member
BettyAnn Mullins	Member
Warren Messier	member

[2017 Income Limits Chart](#)

[2018-22 Housing Production Plan](#)

[CRE-HAB Housing Rehab Program](#)

[Housing Assistance Office Brochure](#)

[Housing Opportunity Purchase Program \(HOPP\)](#)

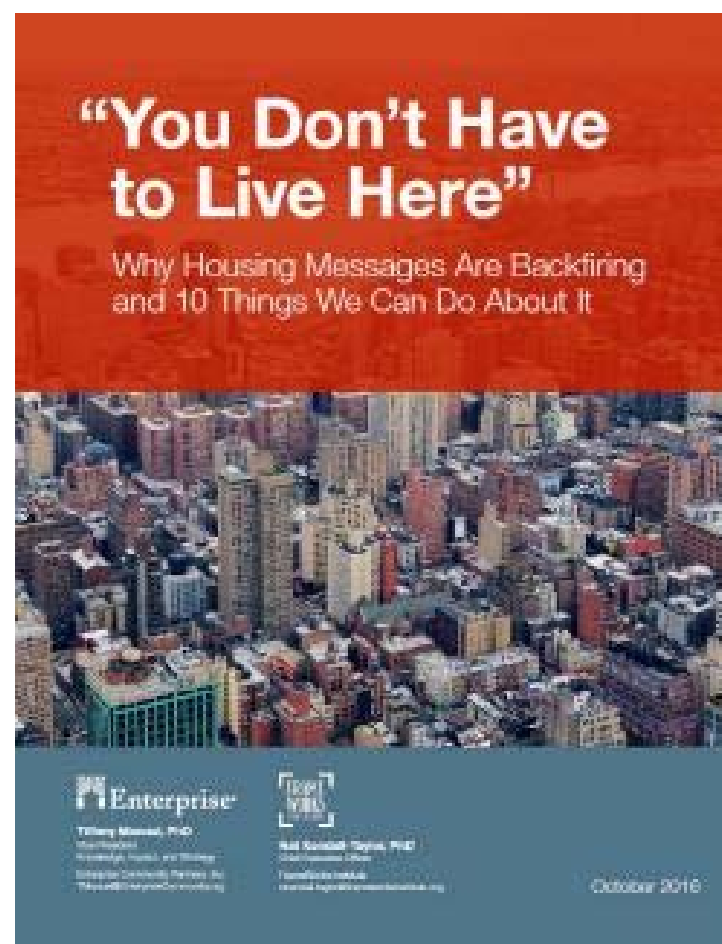
[Housing Plans](#)

[Noquochoke Village Job Fair Oct. 30](#)

[SEED Grant Program](#)

# Creating a Culture of Support

- Balance people with places and systems
- Tell “story of us” rather than “story of them”
- Connect housing to other social issues and outcomes
- Where you live affects you
- Consider language that we use (e.g. home vs housing)





# Determine operating approach

Funder

Initiator

Both?



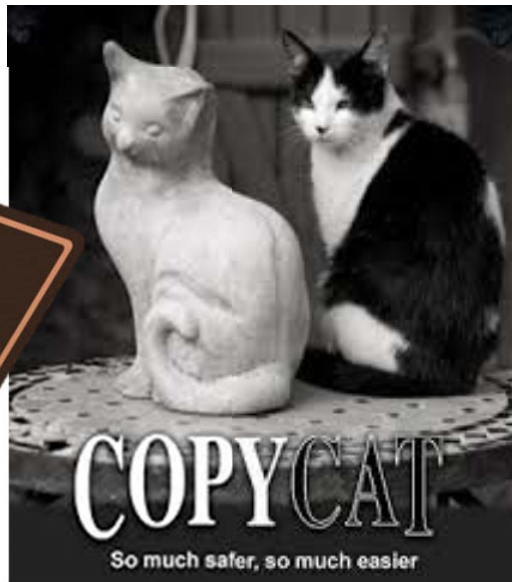
# Low Hanging Fruit

What can you accomplish fairly quickly to build momentum?





**DUE  
DILIGENCE**





# Tips



## **Trust statute does not define “low and moderate income”**

- Advice: Consult definitions commonly used in state/federal programs

## **Be clear with parameters of fund distributions**

- Advice: Execute grant agreements for all distribution of funds



Legal consideration

# Anti-aid Amendment to MA Constitution

- Public funds cannot be given or loaned to individuals or organizations for their private purposes
- Needs to have public benefit
- Payment after service rendered

Restriction

Lease  
agreement

Recapture



Legal Consideration

# Open Meeting Law

## MGL Chapter 30A, sections 18-25

- Within two weeks of appointment, trustees must complete Certificate of Receipt of Open Meeting Law Materials
- Some exceptions – executive session if deliberating purchasing, leasing or valuing of real property
- “Public meeting” includes deliberations that involve a quorum – careful with email



Legal Consideration

# Procurement Laws

## From MAHT statute:

*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.*

**Section 15a of Chapter 40:** Requires 2/3 vote of legislative body to transfer land.

**Exception:** Accepted provisions of Section 15a then majority vote for transfer for low and moderate income housing.



## Legal Consideration

# Procurement Laws

### Construction/capital improvement

- Public construction & bidding requirements
- Prevailing wage

### Real property disposition, lease or acquisition

- Chapter 30b, Section 16 – various guidance
- If bought with CPA funds, exempt from 30b

### Contracting professional services

- Three Thresholds
  - Under \$10,000
  - \$10-**50,000** – 3 **written** bids
  - **\$50,000+** -- sealed bids or proposals

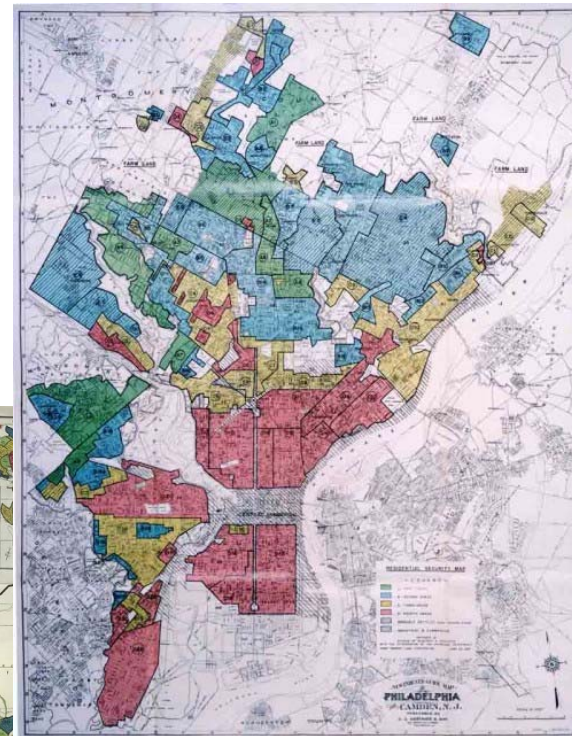
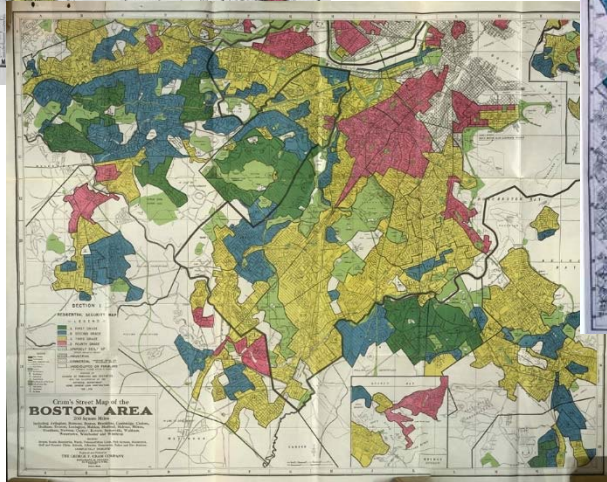
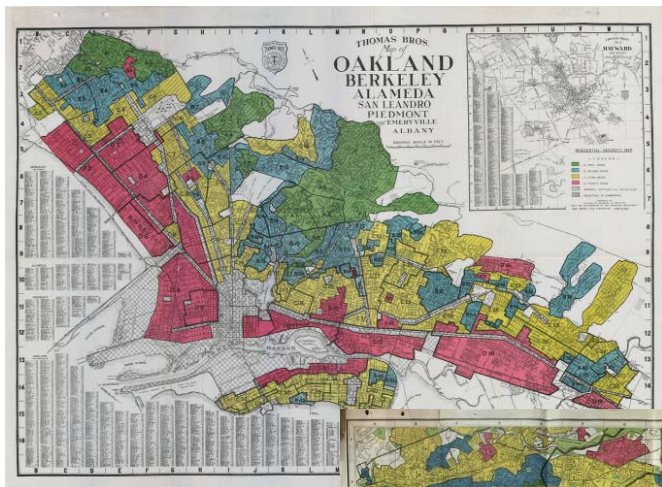


# Trusts & Fair Housing



SCAN HERE FOR  
MORE INFO

# Federal Government institutionalized racism and segregation -- REDLINING



Home Owners'  
Loan Corporation



Legal Consideration

# Federal Fair Housing Act 1968

MA Anti-Discrimination Law







# Key Fair Housing Laws

## Protected Classes

### **Federal (Fair Housing Act)**

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability

### **State (M.G.L. c. 151B)**

All federal bases plus:

- Ancestry
- Age
- Marital Status
- Source of Income/Public Assistance
- Sexual Orientation
- Gender Identity
- Veteran History/ Military Status
- Genetic Information

# Two Key Fair Housing Concepts



**Disparate Impact**

“Discriminatory Effect”

**Affirmatively Further Fair Housing**

Obligated to FH

# Disparate Impact



“...[e]ffect, not motivation, is the touchstone because a thoughtless housing practice can be as unfair to minority rights as a willful scheme.”

Smith v. Anchor Bldg. Corp., 536 F.2d 231, 233 (8th Cir. 1976).



# Which scenario can cause “disparate impact?”

- A. Large lot zoning
- B. Restricting the number of bedrooms by unit, rather than development
- C. Townhouse only developments (with stairs)
- D. Advertising affordable housing strictly locally
- E. All of the above

# Obligation to Affirmatively Further Fair Housing



**End  
residential  
segregation**

**Eradicate  
discrimination**

**Promote  
housing  
choice**

**Address  
disparities in  
housing  
needs &  
access to  
opportunity**



# How to Affirmatively Further FH

## Affirmative Fair Marketing

- Follow DHCD's marketing & resident selection plan guidelines
- Market to those least likely to apply

## Zoning

- Consider ways that zoning may be creating disparate impact

## Diverse Housing Options

- Multi-family AND single family
- Rental AND homeownership
- Family AND senior



EQUAL HOUSING  
OPPORTUNITY



# Local Preference

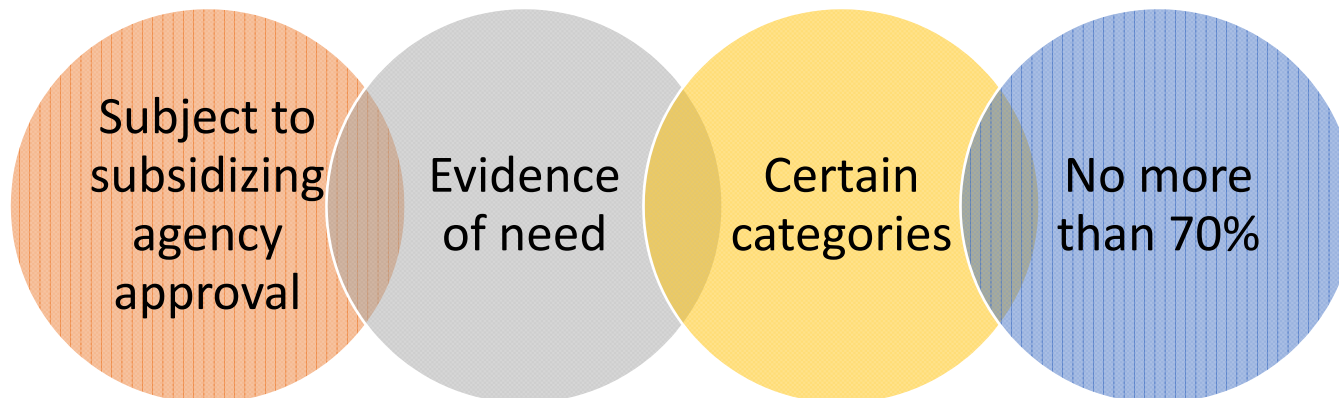
## State (M.G.L. c. 151B)

All federal bases plus:

### Federal (Fair Housing Act)

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability

- Ancestry
- Age
- Marital Status
- Source of Income/Public Assistance
- Sexual Orientation
- Gender Identity
- Veteran History/ Military Status
- Genetic Information



# Questions?



**Next up**

**Kevin Maguire of Oxbow Urban**





# Wayne, MA Case Study

## **Small Group**

45 minutes

## **Full Group Analysis**

30 minutes



# Roundtable



# Wrap Up and Resources





# Housing Toolbox

## for Massachusetts Communities

**HOUSING TOOLBOX**  
for Massachusetts Communities 

Know what you're  
looking for?

*Type to search the toolbox*

**SEARCH**

Strategies and best practices for the creation and preservation of affordable housing, with guides, tools and resources for local boards & committees, planners, municipal staff, developers, and volunteers.

[www.housingtoolbox.org](http://www.housingtoolbox.org)

Strategies and best practices for the creation and preservation of affordable housing.

**For local boards and committees, planners and municipal staff and developers**



# CHAPA

Municipal Engagement Initiative

**CHAPA strives to develop a community engagement model that will broadly work in all communities while allowing for flexibility in the model to work within each unique environment.**

Currently working with the Amherst Affordable Housing Trust.

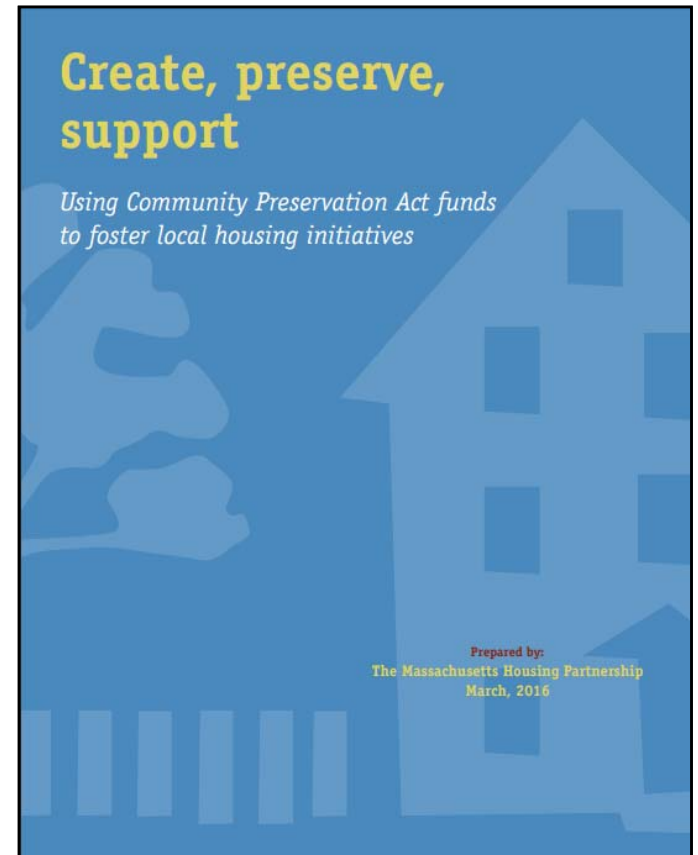
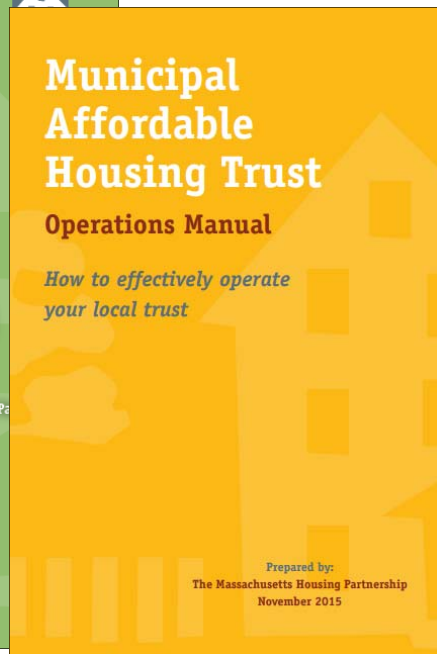
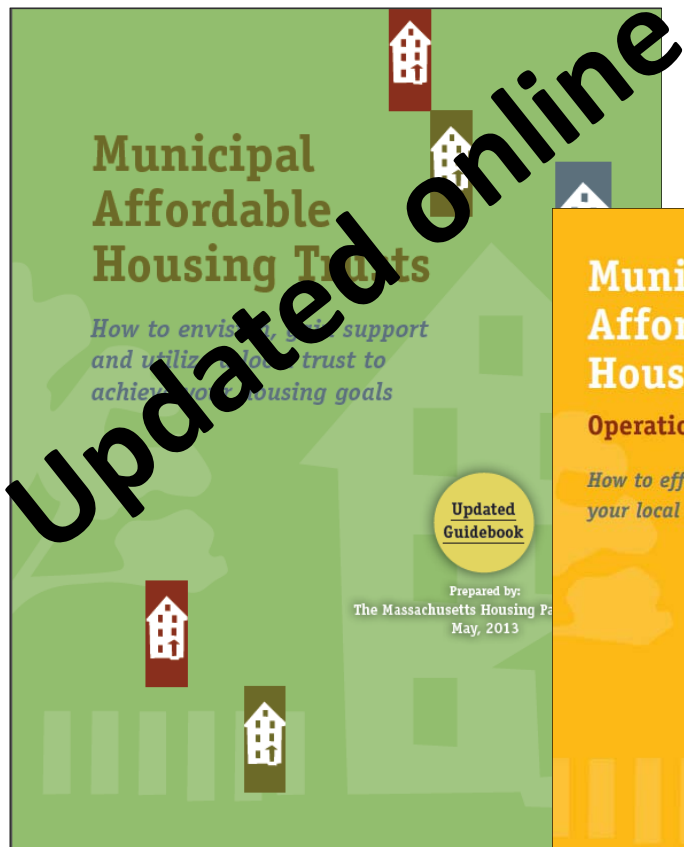
[www.chapa.org](http://www.chapa.org)



# MHP Online Resources

On our website:

<http://www.mhp.net/community/publications-and-materials>





# Massachusetts Housing Partnership

[www.mhp.net](http://www.mhp.net)

**Shelly Goehring**

Program Manager

[sgoehring@mhp.net](mailto:sgoehring@mhp.net)

Direct line: 857-317-852