

## Affordable Housing Trust for Lexington - FAQs

### AFFORDABLE HOUSING TRUST

**What will an Affordable Housing Trust do?** The Affordable Housing Trust (AHT) is a municipal entity expected to act primarily as a financing entity or ‘bank’ including acting on opportunities that would otherwise need to wait for CPC or town meeting. The Trust will receive funding from multiple sources and distribute cash funding to other affordable housing entities via grant or loan in accordance with the Trust’s articulated priorities of producing and preserving affordable housing. Examples of what a local affordable housing trust fund can do include:

- Provide financial support for the construction of affordable homes by private developers (non-profit or for-profit)
- Rehabilitate existing homes and apartments to convert to affordable housing
- Increase affordability in existing and future housing developments
- Develop surplus municipal property for affordable housing
- Preserve properties faced with expiring affordability restrictions
- Create programs to assist low- and moderate-income homebuyers
- Create programs to help low- and moderate-income families make health and safety repairs and
- Educate and advocate to advance affordable housing initiatives.

**There are 128 communities in Massachusetts that have an Affordable Housing Trust.** So, why doesn’t Lexington have one? Good question. Establishing an Affordable Housing Trust is a well-recognized mechanism to further affordable housing in the state.

**What is Lexington’s current production of affordable housing?** Lexington's production rate is very low. Over the past decade, Lexington created 41 affordable homes and lost 41 group home units. Lexington continues to be at 1,320 SHI units since 2011. (Subsidized Housing Inventory, which includes market rate units that are counted as subsidized). 11.05% of Lexington’s housing stock is counted on the SHI based on the 2010 census<sup>1</sup>. Approximately half of that (663) are considered Affordable. “Affordable” is defined as at or below 80% of Area Median Income. For example, 80% of Area Median Income is currently \$89,500 for two-person households. The Town needs to create more affordable homes.

**Is the Town involved in decisions made by the Trust?** Yes. The Trust will be a Town entity bound by public procurement laws, open meeting laws, conflict of interest, and CPA eligibility regulations and procedures. Some purchases and disposition of land would go through an advertisement and bidding process. Additionally, the statute requires a Select Board member to be a trustee, and the Affordable Housing Trust Study Committee (AHTSC) proposes a spending threshold for real estate transactions requiring Select Board approval. It does not alter the Town’s many tools and controls to direct appropriate development. Town Meeting would review planned development districts and the Zoning Board of Appeals would have authority over 40B permitting.

**As a municipal entity of the Town, who will oversee the Trust’s money management and use?** The Trustees, who include a Select Board member, will be responsible for decisions on allocating and distributing funds. The Town’s Finance Department will administer the Trust’s accounting, accounts payable, investment of assets, and oversee Trust audits. The Town Treasurer will be responsible for administering investment of assets.

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<sup>1</sup> The 2020 census data is not yet approved to use.

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**What is the proposed initial funding for the Affordable Housing Trust?** The AHTSC suggests that the Town fund an amount similar to purchasing a lot in town, plus funds for holding costs, consultants to help prepare RFPs, and a housing needs assessment. April's data showed that a typical lot would cost \$1.5M in Lexington.

**What does the Board of Trustees membership look like? Will there be Trustees from other Town committees?** Nothing excludes any Town committee member from being appointed by the Select Board as a Trustee. The statute requires that one Trustee be a Select Board member. The AHTSC recommends emphasizing experience over Town committee membership, but Town committee members can apply to be Trustees.

**Can we move forward with the Affordable Housing Trust while LexHAB decides its next steps?** Yes. In fact, if we move the Trust along and commit funding, the Trust will be ready to start funding development once LexHAB determines its future.

**What are the biggest challenges other Trusts in the Commonwealth have faced?** Insufficient funding and limited powers that restrict the Trust's ability to act quickly and effectively.

### FINANCE

**From what sources could the Trust receive its funding?** (CPA is the most common source of funding for Affordable Housing Trusts.)

- CPA Community Housing Reserves and CPA Unbudgeted Reserves grants
- Affordable Housing Stabilization Fund (Brookhaven's annual mitigation payments) (and other/future) payments in lieu of affordable housing
- ARPA funds
- Annual Town appropriations
- Private donations
- Fees from the resale of affordable homes

Other potential sources are:

- Housing Linkage Fees: HB 3891 for commercial development and HB 4314 for home larger than 2,100 sq ft for single family (Both were not approved this year.)
- Federal HOME funds
- Fees from short-term rental permits
- Real Estate Transfer Fees (TBD)

**To what entities will the Trust distribute funds?** LexHAB, Lexington Housing Authority, HDCs or CDCs (Housing or Community Development Corporations) or not-for-profits, property owners or private developers. The recipient will be bound to the terms and conditions of the award, which will be memorialized in a recorded document.

**Is the Affordable Housing Trust responsible for using CPA funds only for CPA eligible projects?** Yes. If a project is not CPA eligible, the AHT cannot use CPA funds to fund it. Instead, other funds such as Brookhaven mitigation payments, donations, fees, interest, federal and state funds, etc., would be used.

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**Who will be responsible for the decision-making on the investment of assets?** The Town Treasurer will be responsible for investment of assets which will primarily be in Massachusetts Municipal Depository Trust (MMDT cash portfolio) or other liquid investments, but may also include investment in legal list equities. The Town Accounting Department will perform accounting functions, including general ledger transactions, accounts payable, receiving funds and paying invoices, cash reconciliations, and annual audits.

**Where are the Trust's assets/liabilities and income/expenses recorded?** They are recorded in the Town's general ledger and included in the Town's financial statements.

**What about CPA funds transferred to the Trust?** As a municipal entity, the Trust will be held to the same standards and expectations as other municipal entities. Any CPA funds transferred must be tracked and compliant with CPA regulations. Trustees and the Town Finance Staff are responsible for ensuring compliance and fulfilling reporting requirements.

**Will the Trust be required to issue Requests for Proposals?** Yes, when applicable. The Trust is required to follow all aspects of public procurement, including 30B, CPA (if applicable), and public construction, following state law and Lexington specific requirements per the Procurement Officer.

**Can the Trust hire consultants, housing specialists, and administrative staff?** Yes. Full and/or part time staff would receive salaries, benefits and retirement per Town policies.

**If the Trust directly hires contractors and staff, is it subject to prevailing wage law?** Yes, for contractors. No, for staff.

**Would the AHT awardees/grant recipients be subject to the prevailing wage law?** No. Funding from the Trust to private entities such as Housing Development Corporations/Community Development Corporations or non-profit or for-profit entities would not on its own trigger public procurement and prevailing wage laws for the actual construction of those projects, similar to CPA funding for private projects. This funding would be structured through a Grant Agreement between the Trust and the private entities. If using Town funds, the Town would use a transparent solicitation process.

**Can the Trust purchase/sell/transfer property?** Yes, and the AHTSC recommends that Select Board approval be required for purchases above a certain threshold. The purchase and disposition of property is subject to public procurement 30B. [Note: Acquisition of real estate purchases using CPA funds are exempt from RFP. Dispositions are subject to RFP unless deemed a unique property.]

**Is the AHT allowed to borrow to buy property?** The MGL c.44 s.55C statute allows the Trust to borrow money (a collateralized loan or mortgage). While it is unusual for trusts to use this tool, it is important to have flexibility. The AHTSC recommends that borrowing above a pre-determined limit will require Select Board approval.

**Can the Trust hold property?** Yes. The Trust can hold property and hire a property manager. The AHTSC recommends that transactions above a pre-determined limit will require Select Board approval. At this time, it is not the intention of the Trust to be a holder or manager of property long term, but to transfer rights to the property to a developer.

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### Where can I learn more?

- The Housing Toolbox has a wealth of information on municipal affordable housing trusts: [Housing Toolbox and Housing Trust Funds](#).
- The Massachusetts Housing Partnership’s Municipal Affordable Housing Trust Guidebook: [MHP Municipal Affordable Housing Trust Guidebook](#)
- Lexington’s Comprehensive Plan - a visionary plan for the future physical development of Lexington: [Lexington Comprehensive Plan](#)
- The Regional Housing Services Organization (RHSO) has information on local and regional housing: [RHSO Housing in Lexington](#)
- Massachusetts’ Municipal Affordable Housing Trust Fund statute: [M.G.L. Part I, Title VII, Chapter 44, Section 55C](#)

Acton, Bedford, Concord, Lincoln, Maynard, Sudbury, Wayland, and Weston are also in the RHSO. Acton and Lexington are the only RHSO communities without an Affordable Housing Trust.

## 128 Municipalities\* with Affordable Housing Trusts Lexington Can Be the 129<sup>th</sup> Community

Amherst	Boston	Chilmark	Franklin	Holliston	Marblehead	Natick	Provincetown	Somerville	Tyringham	Westport
Andover	Bourne	Cohasset	Georgetown	Hopkinton	Marion	Newburyport	Quincy	Southborough	Upton	West Tisbury
<b>Arlington</b>	Boxborough	<b>Concord</b>	Gloucester	Hudson	Mashpee	Newton	Reading	South Hadley	<b>Waltham</b>	Whately
Ashburnham	Brewster	Danvers	Grafton	Ipswich	Mattapoisett	Norfolk	Revere	Stow	Wareham	Williamstown
Ashland	Bridgewater	Dartmouth	Great Barrington	Kingston	Maynard	North Andover	Rockport	Sturbridge	<b>Wayland</b>	<b>Winchester</b>
Ayer	Brookline	Dennis	Groton	Lakeville	Medfield	Northampton	Salem	<b>Sudbury</b>	Wellfleet	<b>Woburn</b>
Barnstable	Cambridge	Duxbury	Hadley	Lancaster	Medway	Norwell	Salisbury	Swampscott	Wenham	Worcester
<b>Bedford</b>	Canton	Eastham	Hamilton	Lenox	Melrose	Oak Bluffs	Saugus	Tewksbury	Westborough	Yarmouth
<b>Belmont</b>	Carlisle	Easton	Hanover	Leverett	Merrimac	Orleans	Scituate	Tisbury	Boylston	
Beverly	Carver	Edgartown	Harvard	<b>Lincoln</b>	Millbury	Paxton	Sharon	Townsend	Westford	
Billerica	Chatham	Falmouth	Harwich	Littleton	Milton	Pepperell	Sherborn	Truro	West Newbury	
Bolton	Chelsea	Foxborough	Hingham	Manchester-by-the-Sea	Nantucket	Plymouth	Shrewsbury	Tyngsborough	<b>Weston</b>	

\*Up from 110 in 2019. Law passed in 2005