

BARNSTABLE COUNTY HOME CONSORTIUM ADVISORY COUNCIL
THURSDAY, JUNE 19, 2014
CAPE COD COMMISSION OFFICE
MEETING MINUTES

Members Present: Lee Berger, Carl Brotman, Richard Carroll, Jill Douglass, Vicki Goldsmith, Michelle Jarusiewicz, Bernie Kaplan, James Kyrimes, Paul Lagg, Elaine McIlroy

Members Not Present: Lorri Finton, Cindi Maule

Staff Present: Paul Ruchinskas & Michelle Springer

Minutes-

Richard made the Motion to approve the Minutes of May 15, 2014. James seconded the motion, 8 in favor, 0 opposed, 0 abstained.

HOME Policies & Procedures-

Down Payment/ Closing Cost Program-

Paul began by explaining that because of all of the HOME regulation changes DHCD has set up a group of Boston based HOME jurisdictions along with us to get together and look over the regulations and talk about what people are doing in order to meet the new regulations. They have set up a website so that people can share different documents, which Paul has found very useful. Paul was a part of the Down Payment/ Closing Cost group and others thought we had a good set of polices already in place with just a couple of tweaks needed. The following are the four areas with proposed changes from the December 2013 version:

Citizenship-The issue of citizenship came up and HUD requires that any federal assistance goes to a US citizen or qualified alien. It has been part of our requirements and HAC has a question on their DPCC application asking if the person is a citizen. Because a HUD monitoring visit of the Somerville DPCC program raised the issue and led to a Finding, Paul thought it would make sense to add the definition of a US citizen to the policy using the same language as Somerville's policy.

Uniform Relocation Act (URA)-Technically the URA kicks in with the use of the DPCC funds. The URA states that people are not to be displaced because of the actions of federal funds and if they are being displaced that they are eligible for relocation assistance. Before participating in the DPCC program, the participant must have a signed a P & S. They also need to give the seller a notice that states that they are participating in the DPCC program and will be receiving federal assistance. The form states that the seller is making a voluntary sale and will not be eligible to apply for relocation assistance.

HAC makes sure (through their Homebuyer Education Workshop) that anyone that would like to participate in the DPCC program is aware that they need to have this form signed when they execute the P&S.

Lee asked what if they sign a P&S without the form being signed by the seller then they aren't eligible for the DP assistance?

Paul explained that yes they would not be eligible.

Lee asked if we could make it within 30 days of signing a P&S?

Paul answered no; it cannot be changed as has to be before.

Richard pointed out that page 4 states that "the notice will provide the seller with an estimate of the fair market value of their property". How do they establish a fair market value?

Paul responded that what Somerville has done and what we will do is use the amount that they are offering to satisfy the FMV because that is the buyer's estimate of the fair market value of the home.

Lee asked to see the regulation that states this before we adopt it as part of the policy. Lee feels that it hurts the sale and jeopardizes the whole process.

Vickie made the motion not to include the Section M URA regulation in our DPCC policy.
Richard seconded, 8 in favor, 0 opposed, 0 abstained

Conflict of Interest-Currently the Conflict of Interest applies to employees or an immediate family of someone employed by HAC and the Cape Cod Commission. The proposed change is to replace "the Cape Cod Commission" with "Barnstable County" as employees or immediate family members of employees who would trigger conflict of interest concerns. Anyone who applies that's an employee of the County or an immediate family member of an employee can still apply as there is a process that Paul can go through to HUD for a waiver. If the employee/immediate family member are in a decision making capacity for the DPCC program (Paul or Michelle), then they would not be eligible to get a waiver from HUD.

Household Assets-The recommend change is to change \$2,000 to \$7,500 on page 6 of the policy and to add a sentence on page 2 to reflect that DPCC applicants may retain up to \$7,500 of their own assets and still be eligible for assistance. Paul reported that Boston-area jurisdictions allow up to \$15,000 be retained. We have found that people struggle to come up with the 1.5% that we require, and it's very rare that we would have a household with substantial assets. We are only funding existing often older homes (as we are not able to fund deed restricted homes due to the DR issue), so these homes will need work down the line and allowing people to keep more of their own funds will hopefully help with necessary maintenance and repairs needed.

Lee moved a motion to approve the revisions to the DPCC policy in regards to Citizenship, Conflict of Interest and Household Assets, James seconded, 8 in favor, 0 opposed, 0 abstained,

Monitoring –

Paul began by stating that most of what is in the monitoring policy we have been doing for years but HUD wants all jurisdictions to have written policies and procedures as to how we are going to monitor the programs that we fund to be sure that they are working and remain viable over the long term. We are required to have this in place by July 24, 2014. Paul posted our policy on the common website that the group shares but has not heard anything as of yet.

New Projects-For all new projects HUD requires an on-site inspection before the disbursement of the final payment to the owner. Paul goes out and does an on-site inspection to confirm that the contracted work was completed and that the project was built in accordance with the approved plans and specs. As part of all of the development deals now there is a Lender Advisor who is a construction inspector for all of the public lenders. He is contracted to do monthly progress inspections when the owner submits a request for funding. They go out and do the inspections and approve the request for funds. At the end of the project the inspector will go out and do a final inspection and sign a certification that the project was built in accordance with the plans and specs. The Consortium also requires a similar type of certification from the project architect.

Within one month of closing the project in IDIS, we request that a HOME completion report on all the HOME-assisted units be submitted. Michelle then goes out to the project and does a file review of all the HOME assisted files. Michelle checks HOME rent amount& income levels are being applied, leases is free of any prohibited lease terms, affirmative marketing, etc. This has been our standard practice for year now.

Annual Approval of Rents- In previous years we would receive the new rent/income limits from HUD and we were required to get them out to all the property managers/owners. We would tell them (as of a certain date) they should use the new limits on any households that are rectifying /new move and be sure the person was at/below the limit for the household size and the correct rent amount depending on if it's a Low or High HOME unit. Michelle would go out and do on-site file reviews to make sure that they are using the correct rent/income limits. HUD is now requiring that we approve all rents annually. Before an owner can increase their rents, they will need us to approve the rent increase. Part of this review is to make sure that owners/property managers are using the correct rent amount but also that tenants are not receiving undue increase in their rents. We have found that most property owners want to keep the tenants they have in place and would be reluctant to increase the rent to the point of losing a tenant and then having to deal with the cost of a vacancy turnover. We will be sending out a letter 45 days prior to the properties fiscal year asking them to send us a copy of this year's budget, next year's budget, and the current and projected rent roll. We will match up the two and make sure that the correct rent/income limits are being used and if there is any undue proposed rent increases for HOME-assisted tenants in non-project based units. In general rent increases that are more than double the percent increase in the operating budget and/or more than 5% higher than the prior year's rent will require additional explanation and review. For the most recent and bigger projects, this shouldn't be an issue as they adopt annual operating budgets; however, many of the older/smaller projects do not prepare an annual operating budget.

Lee asked about the sentence that reads “No rent increase may be implemented on non- project-based HOME-assisted units”

Paul explained that on the project based units the rent is set automatically which is a Section 8 rent. The unit has a Section 8 voucher attached to it and the rent is fixed. We do not need to review those as they will charge what the fair market rent is, and they can be used as HOME units as anyone who has a project based is paying 30% of their annual gross income towards rent.

Michelle asked if we expect push back?

Paul responded that yes he does expect push back but it’s a HOME requirement. They will also have to do it for DHCD if they have State HOME funding.

Paul explained that we will be sending a letter out to all property managers/owners explaining what we are requiring from them. DHCD could come out with their process for approving rents and at that point Paul said he will bring it back to the Consortium to review.

Annual Desk Review of Rents and Incomes-There are currently 52 HOME assisted projects that need to be reviewed every year. Michelle sends the letter and compliance report out beginning of August with a deadline September 30th. The goal is have all follow up compliance letters out by December as there is sometime a need for follow up on the reports. The Consortium also requires owners/property managers to submit the most current fiscal audit as well as owner generated income/expense report. We review the reports for cash flow, vacancy rates and amount of replacement reserve to figure out the property’s overall health. HUD requires a financial review for projects with 10 or more HOME units, but we have been doing this for all projects for the last three years and have found it to be helpful.

Richard asked what would happen if the property manager/owner do not comply?

Paul responded that they would get a finding or we could call the loan.

Jill asked when does the monitoring of 52+ properties become too much?

Paul responded that HUD only requires a 15 or 20 year affordability restriction on a HOME funded project, and we had typically done a 50 year or more restriction so one of the things we have done is put two levels of affordability in the affordable housing restriction. There is a 15-20 year HOME affordability restriction period and the County affordability restriction period for perpetuity. That allows us to decide after the 15-20 year period how often we want to monitor the properties.

On-Site Review, Incomes, Lease Terms, and Property Condition/Standards-The on-site file review is based on the compliance report. On-site and physical inspections are scheduled for October-April. Staff we conduct the required on-site file review, and a contracted inspector will conduct the physical property inspections. HUD has changed the requirement for on-site file reviews and physical inspections. HUD had required 20% of the units be reviewed and inspected. HUD has now changed the schedule to projects with 1-4 HOME units you will need

to do on-site file review and physical inspection for all the files. The way HUD had it scheduled was that the smaller project were getting reviewed every 3 years and the larger projects (26+) annually. It has been our experience that it is the smaller ones that need more review rather than the bigger ones. We are purposing to flip the order to 1-9 units every year (with an option to go to every 2 years after for 2 consecutive years of satisfactory reports), 10-19 units every 2 years, and 20+ every 3 years. It will help to even out the work load for the onsite reviews. DHCD is going to stay on an every 2 year file review and inspection.

The on-site file review is to verify incomes were calculated correctly and in accordance with the required Part 5 methodology, rents & utility amounts are correct, lease are for one year and do not contain prohibited terms, and other HOME requirements. The HOME program is complex and it is not unusual for monitoring visits to result in Findings that require corrective action. This will not automatically trigger a more frequent on-site monitoring. However, depending upon the number of Findings and severity, it may.

When possible the Consortium will accept, in lieu of an on-site monitoring visit, a satisfactory monitoring report done by or for other public or quasi-public funders of the project as long as the required numbers of HOME units were reviewed.

The property inspections will follow the same schedule as the on-site file review schedule. If there any health & safety related items that have failed, we will have the property inspected again the following year. The Consortium will accept a satisfactory property inspection report done by an independent third party as long as the required HOME units were inspected.

The goal is to have all file reviews and on-site inspections and compliance letters out by May 31st.

Monitoring Fee Schedule- There will be a monitoring fee of \$35 per HOME unit to be adjusted annually on or about March 1st of each year.

Principal Residency Monitoring-For all HOME-funded homebuyer projects we need to monitor the owner's occupancy annually during the affordability period. We print the information off of the assessor's website and for those owners where address does not match the physical or they have PO Box, we will send a letter out requesting a copy of utility bill or tax return to verify they are still residing in the home. HAC is also doing the same thing for the DPCC clients.

Michelle asked how many years do we monitor the primary residency for?

Paul responded that they have the primary residency obligation for as long as they own the home or until the homeowner repays the loan.

Down Payment/Closing Cost Program Sub-recipient Monitoring- Michelle goes out annually and does a file review of 20% of the DPCC files. She looks to review documentation for compliance with the program such as income eligibility, affirmative marketing, outreach lists, etc. The visit is typically scheduled within 2 months after the end of the fiscal year.

Income Eligibility Verification Policy (Attachment A)-Outlines the information needed to determine a households eligibility in the program.

Lee moved a motion to approve the Risk-Based Monitoring Polices and Producers, James seconded, 8 in favor, 0 opposed, 0 abstained,

Mass Housing Partnership (MHP) Rural Housing Initiative-

Last summer Susan Connolly and Laura Shufelt from MHP's Community Initiative Program came to Wellfleet to do a listening session on the challenges of developing affordable housing on the lower/outer Cape. The issues were the National Seashore, land cost, lack of infrastructure, etc. Paul received an invitation from MHP to be on the advisory committee for the Rural Housing Initiative. The purpose is to look at state housing policy with its focus on the 495 belt and "Gateway Cities,"- medium size, older, disinvested cities. Other housing policies such as smart growth, transit-oriented development, Chapter 40R, etc. are great but do not work as well in smaller and more rural areas. The goal of the Rural Housing Initiative is to look at state housing polices and how those policies are impacting smaller rural communities and to advocate for some policy changes. MHP uses the definition of 500 people per square mile which means that 9 out of the 15 towns on the cape meet that criteria to me considered rural.

Richard asked what CWN was?

Paul responded that it's the Community Wide Needs score. It's a score DHCD uses for every community, and if you get a score of 25 or higher you are more eligible to apply for state Community Development Block grant funding.

Out of the 351 communities, 170 in MA are rural by this definition and 13% of the state's population. Most rural communities have a decreasing and aging population, aging housing stock, few major employers, lack of infrastructure, limited public transportation, limited public staff, etc. MHP hoped to come up with a policy by September so that they can engage the gubernatorial candidates, but it doesn't look like that will happen so they hope to have it ready by November for the new Governor. They hope to present the needs in rural communities, the challenges to access the funding streams, and recommendations for policy changes to meet the needs of rural communities. One of things MHP has advocated for years for is to do a set aside for smaller projects (20 units or less). DHCD has been consistently reluctant to do these set asides for special areas or populations. They did one last year for the Homeless population which was a special round and four of the nine project funded were less than 20 units. MACDC did an analysis of recent rental rounds and found that 80% of the soft debt went to tax credit projects which you would think that tax credit projects would not need a lot of state subsidy but they do.

Staff Report-

Paul sent the renewal for the Mutual Cooperation Agreement in early June. HUD sent it to DC to have an attorney look at it, and they came back and said that we need to have all fifteen towns in the County to sign the agreement. If it turns out that the towns will need to do that, Paul will let the Consortium members know.

The Staff person at HAC that has been administering the DP program for the last 6 years was let go due to budget constraints. Paul and Michelle met with the new staff person that will be taking over the program.

There is a re-sale of an affordable home in Sandwich located on Osprey Lane, and HAC is working to find a buyer.

There is an affordable home in Sandwich that is currently going through foreclosure. The home is a part of the Shop Project and has HOME funds in it. Unless a buyer is found, we will have to pay the \$16,750 that was used in HOME funds back.

Village Green I closed with all the federal funding and should be starting construction soon.

The Cape Cod Commission has officially notified the three towns in the Regional Ready Renters program is ending as of June 30. We were not able to find an entity to take the program over. It was a real challenge matching people with units as the rents were too high for a majority of the people on the list.

Town Report-

Lee explained that the developer of the Pilgrim Pines 40B project in Bourne is going bankrupt. It's a mix of 130 units, 27% affordable, and the rest market rate condo units. They have asked for a reduction in affordable units from 27% to 20%, but that cannot be done under the current permit. They have also built fewer of the affordable units to date than they should have under the comp permit. There will be a ZBA hearing on July 2nd.

Meeting adjourned 10:00 a.m.

Enclosures:

1. Minutes of June 19, 2014
2. HOME Policies and Procedures-Down Payment/Closing Cost Program
3. HOME Policies and Procedures-Monitoring
4. Mass Housing Partnership Rural Housing Initiatives

