

AFFORDABLE HOUSING

adopted by vote of the land bank commission: November 20, 1989

amended through: October 27, 2009

Throughout much of its recent history, Martha's Vineyard Island has experienced a shortage of affordable, year-round housing. It represents a public policy dilemma of significant proportions.

A variety of organizations has been chartered to plan for and develop affordable housing units for the Vineyard. The land bank has assisted these groups in the past – a compilation of such projects appears as Appendix A – and wishes to continue to do so, even though the land bank performs an unrelated public duty and exerts no discernible impact on the unavailability of such housing.

policy no. 1 Geographic non-competition (general) The land bank will continue, per long-standing policy, to decline to prioritize land in the towns' village-density residential districts, where existing infrastructure (e.g., schools, libraries, common sewers and common water lines) and an existing townscape make affordable housing particularly sensible. Nor will it prioritize land in commercial districts, where business-owners may seek permission to construct employee housing.

Ordinarily the land bank focuses on properties lying beyond the suburban rings around the town centers; the price of land in these outlying areas is usually higher than it is closer to town. Higher prices there mean that the real estate market itself has deemed that these areas are not candidates for affordable housing. As a result, land bank acquisitions in these areas do not siphon off affordable housing opportunities but do reduce overall density on the island. The land bank supports town zoning amendments that seek to transfer that density – for affordable housing purposes only – into and around the island's town centers.

policy no. 2 Cooperative acquisitions Generally the land bank purchases

properties on a wholesale basis, i.e., prior to subdivision, after which time they assume a retail value. If the land bank and any of the island's affordable housing entities "partner up" on any particular property, the cost savings which attend wholesale acquisitions can be passed on to the land bank and housing entity alike.

In the case of vacant land, the land bank will participate in such cooperative acquisitions as follows:

2.1 The land bank shall perform a housing analysis on all properties coming before it for potential purchase.

The purpose of the analysis is to determine if housing could be sited along the fringe of the property without detriment to the conservation purposes being served; to this end, the land bank will use, but not be limited to, the following several guidelines:

- whether the goal of creating broad, un-broken stretches of conservation land will be frustrated by adverse fragmentation of:
 - ◆ wildlife habitats
 - ◆ wetland systems
 - ◆ viewsheds, both near-range and long-range
- whether hopes for future undevelopment (viz., removal of existing structures in the vicinity of the conservation land) will be undermined
- whether the island's aquifer will be unduly impacted

2.2 Once the land bank has determined that its conservation goals in a particular case would not be unduly impacted, it will deliver to the seller a letter from the county housing authority urging him to consider selling a portion of his property for affordable housing.

2.3 Should the seller indicate interest, the land bank will confer with the county housing authority as to platting the affordable land. Priority will be given to the housing authority as a cousin public agency, but the land bank may choose among the island's various other affordable housing entities, at its discretion, if for some reason the housing authority is not appropriate for a particular transaction.

After such time, the land bank will negotiate the purchase of

that property so that the housing site is subdivided off and deeded to the housing entity in a separate transaction not involving land bank funds.

- 2.4 A range of assumptions will need to be made when pricing the value of the land to be sub-divided off. The land bank shall make such reasonable assumptions as are effective in lowering the per-acre price to the housing entity, while avoiding anything which would act as a direct subsidy.
- 2.5 The land bank will be open to the possibility of allowing wells and/or septic systems to be sited on the land it will purchase, provided that their presence on the conservation land will be low-impact and invisible or nearly invisible. The land bank likewise will be open to allowing "nitrogen capacity" on its land to be allocated to the affordable land.

The land bank will also be open to "exporting" nitrogen capacity from its properties to an off-premises location, provided that this exporting occurs within and not between water-sheds. Generally speaking, it will consider doing so when the "receiving" property:

- will contain housing units that all meet the prevailing local standards for affordability, rather than a mix of affordable and market units
- is located in a town center, as defined by the land bank town advisory board
- reuses and recycles existing buildings to the maximum extent feasible

In all of the above cases, the necessary easements must be finalized prior to or at the closing, since land bank properties cannot legally be encumbered once the land bank has taken title to them.

- 2.6 The land bank shall undertake cooperative acquisitions only when all of the resulting housing lot(s) are to be bound by deed riders ensuring, to the greatest extent possible, their permanent affordability. Affordability clauses which lapse after a period of time shall be considered inadequate.
- 2.7 From time to time the land bank considers the acquisition of

properties which contain build-ings. The land bank will, in its discretion, determine whether the buildings should be preserved on-site or relocated off-site in order to enhance the conservation value of the balance of the land.

The land bank shall seek to avoid owning buildings, unless they offer a direct benefit to the institution. If off-site relocation is not desirable, the land bank shall seek to subdivide off the property prior to closing. It may choose, depending on circumstances, to offer it to an affordable housing entity and, if so, shall follow the process outlined above in parts 2.1 through 2.6. In its pricing of these buildings, the land bank shall consider them a nuisance and essentially an expense to raze and shall therefore arrange for their transfer to the housing entity at the lowest possible price; under such circumstances, the most significant cost to the housing entity would be for the land.

policy no. 3 Surplus buildings owned by the land bank Per section 6 of the land bank law, the land bank shall maintain its properties predominantly in their "natural, scenic or open condition." Any buildings which survive land bank acquisition shall be retained only so long as they directly serve land bank goals.

If they do not serve land bank goals and are suited to residential use, the land bank shall, under ordinary circumstances, issue a request-for-propos-als calling for such buildings to be relocated off-premises for use as affordable housing. These buildings shall be offered free of charge, as their razing would otherwise be an expense to the land bank.

Should such relocation prove infeasible, the land bank may choose to raze any such buildings. Prior to doing so the land bank shall offer to the county housing authority or like affordable housing entity, at no cost, these buildings' components and fixtures.

policy no. 4 Increase in the transfer fee Proposals have been floated over the years to increase the fee above its current 2.0%, with the added increment turned over to the county housing authority for its exclusive use. The land bank commission would not object to such an increase. Furthermore, were the housing authority to persuade the town meetings and the legislature to amend both agencies' enabling acts

to permit such an increase, the land bank volunteers to serve as the fee collection agency, processing the fee and regularly delivering to the housing authority its allotted amount.

Revenues generated from the existing 2.0% fee have proven insufficient to meet the land bank's goal of conserving wildlife habitat areas, wellfields, aquifer recharge areas, marshes, beaches, farms, scenic vistas and trails in such quantities and locations as to retain a fair balance between development and conservation on the island. As a result, the land bank would oppose any efforts to channel any portion of the existing fee to a non-conservation purpose.

Should island voters prefer an alternative to an increase in the transfer fee, the land bank recommends the community preservation act or a new act designed expressly to meet island housing needs, either of which to be tailored specifically for the Vineyard as an island-wide organization akin in structure to the land bank.

policy no. 5 "M" exemption Notwithstanding anything to the contrary in section 8.01(2) of the land bank's rules and regulations governing the processing of the transfer fee, any "m" purchasers seeking a payment plan will be subject to an interest rate corresponding to the pre-vailing prime rate at the time of transfer, and no higher.

The commission shall, in December of each year, determine the "m" threshold for the following calendar year. To do so, all "m" transfers in the previous twenty-four months shall be tallied and all anomalous transfers (e.g., those which are uncharacteristically high, not arms-length, etc.) shall be culled. The mean and median of the remainder shall be calculated and the commission shall, in its sole discretion, select the threshold generally based on these figures, thereafter notifying the town advisory boards and local attorneys and banks of the result.

policy no. 6 Public education The land bank shall print the following on a twice-yearly basis in local newspapers:

ATTENTION LANDOWNERS

The Martha's Vineyard land bank commission purchases property for conservation and passive public recreation and the Dukes County regional housing authority seeks property appropriate for the con-

struction of affordable housing. These two agencies can work cooperatively on projects of mutual inte-rest.

Please contact the land bank office (508-627-7141 or Post Office Box 2057, Edgartown MA 02539) if you are divesting yourself of your property and believe that your land may be suitable for conservation or for a joint land bank - housing authority venture.