

Received & Recorded
 PLYMOUTH COUNTY
 REGISTRY OF DEEDS
 13 NOV 2009 11:39AM
 JOHN R. BUCKLEY, JR.
 REGISTER
 Bk 37915 Pg 296-303

Mail
 Town of Hanover
 Attn: Margaret Hoffman
 550 Hanover St.
 Hanover MA 02339

Hanover Affordable Housing Trust
 Town of Hanover, Massachusetts



DECLARATION OF TRUST
 TOWN OF HANOVER AFFORDABLE HOUSING TRUST

This Declaration of Trust is hereby made on this 3rd day of November 2009, by *Stephen Carroll, Thomas Burke, Alexa Lewis, Susan Setterland, William Scarpelli, Kirsten Zwicker-Young and Daniel Pallotta* members of the Board of Trustees of the Town of Hanover Affordable Housing Trust, duly appointed by the Hanover Board of Selectmen pursuant to the authority conferred by Chapter 44, Section 55C of the Massachusetts General Laws.

WHEREAS, May 11, 2009 Hanover Town Meeting Voted under Article 69 to accept Chapter 44, Section 55C of the Massachusetts General Laws; and

WHEREAS, said Chapter 44, Section 55C authorizes the Town of Hanover to establish a Trust to be known as the Municipal Affordable Housing Trust Fund; and

WHEREAS, pursuant to the authority conferred by said Chapter 44, Section 55C of the Massachusetts General Laws the Hanover Board of Selectmen has appointed a Board of Trustees ("Trustees") for said trust; and

WHEREAS, it is the intention of the Trustees to establish a Declaration of Trust in accordance with the provisions Chapter 44, Section 55C of the Massachusetts General Laws;

THEREFORE, the Trustees hereby establish this Declaration of Trust in order to carry out the purposes of the said Chapter 44, Section 55C of the Massachusetts General Laws and of the vote of the *May 11, 2009* Hanover Town Meeting under Article 69.

SECTION I

1) Purpose and Authority

- a) The Trust shall be called the "Town of Hanover Affordable Housing Trust Fund."
- b) The purpose of the Trust is to provide for the creation and preservation of affordable housing in the Town of Hanover for low- and moderate-income households.
- c) As used in this act, the term "low or moderate income housing" shall mean "low income housing" or "moderate income housing" as defined in Massachusetts General Laws Chapter 44B, Section 2.

2) Appointment and Tenure of Trustees

- a) There shall be a Board of Trustees composed of seven (7) Trustees, which shall include at least one (1) member of the Board of Selectmen, two (2) members of the Housing Authority, one (1) member of the Community Preservation Committee and three (3) at-large members. The initial terms of the Trustees shall be staggered as one (1) or two (2) year terms. The Trustees shall be appointed by the Board of Selectmen for a term not to exceed two (2) years, such term to end on June 30 of the expiration year or until such time as a successor is appointed, should a successor appointment be delayed. Only persons who are residents of the Town of Hanover shall be eligible to hold the office of Trustee other than the Chief Executive Officer if he or she is not a member of the Board of Selectmen. Any Trustee other than the Chief Executive Officer if he or she is not a member of the Board of Selectmen who ceases to be a resident of the Town of Hanover shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

3) Meetings of the Trustees

- a) The Trustees shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, Massachusetts General Laws Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the members of the Board of Trustees.

SECTION II

1) Powers of Trustees

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of Massachusetts General Laws Chapter 44, Section 55C:

- a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with the provisions of the Hanover Zoning By-Laws or other by-law, or any general or special law or any other source, including money from the Community Preservation Act of the Massachusetts General Laws Chapter 44B.
- b) to accept and receive municipal, school or other public property, subject to a majority vote of Town Meeting to transfer said property to the Trust, for the purposes of the Trust;
- c) to purchase and retain real or personal property for the purposes of the Trust, including without restriction investments that yield a high rate of income or no income, and to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;
- d) to manage or improve real property;
- e) to sell, lease, exchange, transfer or convey any personal, mixed or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to Trust property as the Board of Trustees deems advisable, notwithstanding the length of any such lease or contract;
- f) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- g) to employ and pay reasonable compensation to advisors, administrators and agents, including but not limited to accountants, appraisers and lawyers as the Board deems necessary;
- h) to apportion receipts and charges between income and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise;
- i) to participate in any reorganization, recapitalization, merger or similar transactions;

- j) to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- k) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- l) to carry property for accounting purposes other than acquisition date values;
- m) to disburse Trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in Hanover upon such terms as the Trustees shall deem most appropriate to carry out such purposes;
- n) to make distributions or divisions of principal in kind;
- o) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of the Massachusetts General Laws Chapter 44, Section 55C, to continue to hold the same for such period of time as the Board may deem appropriate;
- p) to manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
- q) to extend the time for payment of any obligation to the Trust;
- r) to provide grants or loans to assist low- or moderate-income homeowners and/or homebuyers to purchase or rehabilitate a dwelling unit in the Town of Hanover;
- s) to convey, through sale, lease or transfer, real property purchased under this act, to any for-profit or non-profit developer or any public agency to provide low or moderate-income housing, subject to an affordable housing restriction under the Massachusetts General Laws Chapter 184, Section 26 or Sections 31, 32 or 33.

The power and duties enumerated above may be modified or amended by by-law approved by Hanover Town Meeting.

2) Funds Paid to the Trust

- a) In each fiscal year, expenditures from the fund shall be in accordance with an allocation plan developed by the Trustees, for purposes consistent with this by-law. The allocation plan shall be a general plan for the use of funds during the fiscal year to which the plan applies, and may provide for moneys to be held in reserve for expenditure in later years.

- b) Expenditures for the acquisition or disposition of real property shall be in accordance with the approved allocation plan.
- c) Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the Trust and need not be further appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended.
- d) Any income or proceeds received from the investment of funds shall be credited to and become part of the fund.
- e) As a means of providing available assets for the Trust, all moneys received by the Town through the following means shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust:
 - i) cash payments made by developers to the Town for purposes of creating or preserving affordable housing, under any development agreements or development approvals pursuant to the Hanover Zoning By-Law;
 - ii) gifts, grants, donations, contributions or other cash payments to the Trust for the purpose of providing low- or moderate-income housing;
- f) All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board of Trustees within one (1) year of the date they were appropriated into the Trust, shall remain Trust property.

SECTION III

1) Acts of Trustees

- a) A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.
- b) The Board of Selectmen may authorize the Trustees to execute, deliver, and record with the Registry of Deeds any documents required for any conveyance authorized hereunder.
- c) No purchaser, transferee, pledgee, lessee, mortgagee or other lender shall be under any liability to see to the application of the purchase money or of any money or property loaned or delivered to the Trustee or to see that the terms and conditions of this Trust have been complied with. Every agreement, lease, deed, mortgage or other instrument or document executed or action taken by a majority of the persons appearing of record to be Trustees

hereunder shall be conclusive evidence in favor of every person relying thereon or claiming thereunder that at the time of the delivery thereof or of the taking of such action this Trust was in full force and effect, that the Trustees' execution and delivery thereof or taking of such action was duly authorized, empowered and directed by the Beneficiaries, and that such instrument or document or action taken is valid, binding, effective and legally enforceable. Any person dealing with the Trust Estate or the Trustees may always rely, without further inquiry, on a certificate signed by the person appearing from the records of the applicable Registry of Deeds to be a Trustee hereunder as to who are the Trustees or as to the authority of the Trustees to act or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or which are in any other manner germane to the affairs of the Trust.

2) Custodian of Funds

- a) The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

3) Taxes

- a) The Trust is exempt from Chapter 59 and Chapter 62 of the Massachusetts General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

4) Special Municipal Employees

- a) The Trust shall be deemed a municipal agency and the Trustees shall be appointed by the Board of Selectmen as special municipal employees for the purposes of the Massachusetts General Laws Chapter 268A.

5) Governmental Body

- a) The Trust is a governmental body for purposes of Massachusetts General Laws Chapter 39, Sections 23A, 23B and 23C.
- b) The Trust is a board of the town for purposes of Massachusetts General Laws Chapter 30B and Chapter 40, Section 15A; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, department and public instrumentalities of the Town shall be exempt from said Chapter 30B.
- c) The Trust is a public employer and the members of the Board are public employees for purposes of Massachusetts General Laws Chapter 258.

6) Duration of the Trust

- a) This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes other than those funds which were appropriated from the Community Preservation Act fund. All such funds shall be transferred to the Community Preservation Act fund for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, distribute the net assets in accordance with applicable law. The powers of the Trustees shall continue until termination of the Trust in accordance with applicable law.

7) Liability

- a) Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town of Hanover, except in the manner specifically authorized herein.

8) Rules and Regulations

- a) The Board may adopt such rules and regulations as are required to conduct its affairs in accordance with applicable law.

9) Titles

- a) The titles to the various Sections herein are for convenience only and are not to be considered part of said Sections nor shall they affect the meaning or the language of any such Section.

10) Reports

- a) The Board of Trustees shall keep a record of its doings and at the close of every fiscal year, make a report thereof to the Hanover Board of Selectmen. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. The Board of Trustees shall also provide the Hanover Board of Selectmen with a copy of the Trust's annual audit.

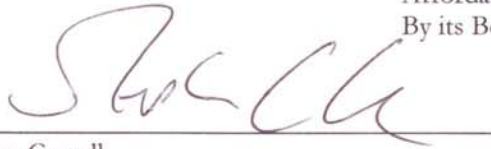
11) Validity

- a) If any provision of this Trust shall be deemed illegal or unenforceable by final judgment, order or decree issued by a Court of competent jurisdiction, the remaining provisions of this Trust shall not be affected thereby, to the extent permitted by law.

The Trustees named hereunder, hereby acknowledge and agree for themselves and their successors to hold the Trust property for the purposes hereof in Trust for the benefit of all of the inhabitants of the Town of Hanover, Massachusetts, in the manner and under the terms and conditions set forth herein.

EXECUTED as a sealed instrument this 3rd day of November, 2009.

The Town of Hanover
Affordable Housing Trust Fund,
By its Board of Trustees



Stephen Carroll
91 King Street
Hanover, MA 02339



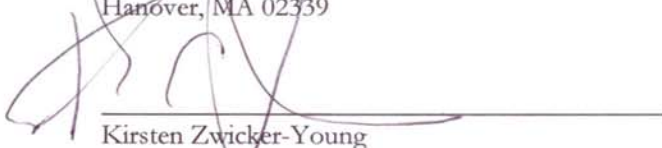
Thomas Burke
110 Bates Way
Hanover, MA 02339



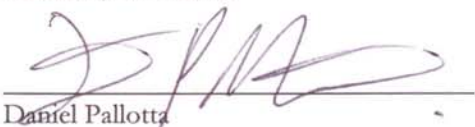
Alexa Lewis
31 Church Street
Hanover, MA 02339



Susan Setterland
72 Paul Road
Hanover, MA 02339



Kirsten Zwicker-Young
876 Broadway
Hanover, MA 02339



Daniel Pallotta
160 Olde Forge Road
Hanover, MA 02339



William Scarpelli
40 Hammerhook Drive
Hanover, MA 02339

On this 3rd day of November 2009 before me the above signed, personally appeared Stephen Carroll, Thomas Burke, Alexa Lewis, Susan Setterland, Kirsten Zwicker-Young, Daniel Pallotta, and William Scarpelli who proved to me through satisfactory evidence of identification which were Massachusetts Drivers Licenses to be the persons who signed the preceding document in my presence.


Notary Public

My commission expires November 10, 2011