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

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	Real property disposition, lease or acquisition	Contracting professional services

• Public construction & bidding requirements
• Prevailing wage
	• Chapter 30b, Section 16 – various guidance
	• If bought with CPA funds, exempt from 30b
		• Three Thresholds
		  • Under $10,000
		  • $10-**50,000 –** 3 **written** bids
		  • **$50,000+** -- sealed bids or proposals

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

Step 8: Determine operating approach

Funding entity

Active initiator

Both?

Eligible Activities for Trusts

Affordable Housing

Acquire

Create

Preserve

Support

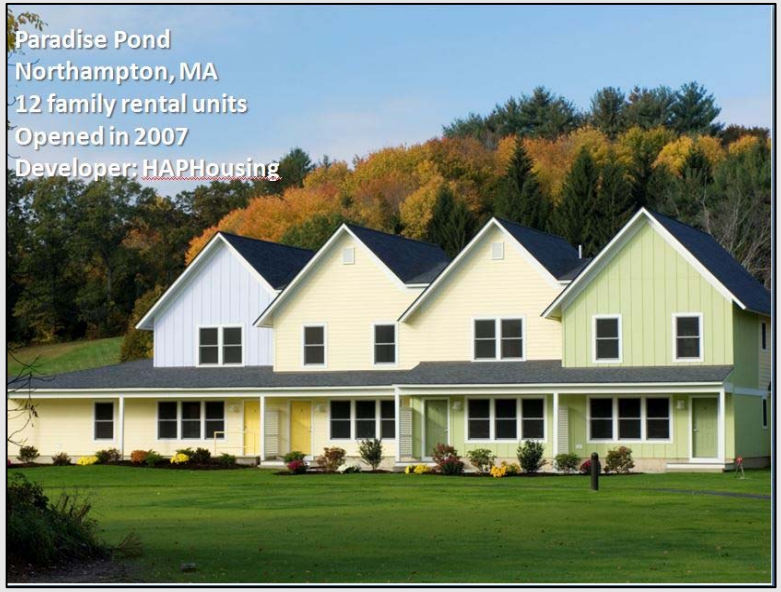
Acquire

Cromwell Court Apartments -- Barnstable

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

Create

Small Scale Production



Re-use

Shoe Shop Place

Middleboro

25 rental

(family housing)

Stevens Corner

North Andover

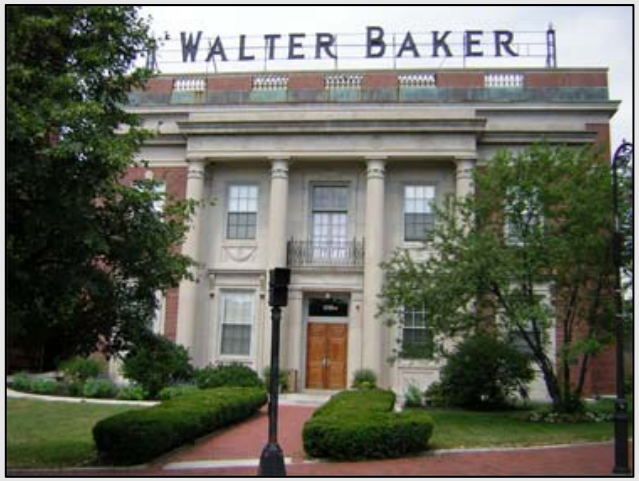
42 rental
(family housing)

Rockport HS Apartments

Rockport

31 rental
(age restricted)

Preserve



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

Support

Pre-develop-ment

Buy Downs (create)

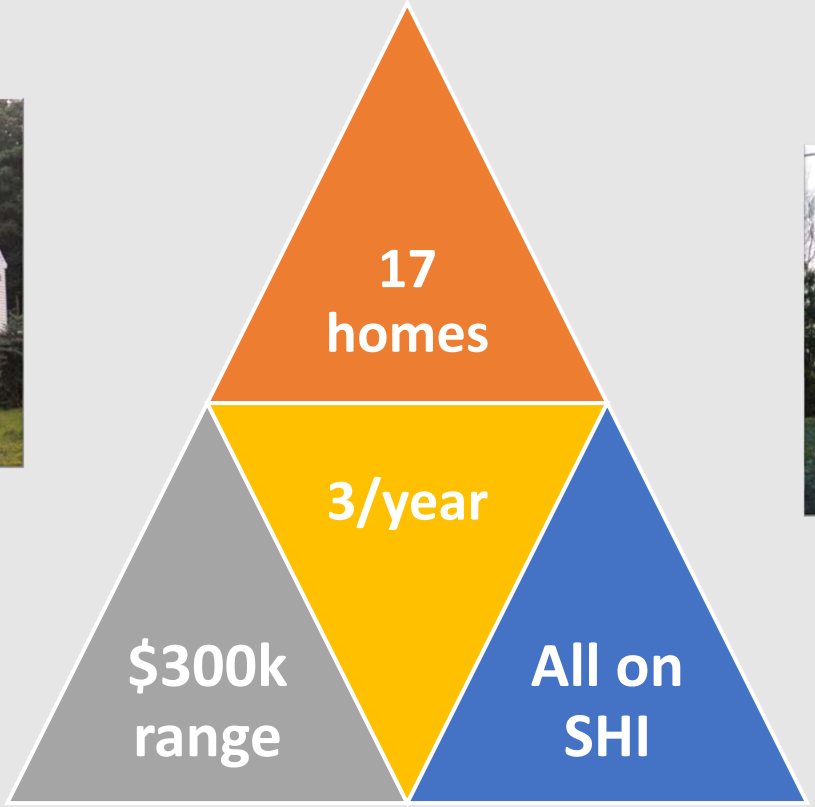
Down-Payment Assistance

Rental Assistance

Norfolk MAHT

Small Scale Homeownership

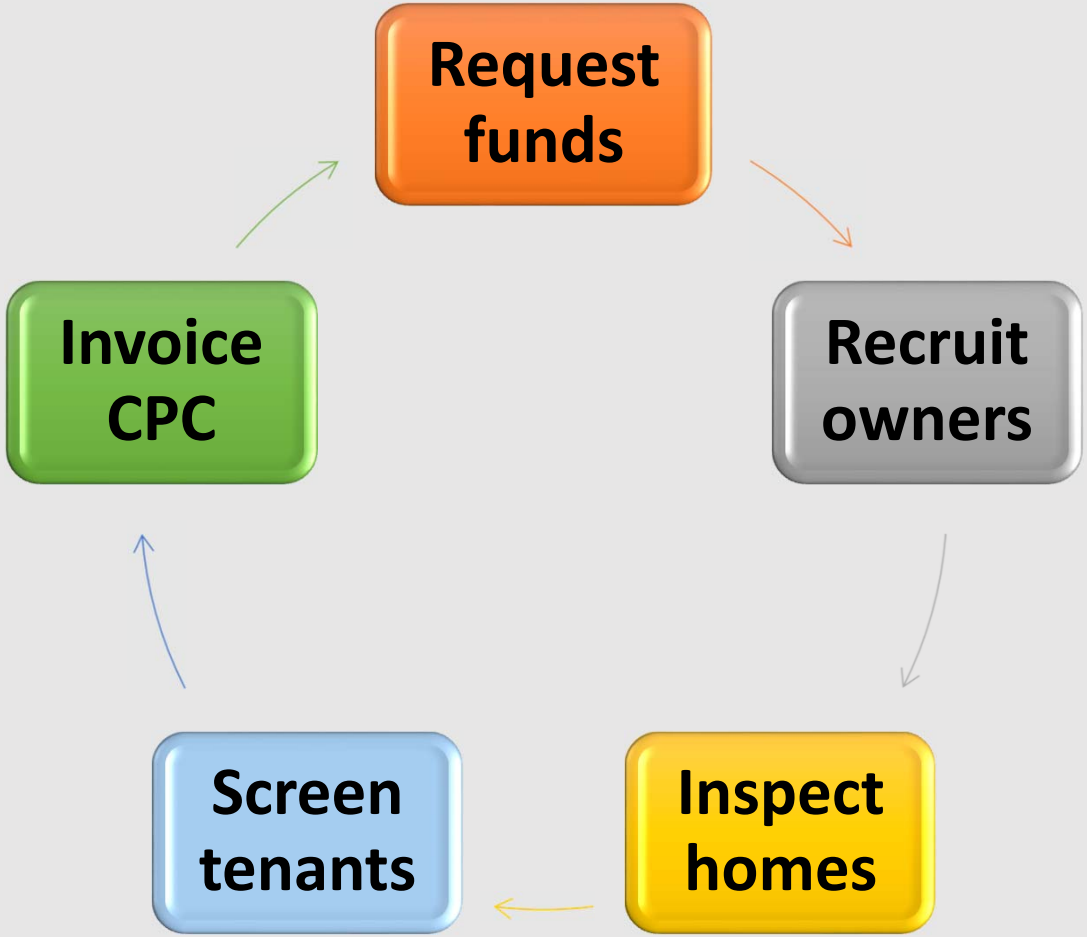
Sold for $155k in 2015



Sold for $140k in 2014

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

Trust Accomplishments

- Grants for new production
- Homebuyer down payment & principal buy-down
- Land acquisition
- Rental assistance
- Pre-development assistance
- Habitat for Humanity
- Housing plans & housing staff

Five-Year Goals of the Trust:

Goal 1: Actively Foster Development of Affordable Housing

Goal 2: Support Homelessness Prevention Initiatives

Goal 3: Seek Opportunities to Promote Conservation-Based (housing and preserved open space) Development

Goal 4: Enhance Local and Regional Collaboration

Goal 5: Expand Availability of Direct Housing Assistance

Goal 6: Promote Outreach and Education

Fostering Development of Affordable Housing

- ✓ East Street School site for affordable housing development
- ✓ Valley CDC Studio Apartment development (encouraged by Town & Trust)
- ✓ MassHousing Grant to support consultant tasked with identifying affordable housing sites & 40R district
- ✓ Guidelines for submitting funding applications to AMAHT
- ✓ Developing a Town Housing Policy to set affordable housing as a common goal shared by the entire town government.
- ✓ Supported new Town bylaw change for "Inclusionary Zoning" that will allow more affordable units in future developments or payments *in lieu* to the Housing Trust where a special permit is requested.
- ✓ Annual comments to Community Preservation Act Committee on funding priorities for community housing applications

Supporting Efforts to End Homelessness

- Homelessness Prevention program primarily focused on families threatened with eviction (CDBG-funded program operated by Family Outreach of Amherst)
- Outreach program to encourage local landlords accept applications from individuals and families who are homeless (collaboration with Amherst Department of Health)
- First ever Landlord Forum on Nov. 15 that will focus on financial and other resources available to support renting to persons who are very low income or homeless.
- CSPEC development initiative to expand case management services to assist in locating housing for and providing housing supports for individuals who are homeless (funded by Medicaid)
- Advocacy for continuation of the Amherst seasonal homeless shelter and for other services for homeless individuals and families
- Participating in the Town Homeless Systems committee

Public Education

- 2017 forum, “Working the Amherst Housing Puzzle: A community problem solving forum”
- Website: https://www.amherstma.gov/2199/Amherst-Affordable-Housing-Trust-Fund
- 2018 forum, “Act Locally to Create Affordable Housing”
- CHAPA (Citizen‘s Housing and Planning Association) Grant received to provide consultation on building local community support for affordable housing

Financial Support

- ❑ CPA funding for Trust consultant
- ❑ CPA funding to support affordable housing development projects
- ❑ Anticipated funding from local short-term rental fees
- ❑ Possible funding from Inclusionary Zoning bylaw that allows *payments in lieu* of developing new affordable housing units

Creating Affordable Housing at the East Street School Site

A PLAY IN FIVE ACTS

John Hornik, Chair of the Amherst Municipal Affordable Housing Trust

ACT ONE: A Feasible Project?

- ✓ Move control of the property from the schools to the Town – **NOT TRUST**
- ✓ Assess wetlands – **60% NOT BUILDABLE**
- ✓ Site survey - **BOUNDARIES**
- ✓ Understand what is possible for site development – **K-R**
- ✓ Draft a Request for Proposals which spells out
  (1) the qualifications of the developer,
  (2) minimum requirements and higher program expectations for development of affordable housing, and
  (3) process of selection of the developer.

ACT TWO: Permission to Proceed

Enter Town Council (*center stage*)

- ❑ Declare East Street School surplus property
- ❑ Authorize town manager to execute land disposition agreement – **SPELLS OUT CONDITIONS**
- ❑ Authorize town manager to sign 99-year lease
- ❑ **WHY NOW?**
- ❑ **PROS: LONG PROCESS, YOU CAN MOVE ON**
- ❑ **CONS: MAYBE BETTER IDEA IN NEXT FIVE YEARS**

Implications of Town Council Actions

Site Control: Developer has a legal commitment from the Town to turn over the property once contractual conditions are met

IF NOT, ONE ONE WILL BID

ACT THREE: Moving Forward

Enter Town Manager and staff (*stage right*)

- ❑ Release Request for Proposals - **AFTER REVIEW**
- ❑ Select a developer
- ❑ Sign legal agreements
- ❑ Monitor fulfillment of contractual requirements
- ❑ **THIS IS TM ROLE BY CHARTER**

ACT FOUR: Plan & Action

Enter Developer (*center stage*)

- ❑ Undertake due diligence
- ❑ Develop a plan – E.G., **SIZE, ARCH DESIGN, PARKING**
- ❑ With site control, acquire zoning approvals and funding, and possibly Historical Commission review
- ❑ Execute 99-Year Lease with the Town
- ❑ Construct affordable housing

Review, Review, Review !!!

MANY, MANY REVIEWS AFTER TC

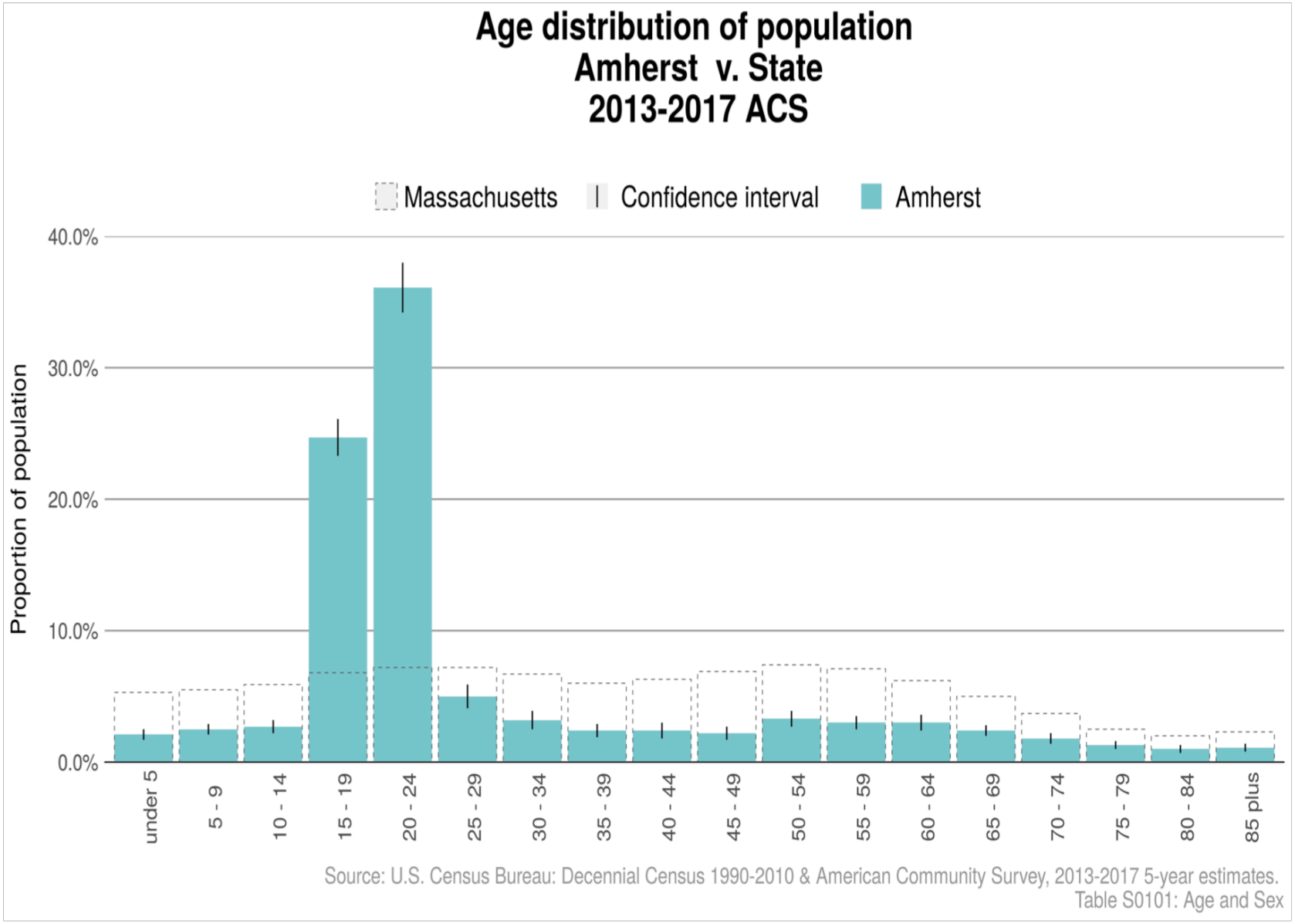
- Department of Housing and Community Renewal – **EXTENSIVE REQUIREMENTS**
- Amherst Zoning Board – **SPECIAL PERMIT**
- Amherst Historical Commission (maybe)
- Amherst Building Commissioner – **PLUMB, ELEC, OTHER REQ**
- Amherst Fire Commissioner

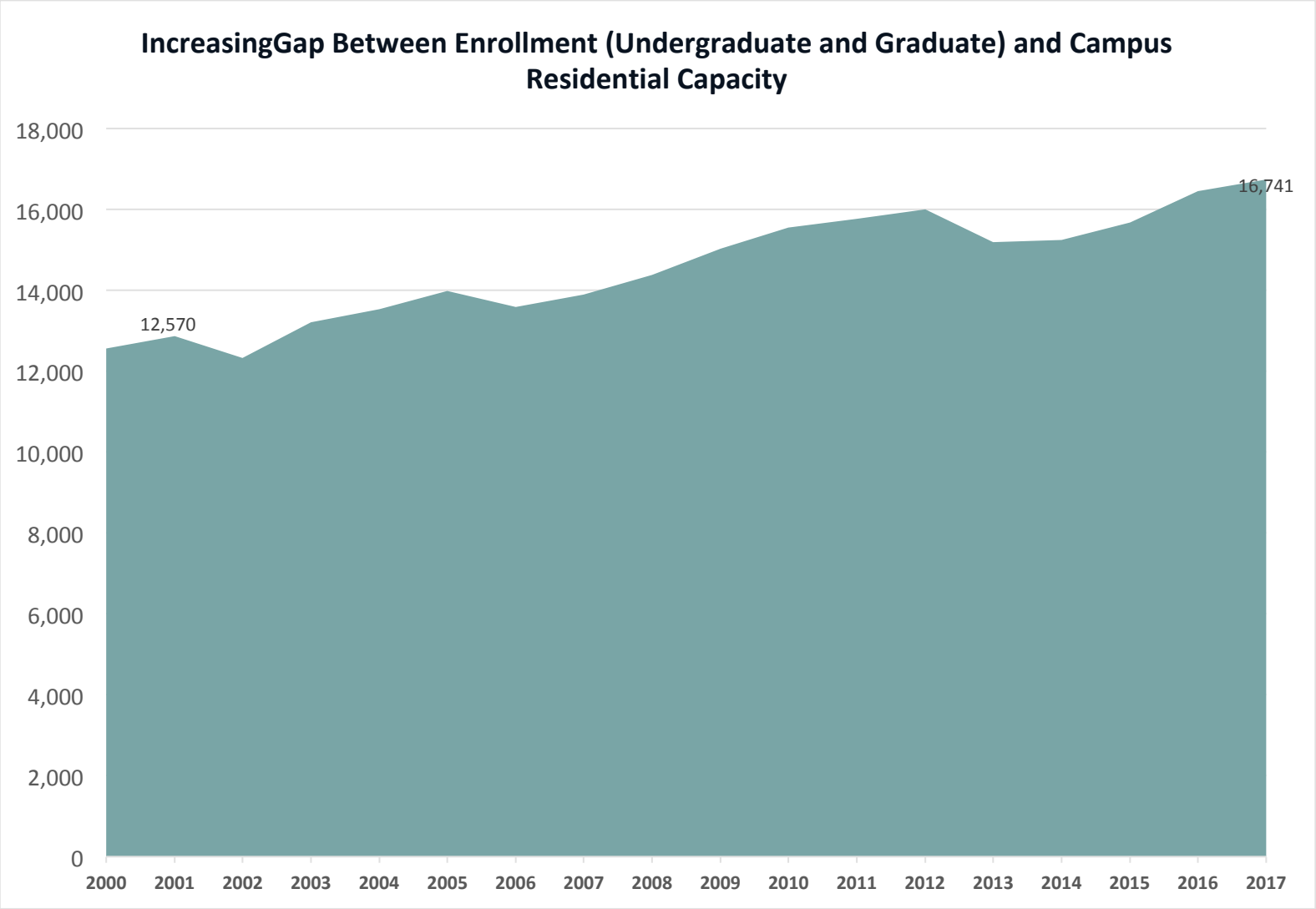
ACT FIVE: Welcome Tenants

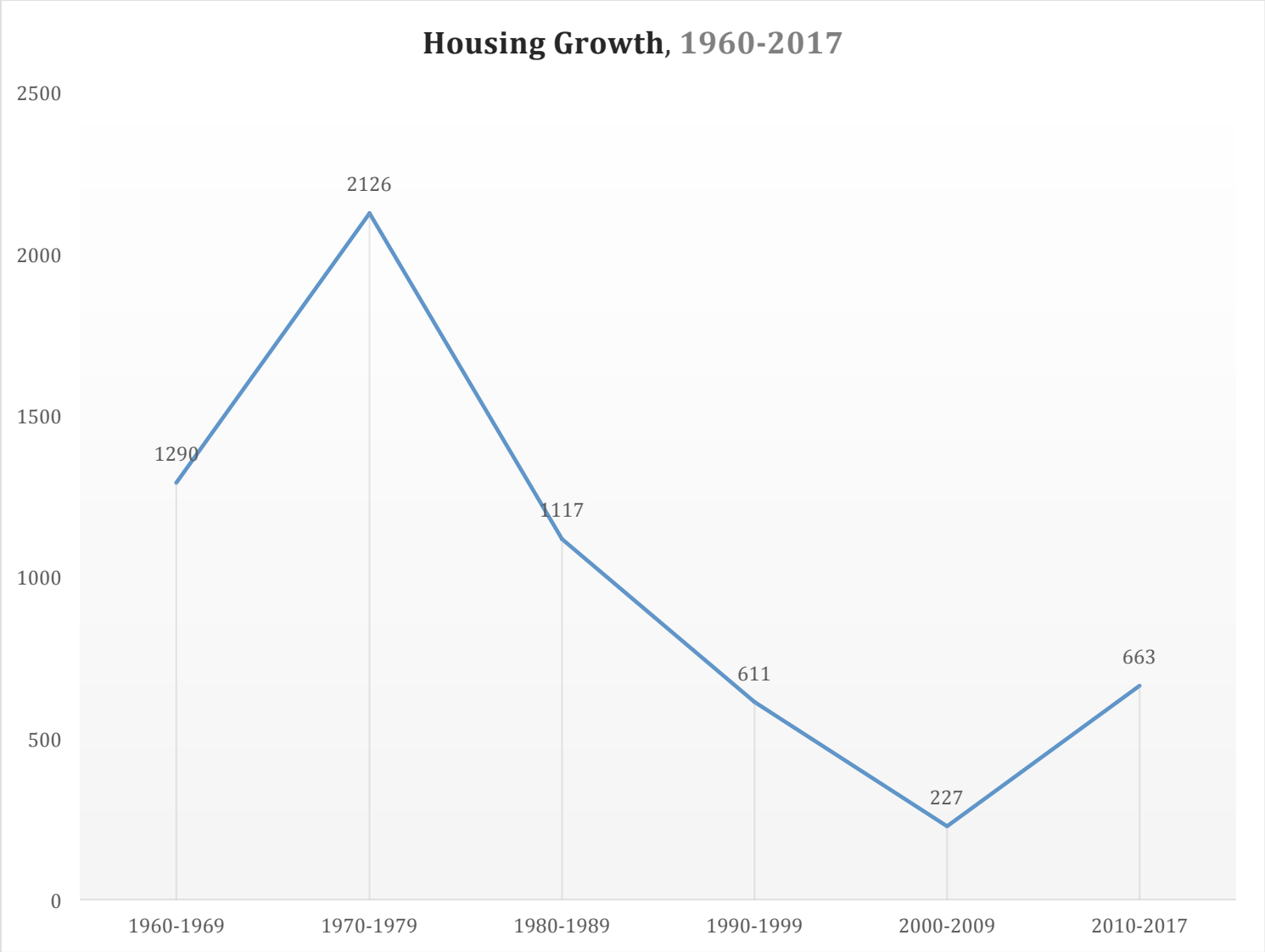
Enter Management Company (*stage right*)

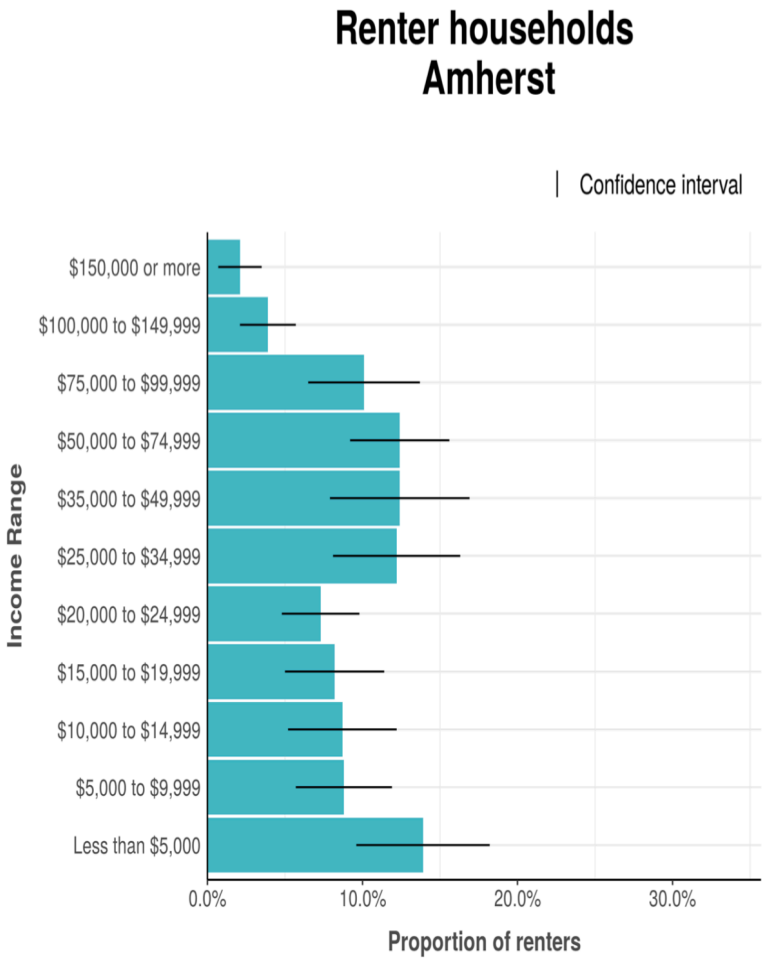
IDENTIFIED IN PROPOSAL

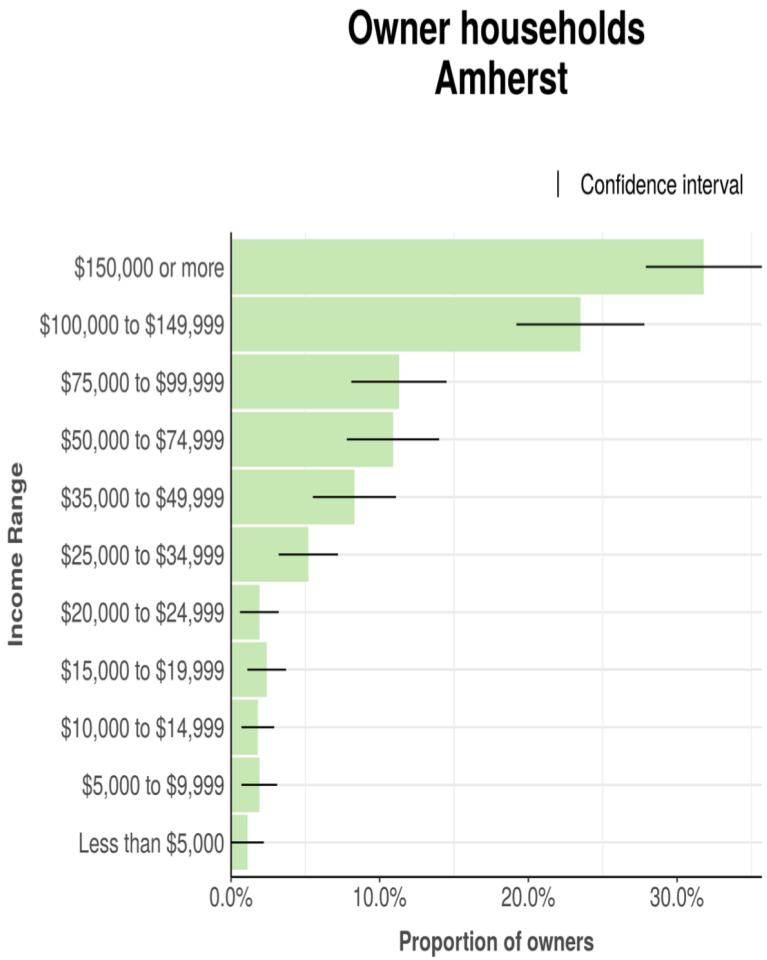
- ❑ Select eligible tenants – **DHCD RULES**
- ❑ Rent units
- ❑ Maintain property
- ❑ **AND EVERYONE LIVED HAPPILY EVER AFTER!**
- ❑ **BUT ONLY IF WE GET BEYOND ACT TWO!**

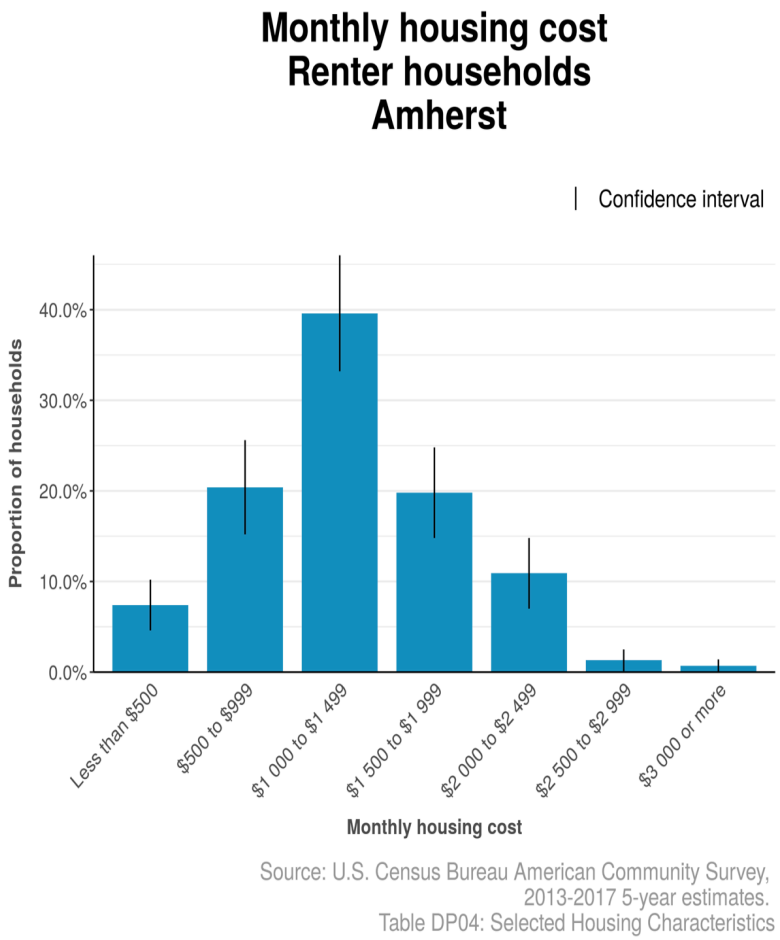

Age distribution of population
Amherst v. State
2013-2017 ACS
Massachusetts
Confidence interval
Amherst
Proportion of population
40.0%
30.0%
20.0%
10.0%
0.0%
under 5
5 - 9
10 - 14
15 - 19
20 - 24
25 - 29
30 - 34
35 - 39
40 - 44
45 - 49
50 - 54
55 - 59
60 - 64
65 - 69
70 - 74
75 - 79
80 - 84
85 plus
Source: U.S. Census Bureau: Decennial Census 1990-2010 & American Community Survey, 2013-2017 5-year estimates.
Table S0101: Age and Sex

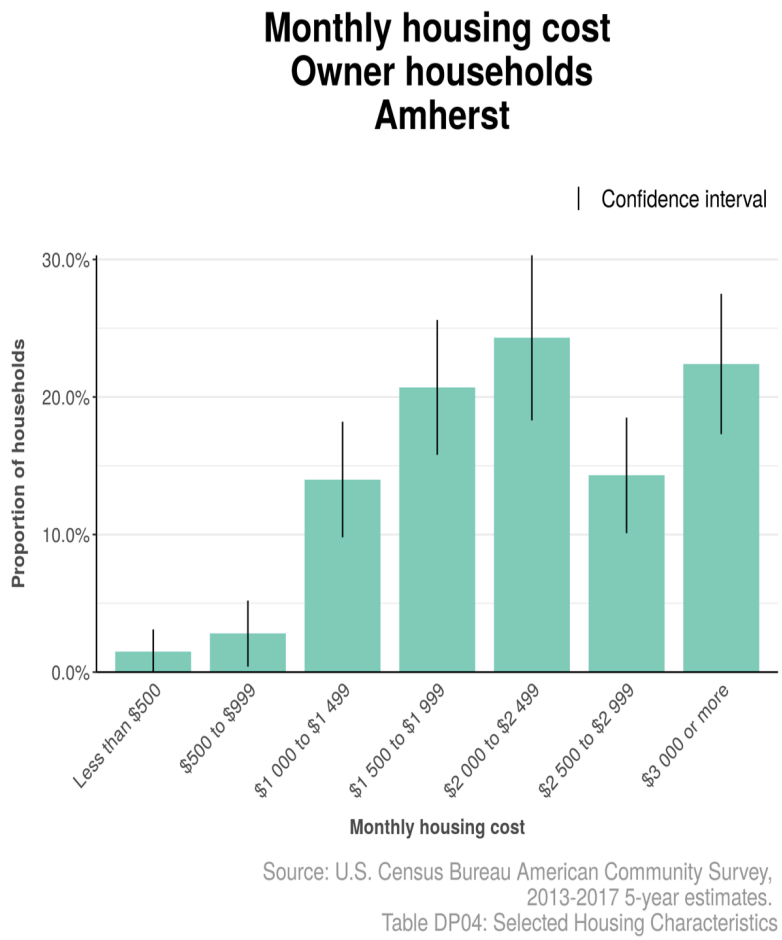

IncreasingGap Between Enrollment (Undergraduate and Graduate) and Campus Residential Capacity
18,000
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
0
12,570
16,741
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017


Housing Growth, 1960-2017
2500
2000
1500
1000
500
0
2126
1290
1117
611
227
663
1960-1969
1970-1979
1980-1989
1990-1999
2000-2009
2010-2017


Renter households
Amherst
Confidence interval
Income Range
$150,000 or more
$100,000 to $149,999
$75,000 to $99,999
$50,000 to $74,999
$35,000 to $49,999
$25,000 to $34,999
$20,000 to $24,999
$15,000 to $19,999
$10,000 to $14,999
$5,000 to $9,999
Less than $5,000
0.0%
10.0%
20.0%
30.0%
Proportion of renters
Source: U.S. Census Bureau American Community Survey,
2013-2017 5-year estimates.
Table B25118: Tenure by household income in the past 12 months

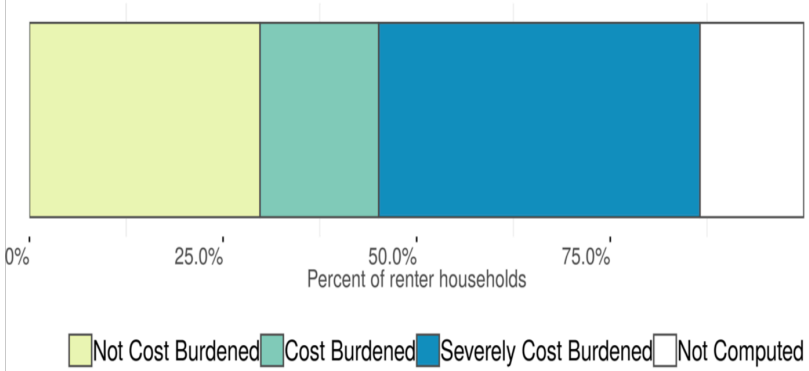

Owner households
Amherst
Confidence interval
Income Range
$150,000 or more
$100,000 to $149,999
$75,000 to $99,999
$50,000 to $74,999
$35,000 to $49,999
$25,000 to $34,999
$20,000 to $24,999
$15,000 to $19,999
$10,000 to $14,999
$5,000 to $9,999
Less than $5,000
0.0%
10.0%
20.0%
30.0%
Proportion of owners
Source: U.S. Census Bureau American Community Survey,
2013-2017 5-year estimates.
Table B25118: Tenure by household income in the past 12 months


Monthly housing cost
Renter households
Amherst
Confidence interval
Proportion of households
40.0%
30.0%
20.0%
10.0%
0.0%
Less than $500
$500 to $999
$1 000 to $1 499
$1 500 to $1 999
$2 000 to $2 499
$2 500 to $2 999
$3 000 or more
Monthly housing cost
Source: U.S. Census Bureau American Community Survey,
2013-2017 5-year estimates.
Table DP04: Selected Housing Characteristics


Monthly housing cost
Owner households
Amherst
Confidence interval
Proportion of households
30.0%
20.0%
10.0%
0.0%
Less than $500
$500 to $999
$1 000 to $1 499
$1 500 to $1 999
$2 000 to $2 499
$2 500 to $2 999
$3 000 or more
Monthly housing cost
Source: U.S. Census Bureau American Community Survey,
2013-2017 5-year estimates.
Table DP04: Selected Housing Characteristics

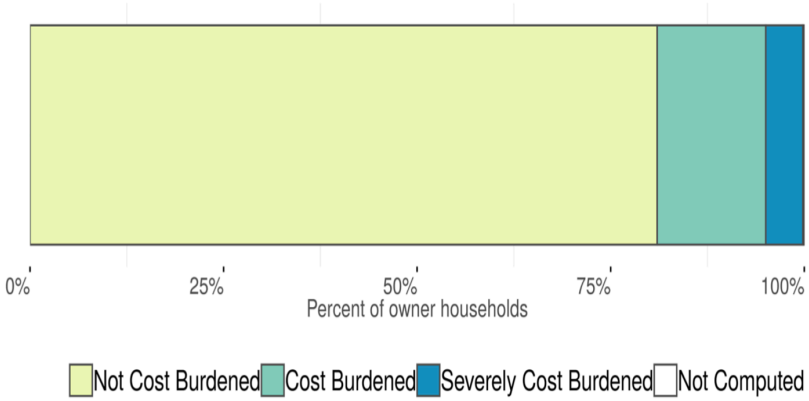
Median Gross Rent

Renter households - cost burden
Amherst



Source: U.S. Census Bureau American Community Survey, 2013-2017 5-year estimates. Table B25070: Gross rent as a percentage of household income in the past 12 months

Owner households - cost burden
Amherst



Source: U.S. Census Bureau American Community Survey, 2013-2017 5-year estimates. Table B25091: Mortgage status by selected monthly owner costs as a percentage of household income in the past 12 months

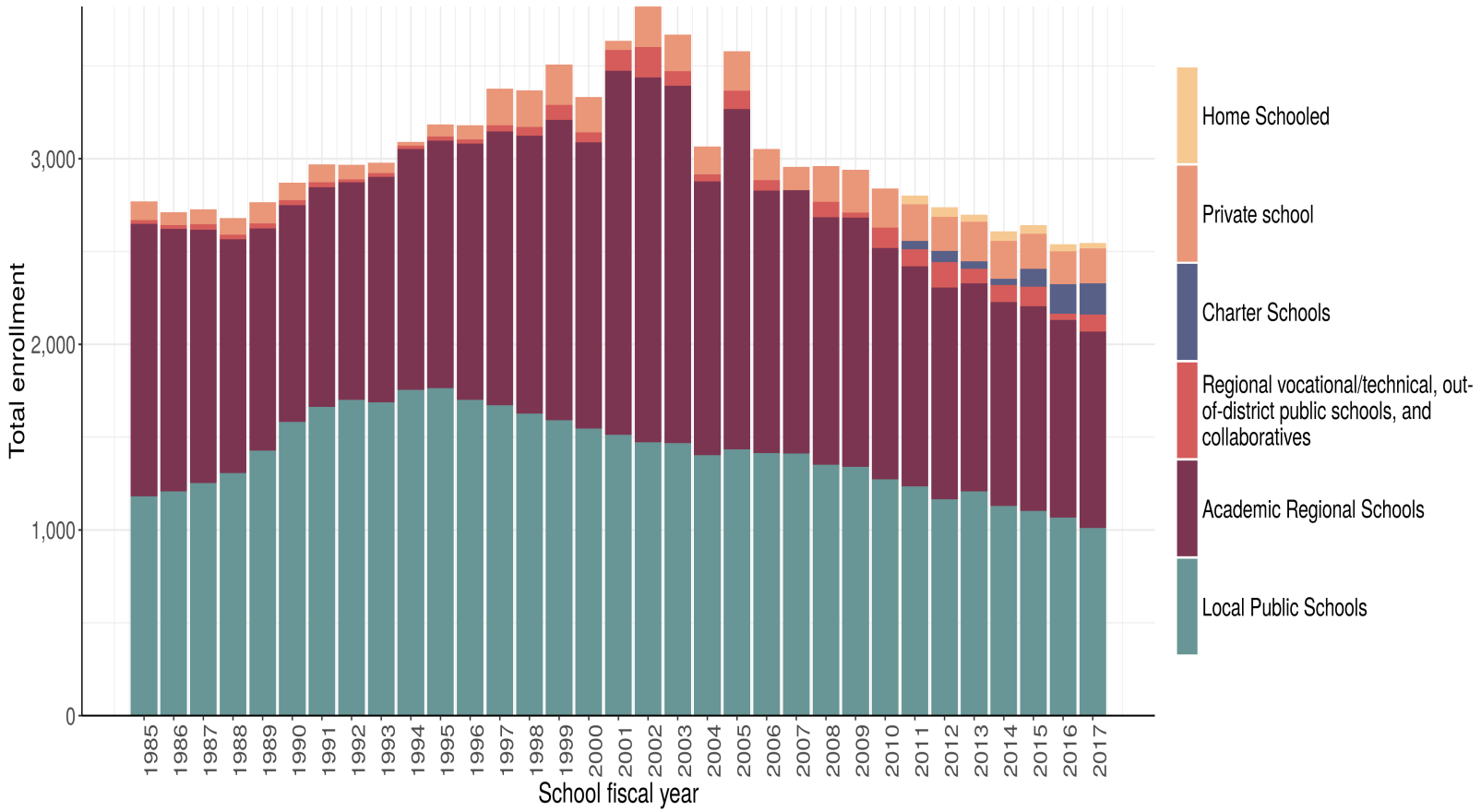
Table 1. Income Qualifications for Amherst HUD Rental Assistance in Amherst

Income	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
30% of Median	$16,950	$19,400	$21,800	$25,100	$29,420	$33,740
50% of Median	$28,250	$32,300	$36,350	$40,350	$43,600	$46,850
80% of Median	$45,200	$51,650	$58,100	$64,550	$69,750	$74,900

Figure 8. Changes in Population of Families with School Age Children

Year	2000	2006-2010	2010	2011-2015
Families with Children	2476	2084	2141	1809
Data Source*	DC	ACS	DC	ACS

School aged children by enrollment type
Amherst



Source: Massachusetts Department of Elementary and Secondary Education

Amherst Affordable Housing Policy

Funding Priorities

- Creation of rental housing for families, particularly those earning below 50% of Area Median Income (AMI) and the growing number of smaller households that are increasingly single parents with children.
- Creation of rental housing for individuals who require smaller affordable housing units (*e.g.,* studio apartments), including housing for at risk and special needs populations that often require special services and handicapped accessibility, particularly persons whose incomes are below 30% AMI.
- Preservation of existing affordable rental housing, including subsidized units and those in the private housing market, which are typically more cost effective to rehabilitate than to build new.
- Affordable homeownership for low and moderate income families and individuals.

Projected number of units to be developed

250 Units with Less than 80% AMI: The first priority is the development of new residential units that will qualify for the State's Subsidized Housing Inventory. This means that they must all be below 80% AMI. However, within that there must be a range of affordability. For projects with ten or more affordable units, the average AMI must be no greater than 60% and at least ten percent of units must be no greater than 30% AMI. Smaller projects should be reasonably consistent with these priorities. The total number of units to be developed for these levels of affordability is 250 over the next five to ten years, consistent with goals set in the Housing Production Plan.

100 Units at 80-100% AMI: Additional units should be developed that are above 80% AMI. There is a need to serve both individuals and families with an income that qualifies them at this level as well as persons below 80% AMI.

“Local” Sources of Funding Subsidies

- ❑ Community Preservation Act
- ❑ Community Development Block Grant
- ❑ Tax Incentive Financing
- ❑ Town Surplus Property

Delegating Tasks

Who does what?

Chairperson

- Provides leadership
- Sets agenda
- Keeps trustees on-task & moving forward

Trustees

- Attend meetings, provide input & vote
- Complete assigned tasks
- Participate in subcommittees
- Be local AH advocate
- Board packet

Staff

- Provides TA (perhaps feasibility studies, RFPs)
- Lends continuity to projects
- Completes admin tasks
- Communicates with other town staff/boards

Trusts & Fair Housing

Legal Consideration

Federal Fair Housing Act

MA Anti-Discrimination Law

Key Fair Housing Laws
Protected Classes

Federal (Fair Housing Act)

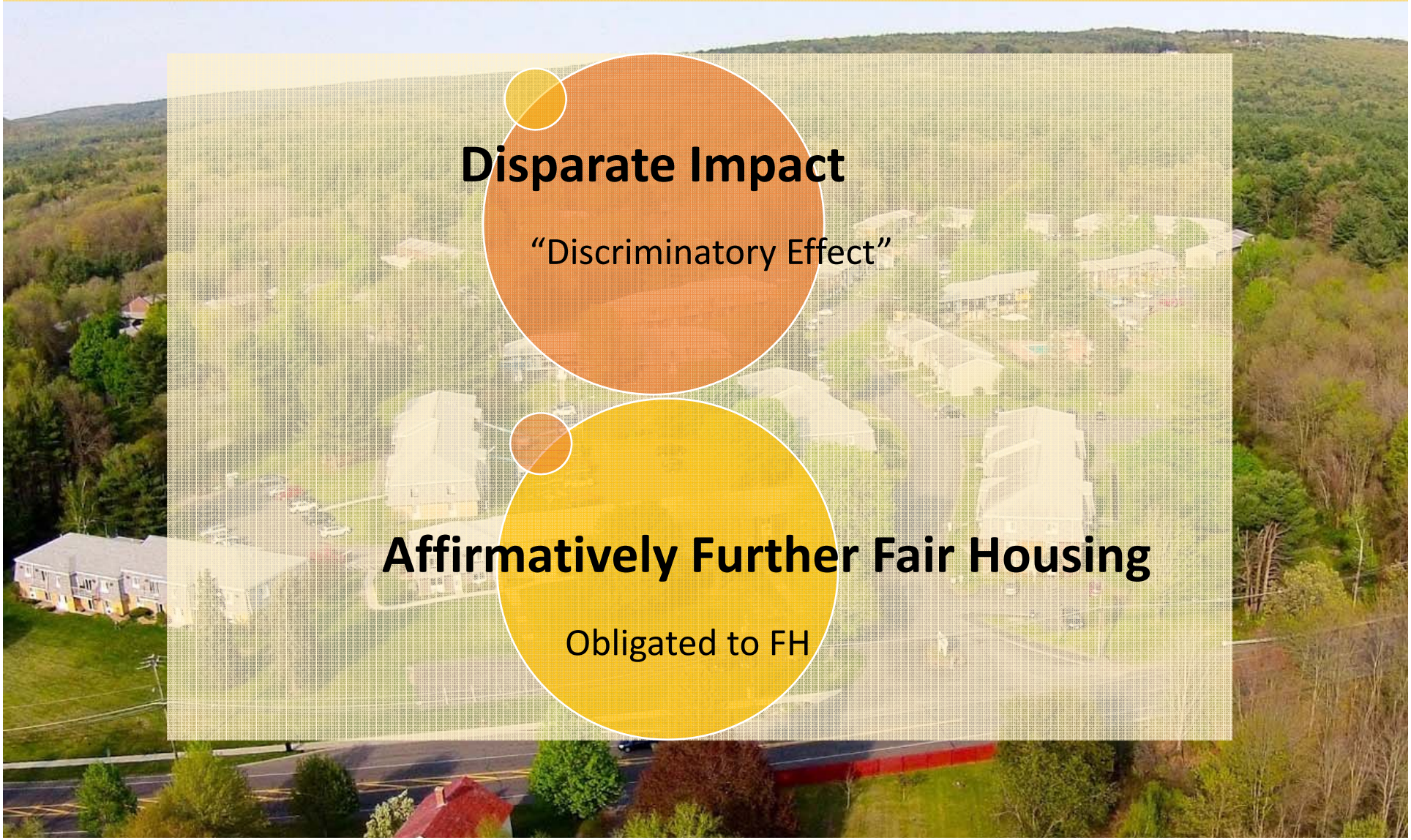
- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability

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

Discriminatory Effect Rule

Three Part Burden Shifting Test

Is it likely that policy or practice will negatively impact members of a protected class?

Is the policy or practice necessary to achieve substantial, legitimate, non-discriminatory interests?

Is there a less discriminatory alternative that would meet the same interests?

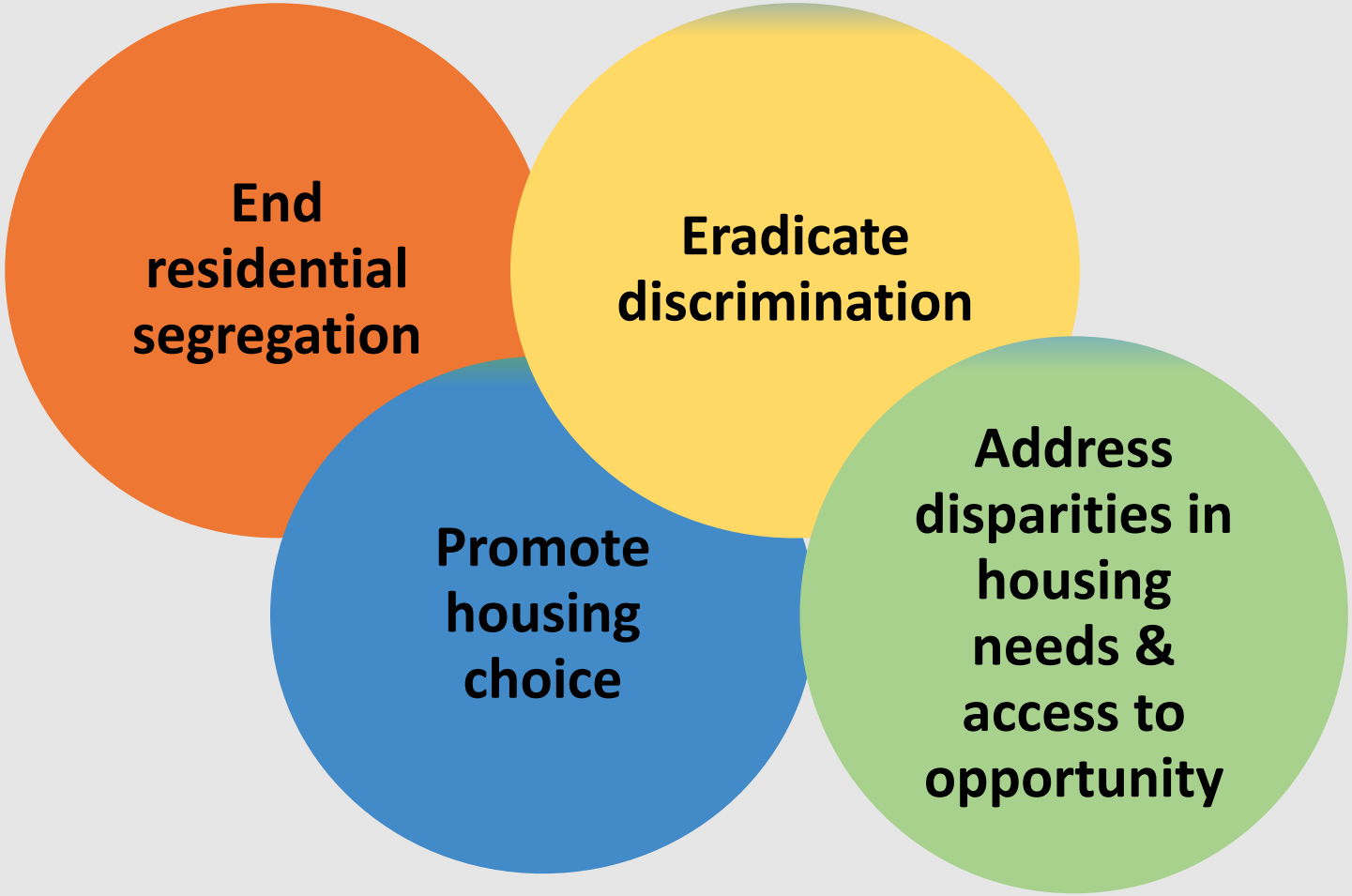
Disparate Impact

- Local plans or zoning bylaws prioritize studio and 1-bedroom units, restricting the number of bedrooms by unit rather than by development or lot.

- A town is predominantly white and decides to advertise new affordable housing units with flyers at the local library, community center and Town Hall.

- Planning or zoning approval processes mandate or prioritize townhouses.

Obligation to Affirmatively Further Fair Housing

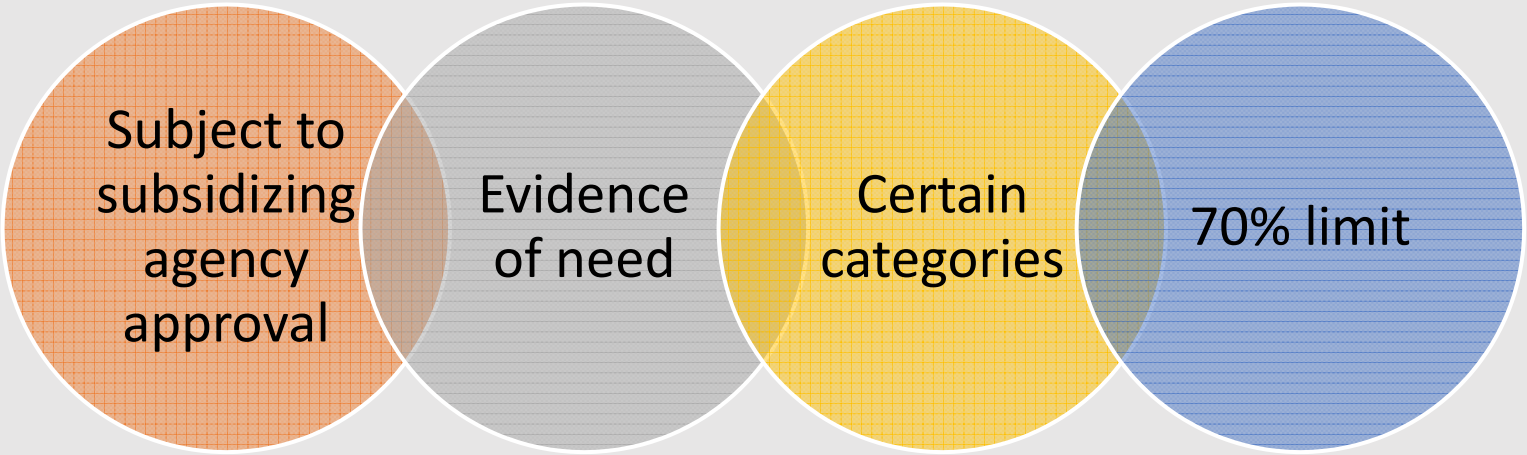


How to Affirmatively Further FH

Affirmative Fair Marketing	Zoning	Diverse Housing Options
• Follow DHCD's marketing & resident selection plan guidelines • Market to those least likely to apply	• Consider ways that zoning may be creating disparate impact	• Multi-family AND single family • Rental AND homeownership • Family AND senior

EQUAL HOUSING OPPORTUNITY

Local Preference



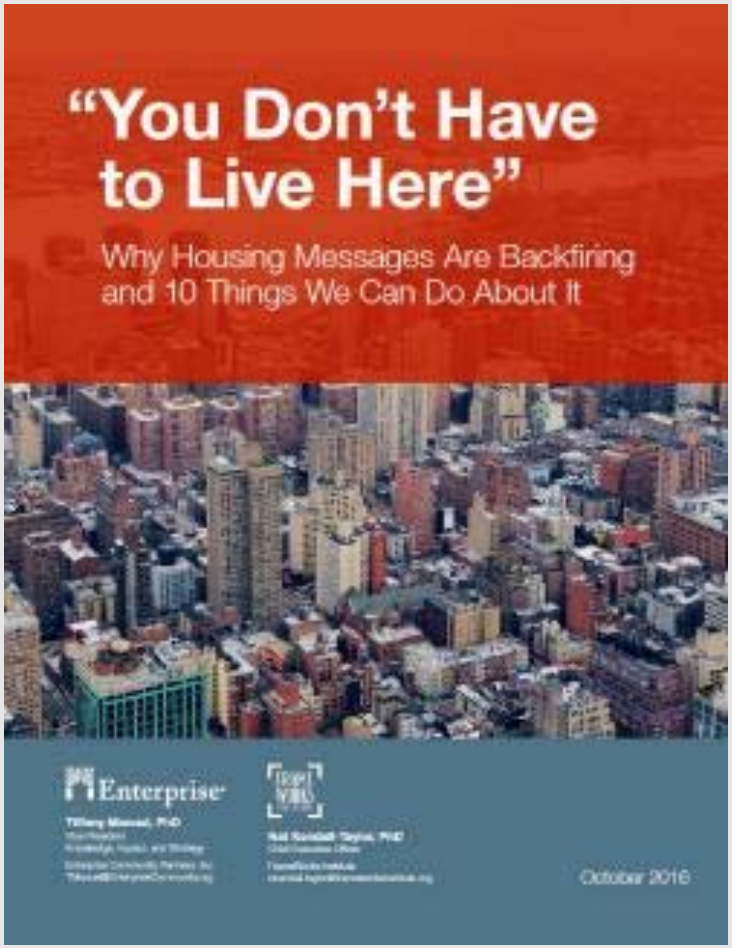
Examples of AFHMP Problems

Marketing	Application Process/Selection	Inconsistency
• Local preference advertised • Limiting language, e.g., “empty-nesters,” “young professionals” • Advertising/outreach not designed to reach protected classes in the region • Marketing only in English & not in non-English media	• Application period is too short • Language access and reasonable accommodation information not provided • Selection process not clearly described • Preferences are misstated as eligibility criteria or defined improperly	• Criteria inconsistent with AFHMP guidelines • Criteria inconsistent with applicable subsidy program requirements • Inconsistent language within the AFMHP or inapplicable language

Wrapping Up

Creating a culture of support

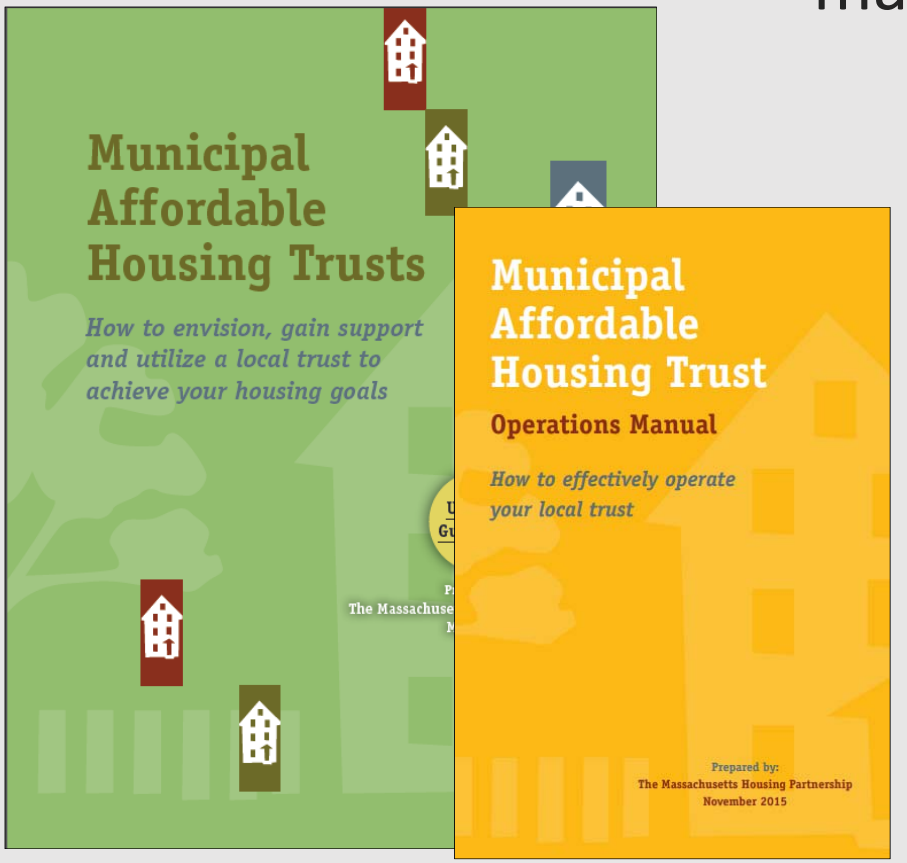
- Balance people with places and systems
- Tell “story of us” rather than “story of them”
- Connect housing to other social issues and outcomes
- Where you live affects you
- Consider language that we use (e.g. home vs housing)

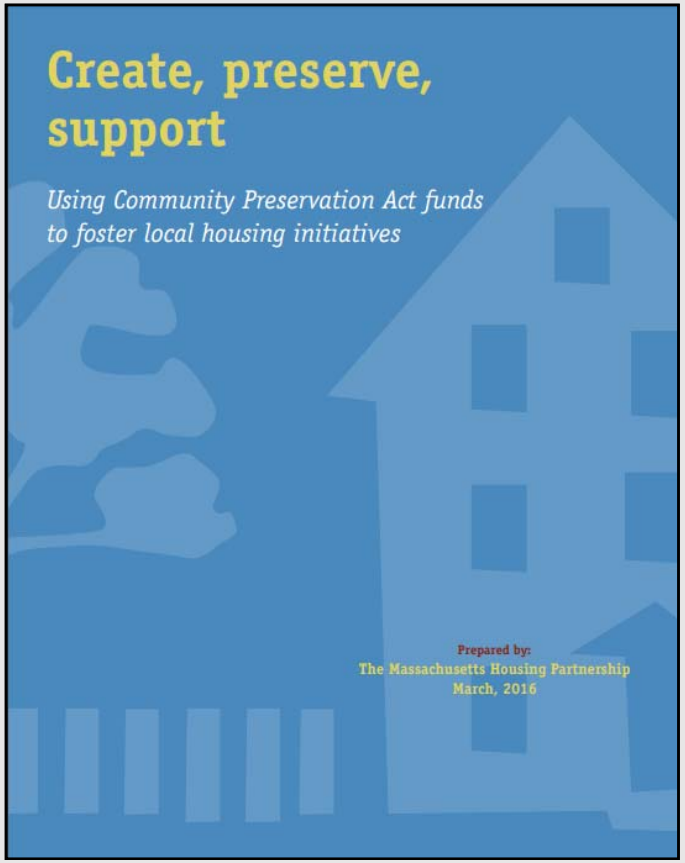


MHP Online Resources

On our website:

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





Questions?

Massachusetts Housing Partnership
www.mhp.net

Shelly Goehring
Program Manager
sgoehring@mhp.net
Direct line: 857-317-8525