December 5, 2021

To: West Tisbury Select Board

From: Chuck Hodgkinson

Subject: Draft Housing Bank Legislation

Dear Skipper and Cynthia,

We are all saddened by the loss of Kent and Maureen and trying to process island life without them. Thank you for the honorable tribute you hosted for both of these wonderful people who brought grace and decency to our lives.

The Housing Bank concept has failed twice at town meeting thus far. Its current draft form, in my opinion, is incomplete and has not addressed concerns voiced with this legislation over the past three to five years.

The attached is for your consideration as you evaluate whether or not it is ready for voters. It is intended to help make this more equitable and takes at a longer term view. I do hope it helps. Last year I shared many of these thoughts with our town's senior advocate for the Housing Bank.

Thank you for all the time and service you give us.

A Housing Bank Discussion for Consideration before April 2022

The following are questions and thoughts regarding the current Housing Bank proposal.

1. The proposed Housing Bank 2 percent tax on real estate sales is for the amount of the sale that is over $1 million. The 2021 median sales price of a home on Martha's Vineyard is about $1.2 million. This means ½ of all properties sold are sold above $1.2 million and ½ are sold below that value. The Housing Bank is called a purchaser's tax but, its cost can be negotiated out of the selling price as the combined Land Bank and Housing Bank tax amounts are significant. The tax on a $2 million sale would be $60,000 for both taxes instead of $40,000 for just the Land Bank. There are many who down size in their later years to use their house equity to supplement fixed retirement incomes. The fixed value of $1 million as the starting point for the 2 percent tax is arbitrary and will not adjust over time to inflation. In future years, this fixed trigger amount will tax many more houses sold whose value is above $1 million.

Today, the fixed housing bank trigger of $1 million would most likely have about 60 percent of all houses sold pay the 2 percent Housing Bank tax. In 20 years, this percentage would increase to about 95 percent or more of all houses sold because the tax trigger would still be today's arbitrary fixed amount of $1 million. If the proposed fixed $1 million trigger was changed to be each year's median property value of houses sold, it would automatically be balanced to inflation over time. Nationally, house values have tripled in the past 20 years.

It would be more equitable to have the housing bank tax be on the sales dollar amounts over the median sales price of a property sold on the island each year – as determined by a consistent source for the previous 12 months such as the 12 months ending December 31. Then senior citizens on a fixed income would have their untaxed house equity increase with inflation over time, just as with their annual living expenses.

2. The various Town affordable housing zoning bylaws allow the affordable housing eligibility income level to go up to 140 percent of area median income (AMI) in five of the six towns on Martha's Vineyard and on Nantucket. Chilmark's zoning increases this income level to 150 percent AMI. These limits were passed at town meetings and approved by the Attorney General (AG) in the early 2000's—before the Community Preservation Act (CPA) was adopted. The reasons for these higher income cap levels are the significantly higher real estate prices and costs of living on the islands.

3. The Housing Bank committee has the income eligibility cap at 240 percent AMI. It maintains that local residents in need of affordable housing make too much money to be eligible for current affordable housing. This paradox has been caused by two current structural issues outside of local town zoning. The first is the Community Preservation Act mandates that affordable income eligibility on housing programs funded by this legislation must be less than 100 percent AMI. This AMI cap may work for other towns in the Commonwealth but, local zoning and AG agreement indicate this income restriction is too low for Martha's Vineyard and Nantucket. To help rectify this I have suggested obtaining an exception to the CPA's less than 100 percent AMI income cap levels for the islands to be consistent with local zoning and increased to 140-150 percent AMI. This level has already been approved by the Commonwealth for our zoning. This suggestion was not acted upon.

4. The vast majority of affordable housing on the island is constructed by the Island Housing Trust (IHT) developer. The second current structural income cap inconsistency is this firm applies for and receives supplemental grant funds from the Commonwealth and Federal level with even more restrictive income limits of up to only 80 percent AMI. This is clearly outlined in IHT's applications for CPA revenue from all six towns. Unrelated to our housing needs, is this lower income cap a restriction or requirement for IHT to maintain its

affordable housing 501c3 non-profit status? If IHT cannot build and have all of our affordable housing match town affordable housing income eligibility regulations and needs (up to 140-150 percent AMI), then IHT should not build such a significant majority of the affordable housing on the island. Thus far, the majority of the housing it has built has much lower income eligibility restrictions. It is off our housing strategy and not meeting the island's needs. Voters have established that all affordable housing on the island should be available to everyone in need of it and at all income levels up to 140-150 percent of AMI—not up to 80 percent AMI. This income cap also automatically increases over time as salaries and costs of living increase.

5. As stated earlier, the current version of the Housing Bank concept caps the affordable income level at 240 percent AMI to help address this affordability income cap paradox. Based upon the 2021/22 HUD AMI data for Dukes County this would place the maximum taxable income level for affordable housing eligibility for a 1-person household at $178,000 and $251,000 for a 4-person household. This is far too high and would make many others not needing affordable housing eligible for housing bank funded affordable housing. Is this how we want our money spent?

6. If the Housing Bank tax is adopted by all six towns (as was required for the Land Bank—not 4 out of 6 as proposed for this), the Towns and voters should consider repealing the Community Preservation Act and 3 percent tax surcharge as it has apparently out lived its usefulness because of the previously mentioned low CPA income cap for eligible housing recipients. Over 70 percent of all CPA money is spent on housing. The Housing Bank proposal says it will not need or use town CPA or town short-term rental tax funds.

If repealed, we will not lose the other CPA use benefits. The lost CPA revenue for Open Space Preservation is recovered by the Land Bank legislation. Documentary filmmaker Ken Burns calls our National Parks America's best idea. The Land Bank is Martha's Vineyard's best idea. The projects funded by CPA Historic Preservation funds can be funded by the Town tax payers and voter approval as needed (we already do this through the CPA tax surcharge) and through private funding as done for relocating the Gay Head Lighthouse. Additionally, the annual CPA state matching fund percentage amounts are now lower and no longer meet the maximum 100 percent of town CPA tax surcharge revenue. This incentive for adopting or keeping the legislation in the early 2000's is not as attractive as it used to be.

If a Town has secured affordable housing debt with local CPA tax revenue (as West Tisbury has done for its Scotts Grove affordable apartments), voters would first need to vote to lower the three percent CPA tax surcharge to the level only needed to satisfy the annual debt service payments. This remaining surcharge would then be completely repealed by voters when the debt is retired.

7. The Housing Bank will not seek to use short-term rental tax money as previously advocated by housing groups. The towns' short-term rental tax revenue should be appropriated as each town's voters see fit at future town meetings. This money belongs to all voters and should not be encumbered indefinitely to any specific future use. We have many more expensive issues to deal with at the town level—OPEB liabilities and high school renovations to name two. Let's listen to our Finance Advisory Committees.

8. The draft proposal states the Housing Bank Town Advisory Boards shall work with the Commission to develop regulations to implement the act. This is vague. Does this suggest these developments will be exempt from existing town regulations and permitting? Housing Bank funded housing should be explicitly required to honor all local, voter-approved town zoning and other bylaw regulations (as amended from time to time). If housing is built as a 40B development it will have increased development density and lower 40B eligibility income cap restrictions between 70-80 percent AMI. One of the reasons cited for adopting the CPA in 2001 and 2005 was to provide public money to subsidize affordable housing costs to improve the operating economics and help avoid 40B developments on the island to help preserve its rural character.

9. The Land Bank tax has exemptions for certain circumstances. This law should have similar considerations. Use the Land Bank law as a content outline for this one and publish a complete document before April. It also needs room for amendment over time and a process to do this—pending town meeting approvals at a minimum—not approval by the various Select Boards as proposed.

10. Lastly, this is a standard Finance Committee question that voters need to know. What are the annual revenue projections and overhead operating expenses for the Housing Bank outside of debt service—facilities, staff, benefits, OPEB retirement, legal etc. and what percent of estimated annual revenue is this projected to be? The current proposal suggests the Housing Bank Commissioners should get a fee payment. This is wrong as none of the Land Bank Commissioners receive a dime. The fiscal year 2021 annual overhead expenses for the Land Bank are $603,000 plus an uncommitted, budgeted reserve of $75,000. This is 6-7 percent of projected 2021 revenue of $10.9 million.

11. How will the over $7 million/year Housing Bank money be distributed to recipients? This is public money. It must be a fully transparent system devoid of favoritism or any form of discrimination based upon sex or race etc.

It is only December 2021. If this is passed by all six towns the tax trigger should be the annual median sales price of an island property rather than the fixed amount of $1 million. Mandate it honor and be consistent with voter-approved local town affordable housing zoning construction and income eligibility regulations of 140-150 percent AMI—not 240 percent AMI. Those who currently “make too much money to be eligible for affordable housing” would then be eligible.

The current Housing Bank proposal is incomplete and not ready for town vote. As with the Edgartown Select Board, voters need to know what we’re voting on. This is serious business and there is time to do this.