**DRAFT 2**

**West Tisbury Affordable Housing Trust**

**Sept. 27 2022**

**Minutes**

**Present:** Cynthia Mitchell, Jess Miller, Skipper Manter, Jefrey Dubard, Ted Jochsberger, James Klingensmith, Larry Schubert, Rise Terney and Amy Upton

**Also Present:** Rhonda Conley, Doug Ruskin and Philippe Jordan (IHT reps), Christy Philipps, Bill Bennett, MV Times reporter, and members of the public

Minutes of 9-13-2022 postponed until next meeting.

**ONGOING BUSINESS**

**15 Rock Pond Rd:** Schubert said that Colaneri wrote a letter (see attached) toChristy Philips owner of 15 Rock Pond Rd. It was sent and received by Philipps. This letter was not voted on by the Affordable Housing Committee (AHC). Emails and letters on the misuse and sale of the property were being discussed with Christy Philipps, Town Counsel (Isabelle Lew)and counsel for Island Co-Housing (Caroline Flanders). Philipps also emailed letter and other emails on the status of renters and sale of property (see attached). She has contacted attorney Geoghen Coogan.

Mitchell spoke to attorney Ron Rappaport who told her that no vote was necessary as to letters to Philips and updated correspondence between AHC Chair Colaneri and Lew. Rappaport did tell her that the Purchase and Sale Agreement did need approval of the AHC and AHT if funds were coming from the trust.

Dubard suggested that a vote from the trust to AHC if P&S has AHT as purchaser of the property with AHC voting to recommend AHT to vote on P&S. Rappaport said not necessary.

Schubert stated that the Sept. 13 discussion of the P&S agreement had a sale price of $255,000.00 which AHC needed to vote to recommend approval to the AHT to vote funds for purchase if Philipps agrees to sale at above price. Mitchell asked if all understood if there is not an AHT vote then P&S goes south with resale and can keep P&S on ice. . Klingensmith said by doing that it takes the heat off plus keeps P&S set aside. Mitchell said it can always be voted and there is plenty of time to vote. Terney asked if don't need vote to set aside? Mitchell stated no. Terney also wished to know about some kind of confirmation from the trust or whatever when another step needs taken to set a date and not wait for Phillips. She asked if a date was set which Mitchell stated no date set. Mitchell asked that the record reflect how happens as stated above and having no set time line with no action being the right path.

Dubard said clarity nice. He asked about confirmation of attorney Coogan and time set.

Terney also wished to know about some kind of confirmation from the trust or whatever when another step needs taken to set a date and not wait for Philipps. Jochsberger asked that a letter be sent to Coogan as to progress. Mitchell asked who should send letter. Manter said AHC should send letter to Coogan inquiring as to sale and time expected for the process of completing this.

Bennett stated that the renters had found a place. He asked about letter out for loss rent and what will happen to money. Mitchell said letter not approved without vote which was not done. Philipps stated that the letter floored her. She wants the house to go to someone at 80% median income but bank qualification for mortgage is hard. Some members wished to send a letter of apology to Philipps for the handling of the case. Others not. Jochsberger stated this should be discussed at AHC meeting.

**401 State Road:** Mitchell stated that South Mountain Contractor, John Abrams shared a letter of withdraw from 401 State Rd. project. (see attached). Mitchell said the Select Board will be discussing this at meeting in Oct. and AHC members should consider attending it. This is not a subject for AHT.

Adjourned at 7:04 PM

The next meeting will be Oct. 25, 2022 at 6:15 PM.

**ATTACHMENTS**

**Attachment 1**

Christy Phillipps

Via E-mail ([xty-wearout@msn.com](mailto:xty-wearout@msn.com)) and Certified Mail

*Re: 15 Rock Pond Road, West Tisbury*

Dear Ms. Phillipps,

This letter is sent in connection with the Affordable Housing Deed Rider, by and between you, as owner of 15 Rock Pond Road, West Tisbury (the “Premises”) and Island CoHousing, LLC and its assignees and designees, the Town of West Tisbury (the “Town”) and Dukes County Regional Housing Authority (“Monitoring Agent”), dated April 12, 2000 and recorded in the Dukes County Registry of Deeds in Book 795, Page 9 (the “Deed Rider”). A copy of the Deed Rider is attached hereto as **Exhibit A**. The deed conveying the Premises to you, which deed is dated April 12, 2000, and recorded in Dukes County Registry of Deeds Book 795, Page 5, expressly states that “[t]he Premises are subject to and have the benefit of the terms and provisions of that certain Deed Rider annexed hereto and recorded herewith.” The Premises are also affected by the terms and conditions of a certain Martha’s Vineyard Commission Decision recorded at the Dukes County Registry of Deeds in Book 734, Page 364 and the West Tisbury Comprehensive Permit recorded at the Dukes County Registry of Deeds in Book 748, Page 561.

Clause 7 of the Deed Rider provides, in relevant part:

“The Property shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged **without prior written consent of the Monitoring Agent [DCRHA**]… Any rents, profits, or proceeds from any transaction described in the last preceding sentence which transaction has not received the prior written consent of the Monitoring Agent shall be paid to and be the property of the Monitoring Agent.” (Emphasis added).

The Monitoring Agent has not approved the rental of the Premises. Therefore, the previous and continuing rental of the Premises by you constitutes a default of the Deed Rider. Further, pursuant to the Deed Rider, all rents collected from rentals not approved by the Monitoring Agent are due to the Monitoring Agent.

It is our understanding that you have expressed willingness to sell the Premises to an Eligible Purchaser (as defined in the Deed Rider) at the Maximum Resale Value (as defined in the Deed Rider). In light of the foregoing and your continuing breach, the Town requests that you formalize your commitment to sell by entering into a Purchase and Sale Agreement for the sale of the Premises. Attached hereto as **Exhibit B** is a Purchase and Sale Agreement for the Premises. The buyer listed is the Town, and the Town shall assign their rights under the Purchase and Sale Agreement to an Eligible Purchaser located by the Monitoring Agent prior to closing. The purchase price is the Maximum Resale Price calculated by the Monitoring Agent according to the terms of the Deed Rider, and after consideration of and deliberation about your inquiries re: association dues and solar panel improvements.

No later than \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, please sign the attached Purchase and Sale Agreement and hand deliver to Town Hall, c/o Affordable Housing Committee, or e-mail to the West Tisbury Affordable Housing Committee Chairperson, Michael Colaneri at MCPA72@hotmail.com. The Town will subsequently forward to you its signature on the same.

If the Town does not receive a signed Purchase and Sale Agreement from you by the above noted date, the Town will seek Court enforcement of the Deed Rider, including, but not limited to seeking to void the lease and requiring all past and future lease payments be made to the Monitoring Agent.

Sincerely,

Michael Colaneri

Chairperson of the West Tisbury Affordable

Housing Committee

cc: Town Counsel: Ronald H. Rappaport, Esq. (*rrappaport@rrklaw.net*)

Select Board: Jennifer Rand, Town Administrator (*TownAdmin@westtisbury-ma.gov*)

Exhibit A: Deed Rider

Exhibit B: Purchase and Sale Agreement

**Attachment 2**

26 September 2022

To: West Tisbury Affordable Housing Committee

Re: Sale of 15 Rock Pond Road House

To the Chairman and Board:

I write this letter as a reminding of previous notices and an update of my progress on the sale of the house.

Reminders:

* 22 March 2022 Notice of Intent to Sell went to the WTAHC, the DCRHA, and the Island CoHo.
* 26 April 2022 Minutes of the WTAHC reported the following:
  + **15 Rock Pond Road:** Colaneri reported that town counsel and CoHousing attorney have agreed on the property sale. **The tenants shall not be displaced but given time to relocate.**
  + Conley reported that DCRHA has set the resale price at $255,000.00. This price is set for a family making up to 80% of median income.
* 8 August 2022 I sent an update to the WTAFC by email that included the fact that the Lowes would vacate the house by the 1st of October 2022, that a home inspection had been scheduled and that work was underway to allow for the installed Solar Voltaic System to qualify as an “approved capital improvement” to the property.

Updates:

* The lowe Family will move out of the house this Saturday, the 1st of October and move into a 3 bedroom rental house in Oak Bluffs owned by Peter Rodagast and Nancy Cole.
* I will help the Lowes move with a borrowed truck this Saturday. I will then begin the process of moving my furniture and other belongings out and will also start the process of cleaning and addressing any deficiencies in the house.
* A home inspection has been scheduled with Louis deGeofroy for 14 October which was his earliest available appointment after the 1st.
* Geoghan Coogan will list the house sale in the news paper according to the deed rider and then a qualified candidate can buy it.
* Despite my best efforts, the solar array system that would have provided free electricity to the new buyer was not qualifed as an “approved capital improvement.” This is a sad state of affairs as the impact of ever increasing power costs on the budget of an 80% family can be significant and would have been locked in at 75% of the current cost. Forever.

I am doing my best to get this house sold. It was never my intention to have the Lowes in the house for this long. There was just no affordable or reasonable alternative to housing the Lowe Family once they had moved in. An eviction seemed unconscionable during Covid. I know that this has caused much concern on the various boards. In the end, the Lowe family found a refuge for their family and Milena’s parents in asylum, and the house will be passed on to a qualify family. I did my best during a difficult time with no intention of malice or illegality.

Sincerely,

Christy Phillipps

**Attachment 3**

Separate file

TOWN OF WEST TISBURY

AFFORDABLE HOUSING COMMITTEE

P. O. Box 278

West Tisbury MA 02575-0278

508-696-0102

affordhouse@westtisbury-ma.gov

September 15, 2022

Christy Phillipps

Via E-mail ([coastit@gmail.com](mailto:coastit@gmail.com)) and Certified Mail

*Re: 15 Rock Pond Road, West Tisbury*

P.O. Box 242

West Tisbury, MA 02575

Dear Ms. Phillipps,

As outlined in a letter from the West Tisbury Affordable Housing Committee dated July 27, 2022, the previous and continuing rental of the property you own at 15 Rock Pond Road, West Tisbury (the “Premises”) constitute a default and violation of the Affordable Housing Deed Rider, by and between you and Island CoHousing, LLC and its assignees and designees, the Town of West Tisbury (the “Town”) and Dukes County Regional Housing Authority (“Monitoring Agent”), dated April 12, 2000 and recorded in the Dukes County Registry of Deeds in Book 795, Page 9 (the “Deed Rider”). Clause 7 of the Deed Rider provides, in relevant part:

“The Property shall not be leased, refinanced, encumbered (voluntarily or otherwise) or mortgaged without prior written consent of the Monitoring Agent [DCRHA]… **Any rents, profits, or proceeds from any transaction described in the last preceding sentence which transaction has not received the prior written consent of the Monitoring Agent shall be paid to and be the property of the Monitoring Agent**.” (Emphasis added).

You have been renting the Premises without permission from the Monitoring Agent since at least 2018 (and you have rented the Premises since as early as 2006). The Monitoring Agent approved a rental for a period of six months over the winter of 2019-2020 (contingent upon you providing the Monitoring Agent information necessary to income certify the tenant, which information was never produced), with the agreement that you would thereafter sell the property as you did not intend to live at the Premises. That approval from the Monitoring Agent expired in or around May of 2020. Since May of 2020, you have continued to rent the Premises without permission from the Monitoring Agent. It is my understanding that the rent collected has been in the amount of at least $1,550.00 per month.

The Deed Rider grants the Town broad authority to enforce the terms of the Deed Rider. Pursuant to such enforcement rights, this letter serves as a demand letter, requesting that you pay all rents collected pursuant to the unauthorized renting of the Premises to the Monitoring Agent. No later than October 1, 2022, please deliver a certified or bank check in the amount of $43,400.00 representing the total rent collected at the rate of $1,550.00 per month from June 2020 through September 2022. (If rent has been increased or decreased over the years, please let me know so we can adjust this figure accordingly). By October 1, 2022, please deliver the check payable to “Dukes County Regional Housing Authority” via hand delivery to Town Hall, c/o Jennifer Rand, Town Administrator.

If the Town does not receive the foregoing funds by October 1, 2022, the Town has instructed Town Counsel, cc’ed here, to file a complaint with the Dukes County Superior Court seeking collection of the same.

Sincerely,

Michael Colaneri, Chair

West Tisbury Affordable Housing Committee

cc: Town Counsel, Ronald H. Rappaport (*rrappaport@rrklaw.net*)

Select Board: Jennifer Rand, Town Administrator (*TownAdmin@westtisbury-ma.gov*)

Dukes County Regional Housing Authority, David Vigneault (*david@housingauthoritymv.org*)