



2013 00000547

DECLARATION OF TRUST

TOWN OF WILLIAMSTOWN AFFORDABLE HOUSING TRUST FUND

THIS DECLARATION OF TRUST (the "Trust") is executed as of the 3 day of January, 2013, by Richard L. DeMayo, Stanley E. Parese, Frederick W. Puddester, Thomas E. Sheldon, and Catherine M. Yamamoto, hereinafter called the "Trustees" who shall serve in such capacity pursuant to the provisions of Massachusetts General Laws (M.G.L.) Chapter 44, Section 55 and the provisions of this Trust.

WHEREAS, at a Town Meeting of Williamstown on May 15, 2012, the Town authorized the establishment of a Housing Trust pursuant to the provisions of M.G.L. Chapter 44, Section 55C; and

WHEREAS, it is the intention of the Trustees, to establish a comprehensive trust in accordance with said Town Meeting authorization and the provisions of M.G.L. Chapter 44, Section 55C.

NOW, THEREFORE, the Trustees hereby acknowledge and agree for themselves and their successors in trust to hold any property and funds as may be received by the Trustees under this Trust, for the purposes hereof in trust for the benefit of all of the Inhabitants of the Town of Williamstown, in the manner and under the terms and conditions set forth herein.

ARTICLE I – NAME.

The name of this trust shall be the "Williamstown Affordable Housing Trust Fund."

ARTICLE II – PURPOSE.

The purpose of the Williamstown Affordable Housing Trust Fund shall be to provide for the creation and preservation of affordable housing in the Town of Williamstown for the benefit of low and moderate income households.

ARTICLE III – COMPOSITION AND TENURE OF TRUSTEES.

A. Establishment

There shall be a Board of Trustees consisting of five Trustees who shall be appointed by the Board of Selectmen.

RM Parese, Sabra Smith, Folk (13)

B. Composition

One of the Trustees shall be a member of the Board of Selectmen, one a member of the Williamstown Affordable Housing Committee, and three residents who would bring to the Trust relevant experience and expertise, such as in real estate, housing, banking, or the like. Nothing in this subsection shall prevent the Board of Selectmen from appointing the Town Manager as an ex-officio sixth member, without the power to vote.

C. Terms

Trustees shall be appointed, or reappointed, by the Board of Selectmen, and shall serve for the term of two years, with the exception that two initial appointments shall be made for one year only so as to allow staggered terms.

D. Residency.

Only persons who are residents of the Town of Williamstown shall be eligible to hold the office of Trustee. Any Trustee who ceases to be a resident of the Town of Williamstown 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 by such Trustee and duly filed with the Town Clerk. Vacancies shall be filled by the Board of Selectmen for the remainder of the unexpired term.

E. Continuity and Removal

Upon the appointment of any succeeding Trustee, title to the Trust estate shall thereupon be vested in such succeeding Trustee jointly with the remaining Trustees, without the necessity of any conveyance. Trustees serve at the will of the Board of Selectmen, and any Trustee may be removed by that body for cause or no cause.

ARTICLE IV – POWERS OF THE TRUST.

A. Powers

The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in this Trust, shall include the following powers, subject to the limitations set forth in Article IV.B:

1. to solicit and accept grants, gifts, devises, and bequests, or otherwise acquire real or personal property;
2. to invest any of the Trust property in such manner as they may deem advisable without being limited as to the kind or amount of any investment;
3. to sell and exchange any real or personal property or any interest therein for such consideration and upon such terms and conditions as they deem advisable;
4. to join with others in the acquisition of real property or any interest therein;
5. to borrow money and mortgage or pledge any part of the Trust estate assets and issue notes or other indebtedness;
6. to join with others in borrowings, mortgages and pledges, and to guarantee and become surety on obligations of others in transactions in which the Trust has an interest;
7. to execute, as lessor or lessee, leases, including for terms expiring after the possible expiration of the Trust;
8. to restore, construct, repair and maintain buildings and to make other improvements and establish such reserves as they deem necessary therefor;
9. to pay, compromise or adjust all obligations incurred and rights acquired in the administration of the Trust;
10. to obtain advice of counsel and to rely thereon;
11. to employ such other persons, agents, staff, brokers, managers, accountants or advisors as they may deem advisable and to pay reasonable compensation and expenses, apportioning same between income and principal as the Board deems advisable;
12. to execute, acknowledge, and deliver all such contracts, deeds, mortgages, leases, discharges, and partial releases of mortgages or other instruments as they may deem advisable in the course of the administration of the Trust; and

13. to execute a Declaration of Trust and Certificate of Trust for the Williamstown Affordable Housing Trust Fund to be recorded with the Berkshire North District Registry of Deeds and filed with the Berkshire North Registry District of the Land Court.

B. Limitations

These powers shall be subject to the following limitations:

1. any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property must be approved by four of the five voting members.
2. the Trustees may incur debt, borrow money, grant mortgages and pledge Trust assets only in an amount not to exceed 80% of the total value of the Trust's assets.
3. any debt incurred by the Board shall not constitute a pledge of the full faith and credit of the Town of Williamstown and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Williamstown with an acknowledgement of said statement by the holder.

C. Full powers of 44/55C

The Trustees shall have these and all powers set forth in M.G.L. Chapter 44, Section 55C, and shall refrain from exercising any powers in such manner as to violate the provisions of said statute.

D. Single appropriation

In accordance with M.G.L. Chapter 44 Section 55C(d), all monies paid to the Trust shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property, and to be expended, these funds need not be further appropriated. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date that they were appropriated into the Trust, remain Trust property.

ARTICLE V – GOVERNANCE, ORGANIZATIONAL STATUS.

A. Meetings of Trustees

The Trust shall meet at least quarterly at such time and such place as the Trustees shall determine. Notice of all meeting of the Trust shall be given in accordance with the provisions of the Open Meeting Law, M.G.L. Chapter 39, Sections 23A, 23B, and 23C. A quorum at any meeting shall be four of the five voting members.

B. Acts of Trustees

A majority (three or more) may exercise any and 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 of the Trustees, subject to the limitations set forth in Article IV.B.1. 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 property.

C. Public Employer

The Trust is a public employer and the members of the Board are public employees for purposes of M.G.L. Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees, for purposes of said Chapter 268A.

D. Taxes

The Trust is exempt from M.G.L. Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any political subdivision thereof.

E. Custodian of Funds/Audits

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. Upon receipt of a copy by the Board, a copy shall be provided forthwith to the Board of Selectmen.

F. Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

G. Board of the Town

The Trust is a board of the Town for purposes of M. G.L. Chapter 30B and M.G.L. Chapter 40, Section; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

H. Compensation of Trustees

Trustees shall not receive a salary, stipend, bonus, or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Williamstown. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

I. Conflicts of Interest

The Trust shall be considered a public employer and the Trustees shall be subject to the conflict of interest provisions of G.L. Chapter 268A.

ARTICLE VI – AMENDMENT.

This Trust may be amended from time to time by approval by four of the five voting members of the Trustees and approval by the Board of Selectmen, provided, however, that no such amendment shall violate the purposes of this Trust, nor of M.G.L. Chapter 44, Section 55C.

ARTICLE VII – DURATION OF TRUST.

The Trust shall be of indefinite duration, until terminated by a vote of the Williamstown Town Meeting. 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 for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE VIII – RECORD TO BE CONCLUSIVE, CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease and other instrument executed by the requisite number of Trustees as provided herein, as appears from instruments or certificates recorded with the

Berkshire Northern District Registry of Deeds and/or the Berkshire Northern Registry District of the Land Court, to be Trustees hereunder, shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees. Any person dealing with the Trust property or the Trustees may always rely on the certificate signed by any person appearing from instruments or certificates so recorded to be Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

ARTICLE IX - TITLES

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

Witness our hands and seals.

Richard L. DeMayo
Richard L. DeMayo, Trustee

Stanley E. Parèse
Stanley E. Parèse, Trustee

Frederick W. Puddester
Frederick W. Puddester, Trustee

Thomas E. Sheldon
Thomas E. Sheldon, Trustee

Catharine M. Yamamoto
Catharine M. Yamamoto, Trustee

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

On this 27th day of December, 2012, before me, the undersigned notary public, personally appeared Richard L. DeMayo, proved to me through satisfactory evidence of identification, which was driver's license (driver's license/personal knowledge), to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Katelyn Hathaway
Notary Public
(Name): Katelyn Hathaway
My commission expires: 7-25-2019



COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

On this 27th day of December, 2012, before me, the undersigned notary public, personally appeared Stanley E. Parese, proved to me through satisfactory evidence of identification, which was personal knowledge (driver's license/personal knowledge), to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

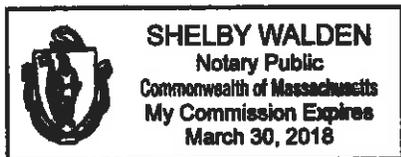
Katelyn Hathaway
Notary Public
(Name): Katelyn Hathaway
My commission expires: 7-25-2019



COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

On this 3rd day of January, 2013, before me, the undersigned notary public, personally appeared Frederick W. Puddester, proved to me through satisfactory evidence of identification, which was personal knowledge (driver's license/personal knowledge), to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Walden
Notary Public
(Name): Shelby Walden
My commission expires: 3/30/18

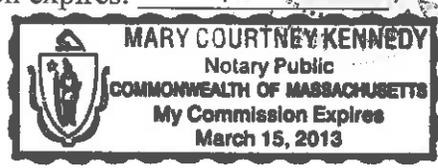


COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

On this 31 day of Dec, 2012, before me, the undersigned notary public, personally appeared Thomas E. Sheldon, proved to me through satisfactory evidence of identification, which was Mass Driver License (driver's license/personal knowledge), to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Mary Courtney Kennedy
Notary Public
(Name): _____
My commission expires: _____

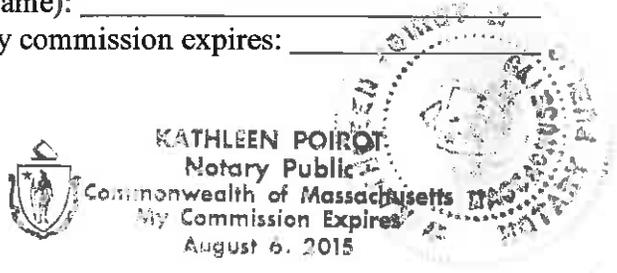


COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

On this 28th day of December, 2012, before me, the undersigned notary public, personally appeared Catharine M. Yamamoto, proved to me through satisfactory evidence of identification, which was Personal Knowledge (driver's license/personal knowledge), to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Kathleen Poirat
Notary Public
(Name): _____
My commission expires: _____



END OF DOCUMENT
Northern Berkshire Registry of Deeds