



Select board reviewed a letter from town counsel Ron Rappaport Monday.

Edgartown, West Tisbury Delay Action on Housing Bank Article

Zach Harris Tuesday, December 7, 2021 - 4:08pm

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For a second straight week the Edgartown select board Monday pressed the pause button on a draft article to create an Islandwide housing bank, after a review by town counsel raised a series of questions about the article.

West Tisbury is also holding off on action. At Wednesday's select board meeting, chairman Skipper Manter and member Cynthia Mitchell emphasized their support for the measure but said they wanted to see language changes.

The coalition that is advocating for the housing bank has been circulating the draft warrant article in the six Island towns for inclusion on the annual town meetings warrants next spring. The article anticipates a bill in the state legislature, which has not been filed yet.

The housing bank is intended to be modeled after the Martha's Vineyard Land Bank. As currently proposed, the housing bank would collect two per cent transfer fee on most real estate transactions over \$1 million. The money would be distributed in the form of grants for

affordable housing projects on the Island. An elected Islandwide commission would control the funds.

Last week the Edgartown select board said they wanted town counsel Ron Rappaport to review the draft article before deciding to put it on the warrant.

In a four-page letter sent to town administrator James Hagerty, Mr. Rappaport zeroed in on key differences between the 1986 land bank legislation and what is being proposed for a housing bank. The differences include the process for adopting the housing bank article, which would allow passage by four of the six towns at annual town meeting instead of all six towns, as was done with the land bank. The land bank process also included a return to voters for ratification at the ballot box after legislation cleared Beacon Hill. The housing bank proposal does not include this provision.

“A threshold issue is whether any housing bank act should require approval by voters at a town election before it goes into effect,” Mr. Rappaport wrote in part.

The letter expressly notes that what is referred to as “An Act Establishing a Martha’s Vineyard Housing Bank” in the state legislature is still preliminary. “I am advised that the housing bank act has not been finalized and is not likely to be filed with the town clerk until February,” Mr. Rappaport wrote.

The letter highlights other areas in the draft article lacking clarity, including the question of whether a town that votes against the housing bank would be required to join it. It lightly questions the legality of a broadly drawn provision that would allow the housing bank commission to grant exemptions to grant recipients who exceed income thresholds. And it notes that the question of compensation for housing bank commissioners remains unsettled.

“The land bank act expressly provides that the commissioners shall serve without compensation. The housing bank article does not suggest a similar restriction, and commissioner compensation would not be subject to review by voters at town meetings,” Mr. Rappaport wrote. “If you do not believe the commissioners should be compensated, you may wish to offer an amendment to that effect.”

Housing bank proponents have said repeatedly that the article is a draft and still subject to change and revision.

“All we’re looking for is agreement from you to put the article on the warrant,” said John Abrams, a member of the Coalition to Create the Martha’s Vineyard Housing Bank, who attended the meeting Monday.

But select board members said they would like to see more discussion and analysis, including from other towns.

“Ron is town counsel for five of the six towns. I think it’s going to be important, not just for our board, but for the other towns also, to have the benefit of what Ron discusses and comes up with,” selectman Arthur Smadbeck said. “I think the points that he has brought up the differences that we’re now seeing between [the land bank and housing bank] legislations, maybe we can conform them more with Ron working with the housing bank people,” he added.

“I agree with that, I think the more united we are the better,” selectman Michael Donaroma said.

Selectwoman Margaret Serpa said she saw no reason to take a vote if there are still changes to be made to the draft.

“Right now I feel that it’s premature for putting it out on [the] town meeting warrant, we’re not ready for that if the language isn’t what it’s going to be,” Ms. Serpa said.

In West Tisbury Wednesday, select board members chimed in, saying they wanted to see a draft that hews more closely to the land bank legislation.

“As much as it can mirror the framework of the land bank, which by most accounts is the gold standard, I think the better off and the most support it will get,” Ms. Mitchell said. “We have until February to accept a warrant article,” she added.

Mr. Abrams told the board that Mr. Rappaport and the housing bank campaign’s attorney will work together to resolve the town attorney’s concerns with the current draft.

“We’re on it,” Mr. Abrams said.

The Chilmark and Aquinnah select boards have already agreed to put the article in front of voters. Oak Bluffs and Tisbury are due to take up the draft article next week.

Louisa Hufstader contributed reporting.

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Complete text of letter by town counsel Ron Rappaport.

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