

# **Report to the City of Newton Department of Planning and Development**

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**Local Preference in Affordable Housing:  
Analysis of Data from Recent Rental Developments  
June 2021**



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## Introduction

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In 2020, Mayor Ruthanne Fuller acknowledged that Newton is not immune to systemic racism when she addressed residents in a weekly report on June 4, 2020, and in a subsequent mayoral address on June 15, 2020. Thereafter, the Newton Housing Partnership joined Mayor Fuller in reaffirming the City’s commitment to inclusion and recommended a specific anti-racist action: to suspend Newton’s “local preference” policy for affordable housing units in the new mixed-use Riverside development. Under the City’s Inclusionary Zoning (IZ) ordinance, 70 percent of the affordable units in IZ-covered projects must be offered preferentially to applicants with existing residential, employment, or school-system connections to Newton. Exempting a large housing development from the City’s long-standing local preference policy offered the possibility of opening Newton to more non-resident applicants and potentially, a more diverse pool of applicants.

Local preference was also reviewed last year as part of the WestMetro HOME Consortium's update to its Analysis of Impediments to Fair Housing Choice (AI), a plan requirement that federal grant recipients must meet under their funding agreements with the U.S. Department of Housing and Urban Development (HUD). The thirteen-member Consortium, led by the City of Newton, must take meaningful and measurable actions to break down barriers to fair housing choice and affirmatively further fair housing for all protected classes. Among the potential impediments reviewed during that process was the practice of requiring local preferences not only in Newton, but most of the other cities and towns in the Consortium.

The local preference conversation has continued in Newton. In January 2021, the Newton Planning and Development Department asked Barrett Planning Group LLC to evaluate the effectiveness of and need for the City’s local preference policy and to assess the potential discriminatory impact of the policy. Before engaging in a detailed review of available data, lottery procedures, and outcomes, the following policy questions were presented as the basis for the study:

- What does Newton want the local preference policy to accomplish?
- Do you think that overall, the policy meets the City's expectations?
- What advantages do you see in keeping the policy substantially as-is?
- What are the down-sides? Unintended consequences?
- Like any public policy, local preference involves costs and benefit. What are the costs? The benefits? Do the benefits outweigh the costs?

Guided by these questions, Barrett Planning Group conducted the following tasks:

- Review of available Affirmative Fair Housing Marketing and Resident Selection Plans (AFHMP) for recent multifamily developments in Newton;

- Review of lottery data for selected developments, for size and makeup of local preference and general pools;
- Review of lease-up data for the same developments and comparison with lottery results;
- Consultation with developers and lottery agents to understand differences (if any) in makeup of lottery and lease-up groups; and
- Consideration of available data to understand the outcomes of implementing the City's local preference policy.

This report summarizes Barrett Planning Group's work and findings over the past five months, including a brief background on the concept of local preference, a highlight of Newton's demographics, and recent lottery and tenant selection results. While further assessment of tenant selection processes for affordable units in Newton may shed light on additional barriers to fair and equitable housing, the following key findings were identified through this research project:

- The population that benefits the most from Newton's local preference policy is White, non-Hispanic local households;
- Selection rates were higher for White applicants in each of the researched developments than for minority applicants overall; and
- When divided into local preference and non-local preference households, selection rates among local preference households favored White applicants over minority applicants; and among non-local preference households, selection rates were higher for minority applicants (specifically highest for Asian households in each case).

The effect of local preference on households requiring accessibility features in their units is unclear.

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## **Local Preference Background**

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In Massachusetts, local preference in homebuyer and tenant selection through affordable housing lotteries began years ago as an approved mechanism under Chapter 40B for giving a community's residents priority access to new affordable units. Since there is usually more demand for affordable housing than the number of affordable units available in a given development, local preference offers cities and towns a way to offer their own income-qualified residents and others defined as "local" the chance to stay in the community by giving them a priority preference as applicants for affordable housing lotteries.<sup>1</sup> Many communities consider this an important public benefit that may help to build support for affordable housing development.

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<sup>1</sup> Under current state policy, "local" includes non-resident households working in the community or having children in the community's public schools. The state policy has changed over time, e.g., by requiring local residents to be eligible for local preference regardless of how long they have lived in the community, or prohibiting communities from extending "local" to

Recently, however, some communities have begun to reexamine their local preference policies to reduce the potential for discrimination, however unintended, on groups protected by the Federal Fair Housing Act (FFHA) and Massachusetts anti-discrimination laws. For example, the Town of Brookline, a member of the WestMetro HOME Consortium, reduced its local preference requirement from 70 percent to 25 percent in July 2020. (The possibility of further reductions and outright elimination of local preference remains on the table in Brookline.) Neither the existence of local preference policies nor recent calls to reconsider them are unique to Massachusetts. Compared to other states, however, the Massachusetts “allowance” for local preference of up to 70 percent is among the most generous in terms of a set-aside.

As one of the many policies that determine an affordable unit’s eligibility for the Chapter 40B Subsidized Housing Inventory (SHI), the Massachusetts Department of Housing and Community Development (DHCD) allows communities to designate up to 70 percent of new affordable units to be offered first to local applicants, provided the community demonstrates local need. DHCD’s policy is a “safe harbor” approach, i.e., cities and towns can reasonably assume that if they follow it, they will have taken adequate steps to affirmatively further fair housing in accord with the Federal Fair Housing Act (FFHA). Nevertheless, it is a state *policy* adopted for purposes of ensuring that the administration of Chapter 40B complies with the FFHA, not a state law per se.<sup>2</sup> The 70 percent maximum has existed in one form or another for a long time. Although once accepted as a “given” in any development with SHI-Eligible units, DHCD gradually tightened access to the local preference option by requiring communities to document a need for it. One metric by which need may be assessed is the presence of a waiting list for affordable housing, and Newton satisfies this condition.

The process for announcing the availability of affordable units, conducting outreach, setting application requirements, and ultimately selecting people from the pool of applicants for affordable housing is documented in an Affirmative Fair Housing Marketing Plan (AFHMP). Once the application period ends, selecting potential candidates takes the form of a lottery, administered by a DHCD-certified lottery agent, pursuant to the terms of the AFHMP. Affordable housing lotteries are organized into tiers of applicants. DHCD guidelines specify that local households are determined according to allowable local preference categories, including:

- Current residents,
- Municipal employees or employees of local businesses, and
- Households with children in the municipality’s school system.

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some former residents on a selective basis, such as adults who grew up in the community but lived elsewhere at the time of the lottery.

<sup>2</sup> G.L. c. 40B, § 20, defines “low or moderate income housing” as follows: any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization. As DHCD is the administering agency for Chapter 40B, it has authority to set policies that interpret and apply the Chapter 40B statute to eligible low- and moderate-income housing developments. The Affirmative Fair Housing Marketing Plan (AFHMP) requirement, and the 70 percent local preference maximum, are among the agency’s Chapter 40B policies.

Along with placing local applicants in a local preference pool and all applicants in a general pool (which includes the local applicants), factors such as household size and disability status have to be accounted for, too. This step helps to ensure that larger households receive higher priority than smaller households for units with two or more bedrooms, or that applicants requiring disability-accessible units have priority for units that can accommodate their needs. Applicants that qualify for a local preference category are essentially given two bites at the apple to be selected for an affordable unit through the lottery process - first through the smaller local preference pool, and then again through the general pool.

The demographic composition of the local lottery pool plays a role as well. State policy requires that if the proportion of racial/ethnic minority applicants in the local pool does not meet or exceed the proportion of racial/ethnic minority residents in the Metropolitan Statistical Area (MSA), a preliminary lottery must be conducted among non-local minority applicants. Applicants selected from the preliminary lottery are added to the local pool until the demographic composition of the local pool is balanced with that of the MSA, which is currently 27 percent in the Greater Boston area. This balancing step is intended to prevent racial discrimination and reduce the potential for local preference to impose a disparate impact on people of color.

Proponents of affordable housing say it is an investment in sustainability by fostering growth, economic diversity, and social equity. Concerns about design, density, infrastructure capacity, and traffic weigh against potential benefits, with new residents becoming the community's consumers, taxpayers, and future investors. DHCD's local preference allowance can make affordable housing attractive to current residents because people they know may benefit personally. It makes friends and neighbors feel good to see members of their community securely housed, even when market-rate housing may be financially out of reach. When hometown kids launch their careers and move out of their parents' homes, when single-parent families don't have to leave their children's school district, and when seniors are able to downsize without losing their network of support services, affordable housing is a community asset that reinforces the idea of community itself. Since the supply of these housing resources is limited, however, not every applicant eligible for an affordable unit is able to secure one. This is why lotteries exist: to equalize access to affordable housing when the number of eligible applicants exceeds the number of units available.

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## **Community Demographics**

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In the decades since DHCD authorized set-aside units for local applicants, Newton has adopted language requiring local preference units in its Inclusionary Zoning (IZ) ordinance.<sup>3</sup> Newton's waitlist for affordable housing satisfies a DHCD criterion for demonstrating local need, but the policy is being reviewed as a potential source of fair housing barriers which may in turn have an impact on the City's racial and ethnic makeup. Between 1970 and 2019, although there has been a small decrease in the City's population, the number of households has grown by about 14 percent,

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<sup>3</sup> The City of Newton adopted its first form of inclusionary zoning ordinance, the "10% Ordinance" in 1977. Since 1977, more than 300 affordable units have been created under the auspices of the ordinance.

from 26,884 to 30,657. The construction and conversion of new housing in Newton has permitted more households to live in Newton, while the average household size has dropped (from more than 3.3 to less than 2.9), consistent with nationwide trends of diminishing household sizes.<sup>4</sup>

Even with the arrival and establishment of more households in Newton, the growth of Newton’s Black population has been small. In 1970, the U. S. Census indicated that 1.2 percent of Newton’s total population was Black, and this population represented only 0.6 percent of households. In 2019, the U. S. Census Bureau’s American Community Survey (ACS) estimated that 3.0 percent of Newton’s total population was Black (2.4 percent of households), with an additional 0.8 percent of individuals of two or more races including Black in their self-identification.<sup>5</sup>

Racial Demographics <sup>6</sup>	1970 Census		1990 Census		2010 Census		2019 ACS	
	Population	%	Population	%	Population	%	Population	%
White	87,051	98.10%	76,439	92.80%	70,074	82.30%	67,908	76.70%
Black or African American	1,042	1.20%	1,715	2.10%	2,160	2.50%	2,623	3.00%
American Indian and Alaska Native			95	0.10%	91	0.10%	107	0.10%
Asian			3,749	4.60%	9,790	11.50%	13,151	14.80%
Native Hawaiian and Other Pacific Islander					19	0.00%	8	0.00%
Other	637	0.70%	391	0.50%	1,004	1.20%	1,673	1.90%
Two or More Races					2,008	2.40%	3,123	3.50%
<b>Total Population</b>	<b>88,730</b>		<b>82,389</b>		<b>85,146</b>		<b>88,593</b>	

U.S. Census Bureau, Decennial Census 1970-2010, and 2015-2019 American Community Survey (ACS).

In 49 years, 3,773 more households have made homes in Newton, but there are only 581 more Black households, which represents 15 percent of household growth. Comparatively, Newton's Asian population, which represented an uncounted minority in 1970, makes up 12.4 percent of Newton's total households, according to 2019 ACS data. Newton, however, remains mostly White. More than 80 percent of its households are White, which is more than the proportion of White households across the Greater Boston area (77 percent).<sup>7</sup> With a strong White majority for the entire life of the City’s local preference policy, members of the Newton Housing Partnership have asked whether an adjustment to the City's current 70 percent local preference set-aside is needed

<sup>4</sup> U.S. Census Bureau, 2015-2019 American Community Survey (ACS)

<sup>5</sup> 2015-2019 ACS 5-Year estimates indicate that of 3,123 Newton residents of two or more races, 743 were White and Black or African American and 16 were Black or African American and American Indian/Alaska Native, for a combined proportion of the population of 0.8 percent.

<sup>6</sup> Darker-gray shaded area indicates data was not collected

<sup>7</sup> DHCD, “Percent Racial/Ethnic Minority by MSA,” <https://www.mass.gov/service-details/dhcd-fair-housing-and-civil-rights-information>.

to increase the probability of more diversity through the lottery process and to better align with Newton's values as an inclusive and welcoming city.<sup>8</sup>

Household Demographics	1970 Census		1990 Census		2010 Census		2019 ACS	
	Households	%	Households	%	Households	%	Households	%
White	26,615	99.00%	27,880	94.90%	26,979	86.60%	25,379	82.80%
Black or African American	148	0.55%	482	1.60%	652	2.10%	729	2.40%
American Indian and Alaska Native			16	0.10%	29	0.10%	9	0.00%
Asian			938	3.20%	2,949	9.50%	3,803	12.40%
Native Hawaiian and Other Pacific Islander					3	0.00%	8	0.00%
Other	121	0.45%	65	0.20%	245	0.80%	406	1.30%
Two or More Races					311	1.00%	323	1.10%
Total Households	26,884		29,382		31,168		30,657	

Source: U.S. Census Bureau.

## Lottery and Tenant Selection Results

Analysis of the lottery and initial lease-up data from Newton's recent inclusionary housing developments does indicate the possibility of adverse impacts of the local preference policy. However, following lottery selection, a household must complete the rest of its application for a unit, and there are many factors that could inhibit lottery-selected households from moving into a unit, including finding or needing housing elsewhere, being disqualified later in the screening process by a credit or background check, or not meeting program eligibility for income-related or other reasons. Although these many possibilities muddle implications of causality from local preference, analysis of the lottery and lease-up information from some of Newton's recent larger housing developments created under the IZ ordinance can offer some insights and trends.

At the City's request, Barrett Planning Group focused its study primarily on the affordable units in three developments: Trio/Washington Place, Austin Street, and Hancock Estates. Each of these projects included more than ten affordable units and had demographic data available for both lottery and lease-up. The data raise questions that may inform future research, but some notable takeaways and trends offer insight into the demand for affordable housing in Newton and the demographics of those who end up leasing the units.<sup>9</sup> Detailed race and ethnicity tables for each development can be found in the Appendix to this report.

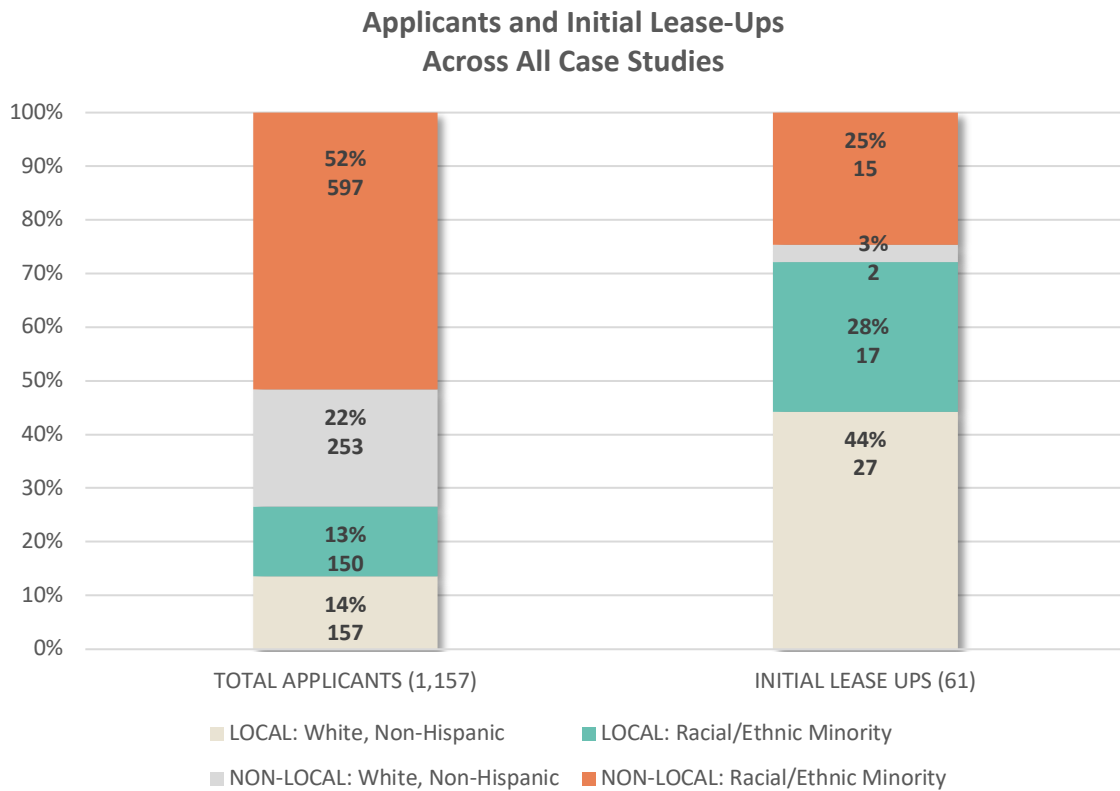
<sup>8</sup> Newton Housing Partnership to Mayor Fuller, July 26, 2020.

<sup>9</sup> SEB Housing LLC served as the lottery agent in each of these developments. Data from other developments and other lottery agents was analyzed, but these projects included smaller numbers of affordable units and therefore exhibited fewer trends.



### Minority Access to Affordable Units in Newton

The developments at Trio/Washington Place (which includes twenty-one affordable units at and below 80 percent AMI), Austin Street (twenty-three affordable units at 80 percent AMI), and Hancock Estates (thirteen affordable units at and below 80 percent AMI) added a combined total of fifty-seven new affordable units at and below 80 percent AMI to Newton’s affordable housing inventory, as well as fourteen “workforce housing” units for moderate-income households (seven units at 100 percent AMI and seven units at 120 percent AMI).<sup>10</sup> Collectively, these developments received 1,157 applications from 307 local preference households (26.5 percent of applicants) and 850 non-local preference households (73.5 percent of applicants).



Without adjusting for household size, income level, and disability status, it is impossible to say what each household’s chance of lottery selection was (because, as outlined above, all of these factors are considered while lotteries are conducted), **but these figures do illustrate the overwhelming demand for sixty-one units: they could house fewer than 5.3 percent of the prospective lessees who applied for them.** Setting aside 70 percent of the units for local preference, about 14 percent of local applicants and 2 percent of non-local applicants got units.

<sup>10</sup> At the time this report was written, twenty-five of Trio’s thirty-five deed-restricted units had been leased by lottery applicants. Ten workforce units were unleased according to initial reports. Because of the high demand for affordable units, it is reasonable to extrapolate that the fourteen moderate-income units received fewer qualified applicants than low-income units did.

Newton's households are 82.8 percent White, but minority applicants made up between 40 and 62 percent of the local applicant pools in the lotteries for Trio/Washington Place, Austin Street, and Hancock Estates. As a result, corrective "balancing" action to supplement each lottery's local pools was not required. This disparity underscores the socioeconomic divide between racial/ethnic groups in Newton, and further reinforces the probability of external impacts on tenant selection. According to the ACS, the *median* household income of Black households or Asian households in Newton exceeds that of White households, which indicates an above-average number of high-earners in those groups. However, the *average* household incomes and per capita incomes of Newton's minority residents are substantially lower, which suggests that most minority high-earners and lower-earners alike probably have incomes lower than those of their White counterparts, as well as a wider and more dispersed income variation.

Income by Race	Median Household Income	Average Household Income	Per Capita Income <sup>11</sup>
White	\$150,971	\$212,816	\$80,655
Black or African American	\$152,446	\$161,032	\$47,223
American Indian and Alaska Native			\$9,351
Asian	\$160,179	\$195,895	\$59,043
Native Hawaiian and Other Pacific Islander			
Other	\$64,000	\$110,085	\$24,850
Two or More Races	\$131,544	\$147,297	\$15,856
Hispanic or Latino	\$115,972	\$142,201	\$39,054
Total Overall	\$151,068	\$207,563	\$73,101

(Source: 2015-2019 ACS 5-Year Estimates)

While the income statistics and lottery composition data indicate racial/ethnic inequalities in Newton, this phenomenon is not limited to Newton. Newton's non-local applicant pools included a proportion of racial/ethnic minority applicants about 20 percent greater than that of the local pool, so racial/ethnic minority applicants represented most non-local applicants. Due to the 70-percent set-aside for local preference units, however, most selected applicants were from less diverse pools.

- Selection rates (the number of housing units that went to a group divided by that group's proportion of a lottery pool) within the non-local pools were highest for racial/ethnic minority applicants in each development's lottery.
- Within the local pools, the selection rates were highest for White applicants.
- Resulting, at least in part, from the 70-percent local preference designation, the selection rates within the general pool (local and non-local preference applicants together) favored White applicants over minority applicants in every case.

<sup>11</sup> "Per capita income is the mean income computed for every man, woman, and child in a particular group including those living in group quarters. It is derived by dividing the aggregate income of a particular group by the total population in that group. This measure is rounded to the nearest whole dollar." Source: U.S. Census Bureau.

- White applicants received a plurality, If not the majority, of units (over any other individual race category) in each of these three developments.

Selection rates are often used for further analysis: disparate or adverse impact calculations often compare the selection rates of individual groups versus the most favored group (the “most favored” group refers to the group with highest selection rate, not necessarily a consistent category or demographic).

**Accessible Units and Disability Households**

As part of our research for this project, Barrett Planning Group consulted with fair housing advocates and inquired about local preference as it relates to applicants with disabilities. When applicants for affordable housing require units with disability accommodations, whether those accommodations are related to mobility limitations or other disabilities, the lottery for those units is separate from other units in order to ensure that units with specialized features go to tenants who need them. Even with this additional step, not every accessible unit goes to a tenant with a disability.

Trio/Washington Place, Austin Street, and Hancock Estates collectively included nine accessible affordable units, and by the end of the lotteries and initial lease-up, only four of those nine units housed tenants with disabilities. While increased opportunity for selection for local applicants is a valuable resource, particularly to households whose well-being may depend on access to local services more than the average household, outside factors beyond local preference cloud the effects that local preference may (or may not) have on leasing outcomes. The pricing of affordable units in Newton may be a significant barrier for people with disabilities, whether local or non-local, and perhaps this is a question the City should explore in the future.

**Disability-Accessible Units**

	Units	Lottery Applicants Requiring Disability Accommodations			Tenants				
		General Pool	Local	Non-Local	Local with disability	Non-Local with disability	Local without disability	Non-Local without disability	Non-lottery lease
Trio	5	25	16	9	2		2		1
Austin Street	2	9	4	5		2			
Hancock Estates	2	13	3	10			2		

*Note: the consulting team did not receive enough data to determine whether the two accessible units at Hancock Estates went to local or non-local applicants.*

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## Reporting

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Throughout this study, Barrett Planning Group reported its findings to a number of City boards and commissions whose purview includes housing and land use policies. Requests from these decision-makers for additional data and information illustrate Newton's commitment to making data-informed and data-driven policy decisions, and Newton's early action in requesting housing market discrimination audits (2005 and again in 2018) demonstrates the longevity of this policymaking strategy. The City strives to support its governance decisions with evidence, and while this goal is pragmatic from a resident's standpoint, its success requires input from outside entities for policymakers.

In the case of Newton's local preference policy, this input takes the form of reporting from lottery agents or property managers. In interviews conducted as part of this study, lottery agents who serve Newton or its neighboring communities reported that much of the information Newton officials sought for this study was not always available: data may not be collected, stored, compiled, or reported back to municipalities. Some information, such as the specific factors that prevented a lottery-selected household from moving into its unit, may be privacy-protected. Other information, such as demographic data or category of applicants' local preference eligibility (residence, employment, or school enrollment), can be disclosed upon request if the agent is made aware of the City's interest (in advance). Newton has the opportunity to set terms with its contracted lottery agents that require reporting for City purposes. While additional services rendered to the City would incur additional costs, the availability of information to housing advocates and policymakers could save time and effort in policy review and updates.

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## Findings and Next Steps

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As mentioned above, a number of key findings were identified throughout our research and analysis of Newton's 70 percent local preference policy:

- The community that benefits the most from Newton's local preference policy is White, non-Hispanic local households.
- Selection rates were higher for White applicants in each of the researched developments than for minority applicants overall.
- When split into local preference and non-local preference households, selection rates among local preference households favored White applicants over minority applicants; and among non-local preference households, selection rates were higher for minority applicants (specifically highest for Asian households in each case).

The effect of local preference on households requiring accessibility features in their units is unclear.

Additionally, the following are key takeaways related to the Lottery and Application Process and Lease-Up for the three developments analyzed over the past few months.

**Lottery and Application Process**

- Newton affordable housing lotteries received considerably more applications than the number of available units. In the three case studies, the City received 1,157 applications for only 71 units:
  - 307 local preference applicants (27 percent of total applicant pool)
  - 850 non-local preference applicants (73 percent of total applicant pool)
- Because the local preference pools included a proportion of racial / ethnic minority applicants that matched or exceeded that of the MSA, preliminary balancing was not necessary. In the case studies examined, about 49 percent of local applicants were from racial / ethnic minority applicants, and rebalancing would be necessary at 27 percent or less.
- The non-local preference pools included a proportion of racial / ethnic minority applicants more than 20 percent greater than that of the local preference pools.

**Lease-Up**

- The factors that contribute to the gap in lottery-selected applicants successfully moving into a unit (or not) are varied and difficult to quantify
  - In these three case study developments, 14 percent of local applicants and 2 percent of non-local applicants moved into a unit
  - The proportion of local White, non-Hispanic lessees in each of these developments is considerably greater (by a factor of between 2 and more than 5) than this population's share of the applicant pools
- Of 61 units leased at the time of this study, 48 percent went to White households, while White households were 38 percent of applicants. Asian and non-local Hispanic households also saw selection rates that exceeded their applications rates:
  - 29 units went to White households, of whom 27 were local preference applicants (93 percent)
  - 11 went to Hispanic / Latinx households, of whom 7 were local preference (63 percent)
  - 11 went to Black households, of whom 6 were local preference (55 percent)
  - 8 went to Asian households, of whom 3 were local preference (38 percent)
  - 2 went to households indicating a race of "other", of whom 1 was local (50 percent)

While this study was limited in scope, the data and findings of this report indicate that Newton's local preference policy is benefitting one racial/ethnic group over others (White, local preference applicants), creating a disparate impact on other groups, particularly Black/African Americans. When viewed through the lens of inclusion and the City's obligation to affirmatively further fair housing for all protected classes, the policy does not appear to support those values. As noted above, however, continued assessment of the procedures for tenant selection for affordable housing units across the City may shed light on additional barriers to fair housing and equity.

Moving forward, there are several potential actions that Newton may choose to pursue related to its local preference policy.

1. **Retain the Existing Local Preference Policy.** The City could choose to keep the local set-aside as its present level. The local preference policy would continue to allot the majority of units created under the City's IZ ordinance to Newton residents, employees, and others with local preference status. This decision would give primary to the interests of existing Newton residents, including those vulnerable to adverse impacts from displacement, such as residents with disabilities. Results also indicate that there is some success in assisting local preference-eligible minority households in securing tenancy in an affordable housing unit.
2. **Reduce the Local Preference Percentage of Affordable Units.** The City may decide, as Brookline did, to designate fewer units for local preference applicants. In response to racial equality concerns, the Town of Brookline has amended its local preference policy and now allocates 25 percent of affordable units for local preference. (The possibility of further reductions and outright elimination of local preference in Brookline remains on the table for future review.) This decision would represent an effort to maintain the community benefit of local preference while opening more units to people outside of Newton, and in turn, a more diverse applicant pool.
3. **Evaluate the Local Preference Categories to Reduce Disparate Impact.** The City could explore the benefits, drawbacks, and legality of retaining local preference for subsets of the local preference pool, e.g., only those households who work in Newton or have children attending Newton public schools or households that qualify as elderly or disabled. This may help to increase opportunities for applicants from outside the City, thereby encourage a more diverse pool of beneficiaries from the policy.
4. **Evaluate the Geography of "Local."** The City could explore the benefits, drawbacks, and legality expanding the geography of the area defined as "local." For example, should "local" include residents and employees of the other communities in the WestMetro HOME Consortium,<sup>12</sup> the pool of applicants receiving the benefit of additional opportunity for lottery-selection could be more inclusive. Tenants who had resided in another (nearby) community at the time of their application may be able to retain their existing networks of support and services. This approach would increase access to Newton's affordable housing in communities with many more minority households than the number residing in Newton today.

A very similar strategy for promoting inclusion and affirmatively furthering fair housing was used in the allocation of affordable housing in the Devens Enterprise Zone, where all of the units fell geographically within the Town of Harvard but the Devens Enterprise Commission (DEC) opened "local preference" to any resident of the Devens Impact Area, a large geography extending along Route 2 and most of Worcester County. For the affordable units deemed eligible for the SHI, DHCD accepted the Commission's policy.

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<sup>12</sup> The WestMetro HOME Consortium includes twelve other cities and towns in the area: the cities of Waltham and Framingham and the towns of Bedford, Belmont, Brookline, Concord, Lexington, Natick, Needham, Sudbury, Watertown, and Wayland.

If SHI eligibility is very important to City officials, Newton may want to consult with DHCD about changes such as those described under 3 and 4 above and verify that the affordable units would still “count” for purposes of Chapter 40B. Consulting with the City Solicitor may also be in order. We need to underscore that while DHCD’s current Local Preference Policy is a “safe harbor” for communities to follow, the policy has changed over time, and it is a *policy*, not a statute. The Commonwealth has periodically reviewed and modified its fair housing policies because DHCD has monitored the results and evaluated the advantages, limitations, and unintended consequences of various iterations of “local preference.” The question Newton needs to consider is this:

What is the valid government interest served in making affordable units more available to people who live in or have direct ties to Newton than people who cannot live in Newton unless they have access to safe, decent, affordable housing?

5. **Eliminate local preference altogether.** This action would honor the anti-racist intention behind the Newton Housing Partnership’s recommendation in the case of the Riverside Development Project and acknowledge that the community that benefits the most from Newton’s local preference policy is White, non-Hispanic local preference households. Housing advocates should not expect Newton’s relative racial homogeneity to immediately resolve: the factors that cloud the effects of local preference, such as background- and credit-checks, will continue to pose challenges for local and non-local applicants alike, and the number of units created each year under the IZ ordinance does not represent a large share of Newton’s housing stock. Local applicants will most likely continue to be most motivated to move past the application process and move into Newton homes because they are connected to the community.

#### **APPENDIX**

- Detailed Tables: Trio/Washington Place, Austin Street, and Hancock Estates
- Newton Housing Partnership Letter re: Riverside Local Preference
- Barrett Planning Group, 4/12/21 Status Report & Discussion, Presentation to ZAP





APPENDIX A

TRIO/WASHINGTON PLACE: LOTTERY COMPOSITION

Race / Ethnicity	Local Preference Applicants			Non-Local Preference Applicants			% LP Less % Non-LP Applicants	All Applicants	
	Number	Percent	Percent of General Pool	Number	Percent	Percent of General Pool		Number	Percent
White	100	53.8%	16.4%	129	30.4%	21.1%	23.3%	229	60.1%
Racial/ethnic minority	86	46.2%	14.1%	295	69.6%	48.4%	-23.3%	381	62.5%
Total applicants	186		30.5%	424		69.5%		610	
White, Not Hispanic	100	53.8%	16.4%	129	30.4%	21.1%	23.3%	229	37.5%
Asian	19	10.2%	3.1%	35	8.3%	5.7%	2.0%	54	8.9%
Black	31	16.7%	5.1%	174	41.0%	28.5%	-24.4%	205	33.6%
Hispanic	30	16.1%	4.9%	75	17.7%	12.3%	-1.6%	105	17.2%
Unreported / Other*	6	3.2%	1.0%	11	2.6%	1.8%	0.6%	17	2.8%
Total	186		30.5%	424		69.5%		610	100.0%

\*Includes Middle Eastern / Hawaiian / Trin / Haitian / Brazilian / Multiracial / Cape Verdean / Moroccan / Hazara / North African / Arabic

TRIO/WASHINGTON PLACE: LEASE-UP RESULTS

Race / Ethnicity	Local Preference Units Leased			Non-Local Pool Units Leased			% LP Less %Non-LP Tenants	All Units Leased		% LP Less % All Tenants	Selection Rates		
	Number	Percent	Percent of All Tenants	Number	Percent	Percent of All Tenants		Number	Percent		Local	Non-Local	General
White	11	57.9%	44.0%	1	16.7%	4.0%	41.2%	12	48.0%	9.9%	0.110	0.008	0.052
Racial/ethnic minority	8	42.1%	32.0%	5	83.3%	20.0%	-41.2%	13	52.0%	-9.9%	0.093	0.017	0.034
Total applicants	19		76.0%	6		24.0%		25			0.102	0.014	0.041
White, Not Hispanic	11	57.9%	44.0%	1	16.7%	4.0%	41.2%	12	48.0%	9.9%	0.110	0.008	0.052
Asian	1	5.3%	4.0%	1	16.7%	4.0%	-11.4%	2	8.0%	-2.7%	0.053	0.029	0.037
Black	3	15.8%	12.0%	4	66.7%	16.0%	-50.9%	7	28.0%	-12.2%	0.097	0.023	0.034
Hispanic	4	21.1%	16.0%		0.0%	0.0%	21.1%	4	16.0%	5.1%	0.133	0.000	0.038
Unreported / Other*	0	0.0%	0.0%		0.0%	0.0%	0.0%	0	0.0%	0.0%	0.000	0.000	0.000
Total	19		76.0%	6		24.0%		25					

\*Includes Middle Eastern / Hawaiian / Trin / Haitian / Brazilian / Multiracial / Cape Verdean / Moroccan / Hazara / North African / Arabic

Interpreting selection rate: the selection rate is calculated by dividing the number of **tenants** of a particular racial/ethnic group from their respective applicant pools by the number of **applicants** in that racial/ethnic group in the applicant pool. For example, of 100 white local Trio applicants, 11 received units. 11/100 yields a selection rate of 0.110. Comparing selection rates can provide insight into the proportion of applicants who got units relative to other groups within the applicant pool or between applicant pools. Local Hispanic Trio applicants were selected at a rate of 0.133, or 4/30, but of 75 non-local Hispanic applicants, none received units (0.000 selection rate).

APPENDIX A  
AUSTIN STREET: LOTTERY COMPOSITION

Race / Ethnicity	Local Preference Applicants			Non-Local Preference Applicants			% LP Less	All Applicants	
	Number	Percent	Percent of General Pool	Number	Percent	Percent of General Pool	% Non-LP Applicants	Number	Percent
White	29	60.4%	22.0%	34	40.5%	25.8%	19.9%	63	47.7%
Racial/ethnic minority	19	39.6%	14.4%	50	59.5%	37.9%	-19.9%	69	52.3%
Total applicants	48		36.4%	84		63.6%		132	
White, Not Hispanic	29	60.4%	22.0%	34	40.5%	25.8%	19.9%	63	47.7%
Asian	6	12.5%	4.5%	9	10.7%	6.8%	1.8%	15	11.4%
Black	5	10.4%	3.8%	24	28.6%	18.2%	-18.2%	29	22.0%
Hispanic	8	16.7%	6.1%	11	13.1%	8.3%	3.6%	19	14.4%
American Indian		0.0%	0.0%	1	1.2%	0.8%	-1.2%	1	0.8%
Other		0.0%	0.0%	5	6.0%	3.8%	-6.0%	5	3.8%
Total	48		36.4%	84		63.6%		132	100.0%

AUSTIN STREET: LOTTERY COMPOSITION

Race / Ethnicity	Local Preference Units Leased			Non-Local Pool Units Leased			% LP Less	All Units Leased		% LP Less	Selection Rate		
	Number	Percent	Percent of All Tenants	Number	Percent	Percent of All Tenants	%Non-LP Tenants	Number	Percent	% All Tenants	Local	Non-Local	General
White	11	78.6%	47.8%	1	11.1%	4.3%	67.5%	12	52.2%	26.4%	0.379	0.029	0.190
Racial/ethnic minority	3	21.4%	13.0%	8	88.9%	34.8%	-67.5%	11	47.8%	-26.4%	0.158	0.160	0.159
Total applicants	14		60.9%	9		39.1%		23			0.292	0.107	0.174
White, Not Hispanic	11	78.6%	47.8%	1	11.1%	4.3%	67.5%	12	52.2%	26.4%	0.379	0.029	0.190
Asian	1	7.1%	4.3%	3	33.3%	13.0%	-26.2%	4	17.4%	-10.2%	0.167	0.333	0.267
Black	1	7.1%	4.3%	1	11.1%	4.3%	-4.0%	2	8.7%	-1.6%	0.200	0.042	0.069
Hispanic	1	7.1%	4.3%	3	33.3%	13.0%	-26.2%	4	17.4%	-10.2%	0.125	0.273	0.211
American Indian		0.0%	0.0%		0.0%	0.0%	0.0%	0	0.0%	0.0%	0.000	0.000	0.000
Other		0.0%	0.0%	1	11.1%	4.3%	-11.1%	1	4.3%	-4.3%	0.000	0.200	0.200
Total	14		60.9%	9		39.1%	0.0%	23					

APPENDIX A  
**HANCOCK ESTATES: LOTTERY COMPOSITION**

Race / Ethnicity	Local Preference Applicants			Non-Local Preference Applicants			% LP Less % Non-LP Applicants	All Applicants	
	Number	Percent	Percent of General Pool	Number	Percent	Percent of General Pool		Number	Percent
White	28	38.4%	6.7%	90	26.3%	21.7%	12.0%	118	28.4%
Racial/ethnic minority	45	61.6%	10.8%	252	73.7%	60.7%	-12.0%	297	71.6%
Total applicants	73		17.6%	342		82.4%		415	
White, Not Hispanic	28	38.4%	6.7%	90	26.3%	21.7%	12.0%	118	28.4%
Asian	7	9.6%	1.7%	13	3.8%	3.1%	5.8%	20	4.8%
Black	15	20.5%	3.6%	136	39.8%	32.8%	-19.2%	151	36.4%
Hispanic	19	26.0%	4.6%	82	24.0%	19.8%	2.1%	101	24.3%
American Indian		0.0%	0.0%	1	0.3%	0.2%	-0.3%	1	0.2%
Other	4	5.5%	1.0%	20	5.8%	4.8%	-0.4%	24	5.8%
Total	73		17.6%	342		82.4%	0.0%	415	100.0%

**HANCOCK ESTATES: LEASE-UP RESULTS**

Race / Ethnicity	Local Preference Units Leased			Non-Local Pool Units Leased			% LP Less % Non-LP Tenants	All Units Leased		% LP Less % All Tenants	Selection Rate		
	Number	Percent	Percent of All Tenants	Number	Percent	Percent of All Tenants		Number	Percent		Local	Non-Local	General
White	5	45.5%	38.5%	0	0	0	45.5%	5	38.5%	7.0%	0.179	0.000	0.042
Racial/ethnic minority	6	54.5%	46.2%	2	100.0%	15.4%	-45.5%	8	61.5%	-7.0%	0.133	0.008	0.027
Total applicants	11		84.6%	2		15.4%		13			0.151	0.006	0.031
White, Not Hispanic	5	45.5%	38.5%		0.0%	0.0%	45.5%	5	38.5%	7.0%	0.179	0.000	0.042
Asian	1	9.1%	7.7%	1	50.0%	7.7%	-40.9%	2	15.4%	-6.3%	0.143	0.077	0.100
Black	2	18.2%	15.4%		0.0%	0.0%	18.2%	2	15.4%	2.8%	0.133	0.000	0.013
Hispanic	2	18.2%	15.4%	1	50.0%	7.7%	-31.8%	3	23.1%	-4.9%	0.105	0.012	0.030
American Indian		0.0%	0.0%		0.0%	0.0%	0.0%	0	0.0%	0.0%	0.000	0.000	0.000
Other	1	9.1%	7.7%		0.0%	0.0%	9.1%	1	7.7%	1.4%	0.250	0.000	0.042
Total	11		84.6%	2		15.4%		13	100.0%				

