



February 28, 2006

Ann Vandal  
Town Accountant  
Town Hall  
62 Arlington Street  
Dracut, MA 01826

Re: CPA Interfund Borrowing  
Our File No. 2006-51

Dear Ms. Vandal:

This is in reply to your letter asking how the town could fund a historic preservation project the cost of which exceeds the 10% of community preservation fund revenue allocated to historic preservation purposes. You state that the town has allocated another 10% of the revenue to community housing, and 80% to open space. We understand the project will be considered at your upcoming annual town meeting.

We are not entirely sure how the town has decided on the split of revenues between the three spending purposes for which the Community Preservation Act (CPA) requires a minimum annual expenditure of 10% of annual revenues. However, in the absence of a by-law directing the community preservation committee (CPC) to make recommendations allocating those percentages of the annual fund revenues, the split of future years' revenues can only be determined by town meeting votes to appropriate the money for specific CPA acquisitions and initiatives, to reserve money for future appropriation, or to borrow. A vote to borrow commits CPA annual revenues of subsequent years; an ordinary appropriation vote can commit revenue for only the upcoming fiscal year. Therefore, the town can make different allocations in future years consistent with the CPC's recommendations.

Because they are restricted funds, community preservation funds cannot be a source for an interfund borrowing under G.L. c. 44 §20A. In any case, an interfund borrowing would not solve the problem, because such internal borrowings cannot extend beyond the end of the fiscal year. See Section IV-D of IGR 92-105 on the web at <http://www.dls.state.ma.us/PUBL/IGR/1992/92-105.PDF>. At annual town meeting, the town can appropriate from fiscal year 2007 fund revenues for the project, although those monies cannot be spent until July 1, 2006. If project must get underway before then, the town may have to authorize debt if there are insufficient unallocated monies available in the community preservation fund balance as of June 30, 2005 and any annual budgetary reserve voted by the town from fiscal year 2006 fund revenues. To the extent the principal and interest payments on such debt in future years exceed 10% of those years' fund revenues, it would constrain the town's ability to continue allocating 80% of the annual revenues to open space purposes.

If you have any further questions, please do not hesitate to contact me again.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen Colleary".

Kathleen Colleary, Chief  
Bureau of Municipal Finance Law

KC/CH