



BOARD OF APPEALS

Town of Arlington

Arlington, Massachusetts 02476

51 Grove Street
Telephone (781) 316-3396

Via Electronic and First Class Mail
March 12, 2021

Jessica Malcom
Manager of Planning and Programs
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

Re: Thorndike Place, Arlington (MassHousing ID #778/#779)
Request for Immediate Review Under 760 CMR 56.04(5)

Dear Ms. Malcom:

This letter is in regards to the Notice of Project Revision filed on behalf of Arlington Land Realty, LLC (the Applicant) on March 8, 2021. The notice was provided to the Massachusetts Housing Finance Agency (the Agency) in compliance with 760 CMR 56.04(5) which requires notice of Substantial Changes that would affect project eligibility. The changes in question were initially proposed by the Applicant in September 2020, filed with the Zoning Board of Appeals of the Town of Arlington, Massachusetts (the Board) on November 8, 2021, and first presented at our November 24, 2020 public hearing.

The Board is concerned that the four-month delay in filing by the Applicant will deny the Board the opportunity to have the Agency reach a determination on whether the changes in the project have been “substantial with reference to the project eligibility requirements” under Section 56.04(1), and if so, whether they require a new project eligibility letter. The hearing before the Board is scheduled to close on or before April 9, 2021, only 28 days from now. .

We understand that review of substantial changes under Section 56.04(5) is limited to consideration of the specific elements listed in Section 56.04(1). Among those elements is Section 56.04(1)(b): “The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program...” This criterion makes relevant the subjects that are required to be addressed under 56.04(4) including subparagraph (c):

“that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail)...”

The Applicant appears to concede that these factors would be relevant. Its notice argues:

“Similarly, as the proposed changes address density, scale and environmental concerns that had been raised within the public review process, the changes are specifically responsive to otherwise enhance the



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project and its consistency with the existing environmental resources and topography and do not adversely impact the project or its fundability in accordance with Section 56.04(1)(b)

The Applicant may or may not be right that changes addressing density, scale and environmental concerns “enhance the project and its consistency with the existing environmental resources and topography” and thus do not “adversely impact the project or its fundability in accordance with Section 56.04(1)(b). Whether the applicant is right is the very question that we urge Mass Housing to address before the hearing on this project is closed.

Evaluation of changes under Section 56.04(5) are normally done at a later stage in the process, but the regulations specifically recognize the right of a board of appeals to request determination at an earlier time. Moreover, the regulation does not change the standard to be applied: whether the review is conducted early or late, “[o]nly the changes affecting the project eligibility requirements set forth at 760 CMR 56.04(1) shall be at issue” This standard applies not only to review of changes under Section 56.04(5) but final review under Section 56.04(7), which requires the Subsidizing Agency to “reaffirm each of the project eligibility requirements enumerated in 760 CMR 56.04(1)”

It has been suggested to the board that MassHousing’s conclusions in the original Letter of Eligibility relating to the siting of the structures, the changes to the tenancy, and the site’s connections to the Minuteman Commuter Bikeway and Alewife Station have been adversely affected by the subsequent changes in the project. As the Board proceeds to consider whether the project meets local needs, it needs to understand whether the original finding of project eligibility continues to be valid. An early determination of that question would not delay the project now and could well avoid significant delays later on.

Accordingly, on behalf of the Board, I formally request that the Agency expedite the review the Notice of Project Revision so that the Board may consider the Agency’s determination in its deliberations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christian Klein', with a long, sweeping flourish extending to the right.

Christian Klein
Chair, Zoning Board of Appeals, Town of Arlington, Massachusetts

Cc: Stephanie Kiefer, Smolak & Vaughan LLP, Counsel for the Applicant
John Hurd, Chair, Select Board of the Town of Arlington
Adam Chapdelaine, Town Manager, Town of Arlington
Doug Heim, Town Counsel, Town of Arlington
Paul Haverty, Blatman, Bobrowski & Haverty LLC, Technical Consultant
Jennifer Maddox, Undersecretary, DHCD