

Dinosaur Rowe LLC

12 January 2015

Ms. Chrystal Kornegay
Undersecretary for Housing and Community Development

Mr. Phillip DeMartino
Technical Assistance Program Coordinator

Department of Housing and Community Development
Commonwealth of Massachusetts
100 Cambridge Street, Suite 300
Boston, MA 02114

Re: *Comprehensive Permit Application at 70 Rowe Street, Newton, MA,
Newton Zoning Board of Appeals #11-14 (the "Application")*

Dear Ms. Kornegay and Mr. DeMartino:

In accordance with 760 CMR 56.03(8), you are hereby notified that the applicant under the above-referenced Application, Dinosaur Rowe LLC (the "Applicant"), wishes to further challenge the assertion of the Newton Zoning Board of Appeals (the "Board") contained in a letter dated December 18, 2014 to the Applicant as well as the subsequent letter from the City of Newton to you dated January 5, 2015 that, as of the date of the Application (November 5, 2014), the General Land Area Minimum in the City of Newton (the "City") was satisfied.

Today, we are writing to bring to your attention a news article that appeared in the Boston Globe's West Weekly section on January 11, 2015 that further substantiates our claim that the City's General Land Area Minimum was not satisfied on November 5, 2014, the date of the Application. In this news article, the Globe reporter writes:

Kahn said up until the Rowe Street project, the city used estimated figures to determine the percentage of land used for affordable housing.

The reporter then quotes Newton's City Solicitor Donnalyn B. Lynch Kahn as saying:

"Those were the best numbers we had **at the time** [emphasis added]."


We agree.

Please find that the City of Newton did not satisfied its General Land Area Minimum as of November 5, 2014, the date of the Application.

Thank you for your thoughtful consideration.

Sincerely,

By: 
Scott I. Oran, Manager


Mark T. Dufton, Manager

cc: Brooke K. Lipsitt, Chairman, Zoning Board of Appeals, City of Newton, Massachusetts
Donnalyn B. Lynch Kahn, Esq., City Solicitor, City of Newton, Massachusetts
Leverett Wing, Associate Director, DHCD Division of Community Services

Developer's reject Newton's Chapter 40B claim

By **Ellen Ishkanian** | GLOBE CORRESPONDENT JANUARY 11, 2015

Developers of a proposed 135-unit apartment complex on Rowe Street in Newton have challenged the city's assertion that it has met an affordable housing threshold that would put it outside the parameters of the state's Chapter 40B affordable housing law.

Scott Oran and Mark T. Dufton filed the challenge with the state's Department of Housing and Community Development on Dec. 29, a week after Newton's Zoning Board of Appeals put them on notice that the city had met the requirement.

CONTINUE READING BELOW ▼

The state agency is in the process of reviewing the city's figures for the percentage of its land area taken up by affordable housing, and is expected to decide by the end of this month whether Newton has satisfied the law's threshold.

Chapter 40B, enacted in 1969, allows developments that include a certain percentage of affordable housing units to bypass most local zoning restrictions in communities that do not meet the law's criteria.

Communities in which at least 10 percent of the housing stock is considered affordable, or with at least 1.5 percent of the developable land area being used for affordable housing, retain the authority to enforce zoning limits for affordable housing projects.

Newton City Solicitor Donnalyn B. Lynch Kahn reiterated last week she is confident that the city used a conservative formula in determining that 1.88 percent of its land is being used for affordable housing, and that the state will agree with its finding.

Kahn said up until the Rowe Street project, the city used estimated figures to determine the percentage of land used for affordable housing.

“Those were the best numbers we had at the time,” she said. “Once we realized we had the ability to calculate the figures using GIS capability and overlay maps to ensure that land areas were not being over-counted, we were able to hone in on a number that we really have sufficient back-up to support.”

If the state determines that the city has met the threshold, the Rowe Street project and other 40B affordable housing proposals can still go forward.

The focus of the review process would be shifted, however, with the city having a greater ability to address local concerns, said James Freas, Newton’s acting planning director.

In addition, rather than a developer being able to appeal a Zoning Board of Appeals decision to the state Department of Housing and Community Development, it would have to go through state Land Court, which is a potentially lengthier and more costly process.

The 135-unit Rowe Street proposal calls for a mix of studio, one-, two-, and three-bedroom apartments, with 27 to be set aside for households earning below 50 percent of the area’s median income, on a nearly 3-acre parcel in Auburndale and West Newton.

Many nearby residents have opposed the project, saying it would be too big and would exacerbate already dangerous neighborhood traffic conditions, among other concerns.

Ellen Ishkanian can be reached at eishkanian@gmail.com.

SHOW 1 COMMENT