

Re: Request to rescind MassHousing's Project Eligibility Approval for 40B Project at 1021-1025
Massachusetts
Avenue in Arlington

**27 JASON STREET
ARLINGTON, MASSACHUSETTS 02476**

**TELEPHONE (781) 646-8303
PWORDEN@POST.HAVARD.EDU**

October 10, 2022

Re: Arlington Project Eligibility, 40B Proposal for 2021-2025 Massachusetts Avenue

Dear Ms. Kornegay and Ms. Malcolm,

Thank you very much, Ms. Malcolm, for your courtesy responding to my letter requesting Denial of Project Eligibility for this unworthy project. (I will respond to your bullet points in a **Footnote** to this letter below.)

This letter is written to request that MassHousing's Site Approval letter be rescinded due to unacceptable procedural matters and lack of honesty. It is questionable that Arlington ZBA's Comprehensive Permit hearings can be legitimate in view of the problems of the Plan as follows:

- **In violation of legal requirements the Project has not been made known to the public.** No comment from any residents, committees or commissions was sought or provided except that of the Conservation Commission and Redevelopment Board. No Project information or request for comment was made via the *Arlington Advocate* newspaper or by Select Board Chair Diggins (while officially representing the SB) at Arlington's Town Meeting with 252 members and its large television audience. Residents have been deprived of knowledge of this Project and of the deadline for submission of comments.
- **The June 14 letter of SB Chair Diggins to you made an untruthful statement that the Project "is consistent with the goals and recommendations of the Arlington Master Plan, ... Open space and Recreation Plan, and the Mill Brook Corridor Report."** That is NOT the case as can be easily verified and is an outrageous statement concerning the hundreds of pages of these reports almost all of which are antithetical to the Project plan.
- **The Applicant lied in the Site Information provided by denying that the Project involved a landmark building.** There was no outreach by the developer/landowner to the Town, or to the Arlington Historical Commission or to the State authorities

overseeing designated landmark buildings about the presence of and their intention to demolish this historic building.

- **Responsible Climate parameters, laws and regulations of Arlington and Massachusetts for new construction are ignored.** The Project is not NetZero and its energy choices highly unacceptable.
- **Clear-cutting of 80 trees including a huge legacy Sycamore tree is irresponsible in view of climate change issues**

(Please forward this letter to your general Counsel, Colin M. McNiece and to Michael Busby. I am grateful to Mr. McNiece for his Municipal Comments section in his Project Eligibility Approval letter of August 19 and for his Footnote 1 therein stating the right of MassHousing to rescind the Site Approval Letter should there be failure of the Applicant regarding truthfulness or disclosure of pertinent information.)

Clearly, considering the number of landowner and developer speculators in Arlington, this kind of lax review for Arlington 40B projects opens the gates for urban renewal and gentrification on a massive scale if that is desired by Select Board Chair Diggins and the Select Board (SB). But they have provided Arlington residents with little or no information of such an astounding new faulty 40B policy. The policy would result in municipal “clearance” as happened in the West End of Boston with tragic loss of a community and its heritage. That was NOT the goal of those who initiated 40B many decades ago. Although justification is attempted by throwing around concepts of some “affordable” units those small numbers compared to large number of market rate units in 40B projects cannot come close to the loss that Arlington would experience of its many naturally affordable units if SB Chair Diggins new policy is enabled by approval by MassHousing of grossly defective applications such as that for 1021-1925 Massachusetts Avenue.

In conclusion let me suggest that if you wish to improve your oversight of this 40B project that MassHousing should check the veracity of the application materials by reading original source materials such as Arlington’s Master Plan

<https://www.arlingtonma.gov/departments/planning-community-development/master-plan>

To ensure the integrity of your procedures I recommend that this be done whether or not the 40B under consideration is a “Friendly” 40B.

Please authorize Rescission of the Project Eligibility Approval for the 40B Project at 1201-1205 Massachusetts Avenue and ensure that future 40B Project Applications comply with the law and pertinent regulations.

Yours very truly,

Patricia B. Worden, Ph.D.

Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8

Footnote: As mentioned above I am also responding (below) to the bullet points in your letter to me of September 9.

It should first be observed that your comments concerning my remarks that are relevant to your review of Project Eligibility are either redundant, erroneous, or (perish the thought) misleading and obfuscatory

Here are criticisms of some your bullet point in your letter to me of September 8:

- Your statement that “an assessment of consistency with Sustainable Development Principles was conducted as part of our overall Application review” says nothing of relevance to the compliance or lack thereof of Consistency with those Principles. Consistency would have been best achieved by Method 1 described in MassHousing’s “Smart Growth Scorecard” which advises redevelopment and rehabilitation in preference to new construction. The two homes that the proposed 40B demands be demolished would have been ideal for the purposes of housing Arlington Housing Authority's low-income and very-low-income tenants requiring services such as those which the Authority provides at their exemplary residential facility in the Donnelly House also on Massachusetts Avenue which also is an ideal location for such tenants. They could have provided for a greater number of those needing affordable housing than would the 13 units of “affordable homeownership” units allegedly to be provided on the planned 40B project. The Housing Authority have been unable to buy an appropriate house—1201 and 1205 were simply kept off the market presumably to maximize the landowner/developers gain. This is tragic and is what happened in Oakland, CA where older venerable homes providing affordable rentals and services are being demolished to enable vast profits for developers of new apartment buildings and concomitant increase in homelessness (*Healing*, Thomas Insel, M.D. Penguin Press, New York, 2022, pp. 87-90). Since **Method 1** was never suggested by Arlington leaders or by MassHousing it would have been helpful if you had at least pointed out the flaws and inconsistencies described below in the 40B application pertaining to **Method 2:** (Per Smart Growth Guidelines): *Sustainable Development Principles:*

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Municipal Support:

Item 2 Restore and Enhance the Environment The project has NO Historic Landscape Enhancement, indeed just the opposite. The Project plans the destruction of a home with Landmark Designation (1021 Massachusetts Avenue) and no Plan for prevention of possible construction-related damage and destabilization of the architecturally and historically very significant abutting First Baptist Meeting House (ca 1790)-see also below - (*Mill Brook Valley: A Historical and Architectural Survey*, 1976, Arlington Historical Commission, second printing, 1984). The project's huge building footprint and bulk would be overwhelming and entirely inappropriate in this pristine, low-rise historically important section of Massachusetts Avenue. That together with the planned removal of trees, placement of a forbidding retaining wall etc. to accommodate the plan for an unnatural water storage system will result in an unhealthy heat island.

Item 4 Conserve Resources The project is extremely wasteful. It would cause massive loss of embodied energy by destroying perfectly good large homes at 1021 and 1025 Massachusetts Avenue. The energy-intensive construction of the Project's behemoth energy-guzzling apartment building lacks NetZero attributes. It does not observe the State Stretch Code or Arlington's restrictions on energy systems to be used in new construction. The destruction of trees including a magnificent Sycamore tree in order to provide artificial underground water storage system as mentioned above is a huge Climate NO-NO.

Item 7 Increase Job Opportunities There are NO permanent jobs planned for this area. There are no known tenants for the "commercial" space

Item 8 Foster Sustainable Businesses The Project will foster No Sustainable businesses

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- Your confirmation of the site area is superfluous as it is well known to us. The point is that it was twenty times too large in your documentation for those involved in the site visitation which may have distorted their judgement
- You stated that an As-Is Appraisal of the Site was conducted, including the consideration of two existing buildings and that Historical designation is outside the scope of MassHousing's authority and review. However, that is no excuse for MassHousing accepting an obvious lie in the Site Information application document from the developer/landowner denying that one of the homes they plan to demolish on the property is a landmark house listed in the Inventory. That is a red flag and your acceptance of the denial encourages wrongdoing. **Further, it is dubious that "Historical Designation is outside the Scope of MassHousing's Review." The Authority of the State listings for buildings deserving protection for historical or architectural reasons may supersede MassHousing's reluctance to protect these buildings.** It is also surprising that there is no mention of the need to protect from possible construction-related damage the abutting painstakingly restored First Baptist Meeting House mentioned above at 3-5 Brattle Street (ca 1790), the model for which was the Meeting House at Lexington Green visible in engravings of the battle there on April 19, 1775. That Meeting House is of great historical significance in that it secured a religious

rights finding from the Supreme Judicial Court of Massachusetts eliminating tax requirements for those not professing the “established” religion. Further, it is surprising that the project presents no plans to protect the recently beautifully restored abutting Highland Fire Station which is also on Arlington’s Inventory of significant buildings and the abutting historic Victorian house at 1011 Massachusetts Avenue.

- You mention that a notice to the Town soliciting comments on the proposal was sent on April 29, 2022. Comments from the Town were received on or about June 14, 2022. However, apart from SB Chair Diggins, the then-Planning Director, the Redevelopment Board, and obscure “working groups” involving the Conservation Commission, such comments to my knowledge, were not sought from any residents, commissions, committees, or Town Meeting members. The endeavor was kept from the public eye, totally lacking transparency and community involvement. The then-Planning Department quietly issued an inaccurate and distorted memorandum to Chair Diggins and the SB (a masterpiece reflecting vested interests and misinterpretation produced during the leadership of the former Planning Director who is no longer employed by the Town of Arlington). That was done during the “safe harbor” period while the rest of Town was struggling with Town Meeting issues. SB Chair Diggins then around June 14 sent you his “Comments from the Town” (apparently the only contributors from “the Town” were SB Chair Diggins and the SB). Their comments were in many cases outrageous and deceptive. For example their Conclusion “that the project in its early stages is consistent with the goals and recommendations of the Arlington Master Plan, ... Open Space and Recreation Plan, and the Mill Brook Corridor Report. That is not true. The project is antithetical to most aspects of the Open Space and Mill Brook Corridor Reports. and whereas the Master Plan did find support for mixed use – that was for a low-rise paradigm like the Capitol Theater block or Arlington Center and no resident argued for tripling the bulk/FAR and almost doubling the height of such structures. That essentially makes structures such as the planned 40B “Residences at Mill Brook” simply large apartment buildings masquerading as “mixed use” and so allowing them to avoid the more protective dimensional regulations pertaining to apartment buildings.

From: Jessica Malcolm <JMalcolm@masshousing.com>

Sent: Thursday, September 8, 2022 7:23 PM

To: pbworden@hotmail.com <pbworden@hotmail.com>

Subject: Request to forward this message and attachment to Ms. Chrystal Kornegay and Mr. Michael Busby at MassHousing

Dr. Worden,

Thank you for your comments concerning the above-captioned 40B Proposal. Attached please find the Project Eligibility Letter for this proposal, issued on August 19, 2022.

Regarding your comments/concerns that are relevant to our review for Project Eligibility:

- An assessment of consistency with Sustainable Development Principles was conducted as part of our overall Application review;
- We can confirm that the subject area is 1.08 acres (the "Site"), of which .65 acres are buildable. See PEL pgs. 1 and 5;
- An As-Is Appraisal of the Site was conducted, including the consideration of two existing buildings. Historical designation is outside the scope of MassHousing's authority and review;
- All Application materials and associated documents are considered public information and are available through MassHousing or the Town. For materials from MassHousing, requests may be sent to Angela Chan, Special Counsel, Information Officer, at achan@masshousing.com;
- A notice to the Town soliciting comments on the proposal was sent on April 29, 2022. Comments from the Town were received on or about June 14, 2022;
- We are happy to provide any additional information to local boards upon their request;
- A Safe Harbor designation allows Zoning Boards of Appeals to deny Applications for Comprehensive Permits but does not preclude Subsidizing Agencies from conducting a review of Project Eligibility.

If you believe there were misrepresentations made to MassHousing that would impact our determination pursuant to 760 CMR 56.04(4), please send them to my attention. We encourage you to continue to share your concerns with the Town and remain engaged throughout the Comprehensive Permit process.

Please feel free to contact me directly if you have any additional questions.

Thank you,

Jessica Malcolm

One Beacon Street, Boston, MA 02108

[Twitter](#) | [Facebook](#) | [LinkedIn](#) | [Newsletter](#)

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From: Patricia Worden <pbworden@hotmail.com>

Sent: Wednesday, September 7, 2022 11:53 AM

To: HO Customer Service <HOCustomerService@masshousing.com>

Subject: Request to forward this message and attachment to Ms. Chrystal Kornegay and Mr. Michael Busby at MassHousing

Request to deny project/site approval for 40B at 1021-1025 Mass. Av.

PW

Patricia Worden



To:

- Lenard Diggins;
- DMahon@town.arlington.ma.us;
- JHurd@town.arlington.ma.us;
- EHelmuth@town.arlington.ma.us;
- SDeCoursey@town.arlington.ma.us;
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- cricker@town.arlington.ma.us;
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- mike@2stage.net;
- lmayer@town.arlington.ma.us;
- concomm@town.arlington.ma.us;
- chrystal.kornegay@masshousing.com;
- homeownership@masshousing.com;
- Charlie Foskett

Wed 9/7/2022 7:13 AM

pbw to MassHousing 9-5.docx

24 KB



**27 JASON STREET
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PWORDEN@POST.HAVARD.EDU

September 6, 2022

Re: Testimony and Request Concerning Proposed 40B project at 1021 –
1025 Massachusetts Avenue

(Kindly include this letter with materials posted with the September 12 Select Board
agenda material)

Dear Ms. Kornegay,

Select Board Chair Diggins, and Members of the Select Board,

This letter and its attachment are a request for MassHousing to deny
project/site eligibility for a proposed 40B development at 1021-1025
Massachusetts Avenue on the basis of what appear to be gross inaccuracies
and dishonesty on the part of the developer and of Mr. Diggins' letter of
support for MassHousing to award project/site eligibility for the project.

It is important for our community to know that MassHousing is not willing to be used as an enabler for property owners/developers/political leaders to exploit communities at will. That exploitation in pursuit of lucrative residential development could destroy Arlington. It is exacerbating rampant residential real estate speculation destroying the environment, and our vigilant efforts to house the poor, to ensure sustainability and climate control, and opportunity to provide and protect essential businesses, jobs and services including in commercial condominiums (such as commercial condos at 22 Mill Street and 180 and 366 Massachusetts Avenue) which speculators eschew in favor of more lucrative residential development.

Arlington is already the twelfth most dense municipality in Massachusetts:

1. It has a plethora of multifamily buildings with naturally affordable rents.
2. It has for many decades ensured against homelessness in the community by generously supporting Arlington Housing Authority, various non-profits, and by very early adoption of Arlington's excellent Inclusionary Zoning Bylaw.

Following is a list of infractions in the project protocol materials:

- egregious violations of the Commonwealth's Smart Growth principles
- Confusing and uncorrected statement by MassHousing that the size of the site is 22.98 acres of land whereas in fact it is 1.08 acres
- Denial by the Applicant that the site contains a house designated as a landmark building
- Stealth and Secrecy/Absence of transparency and public information about project
- Absence of solicitation of comments from the local community
- Lack of information provided to local boards other than Conservation Commission and ARB whose support the Applicant has been attempting to ensure despite Arlington's designation as being in safe harbor from 40B at that time. No acquaintances of mine serving on other Town Boards were even made aware of the project.
- Disregard for Arlington's efforts for sustainable development.
- Possible conflicts of interest

Attached please find some background material for these infractions.

For Ms. Kornegay and MassHousing -I hope you will investigate these infractions fully. Please know that I have already described deficits in this project and protocol to Arlington Select Board who have not yet responded

https://drive.google.com/file/d/10_hRrsVpyvTm5t4pYN7ZW1vLkqygDtoX/view?usp=sharing

Kindly acknowledge receipt of this letter and refuse project/site approval because of the defects in the project.

Sincerely,

Patricia Barron Worden, Ph.D.

Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8