



CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1065 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086

www.ci.newton.ma.us

Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS

To: Zoning Board of Appeals Members
From: Adrianna Henriquez, Clerk
Date: January 31, 2020
Subject: Materials for **March 17, 2020** Public Hearing

Hello,

Please see the following supplemental materials for the upcoming hearing on March 17, 2020, Public Hearing. The following board members are scheduled to sit:

***Brooke Lipsitt (Chair), William McLaughlin, Barbara Huggins Carboni, Michael Rossi
Michael Quinn and Timothy Durken (Alternate)***

1. Signed Copy of Comprehensive Permit Application for Dunstan East (#09-19)
2. January 27, 2020 Email from Julia Malakie
3. January 29, 2020 Letter from Schlesinger and Buchbinder

Thank you,

Adrianna Henriquez

ahenriquez@newtonma.gov | (617) 796 1133

ZBA Date/Time Stamp

CITY OF NEWTON
ZONING BOARD OF APPEALS

COVER PAGE FOR APPLICATION
FOR COMPREHENSIVE PERMIT

To be completed by Staff: Project No.: Petition No.:

APPLICANT INFORMATION

NAME: Dunstan East, LLC

ADDRESS: 57 River Street, Suite 106, Wellesley, MA 02481

PHONE: N/A EMAIL: N/A

POINT OF CONTACT: Stephen J. Buchbinder, Esquire

SUBJECT PROPERTY INFORMATION

LOCATION OF PROPERTY: Please see Section 3 as there are multiple parcels.

ZONING DISTRICT: PROPERTY SBL NO.:

OWNER OF RECORD:

DEED RECORDED AT MIDDLESEX SOUTH REGISTRY OF DEEDS AT:
BOOK: PAGE: OR CERTIFICATE NO.:

RELATIONSHIP TO SUBJECT PROPERTY:

APPLICATION REQUIREMENTS

THIS COVER PAGE MUST BE SUBMITTED ALONG WITH A COMPLETED APPLICATION IN ACCORDANCE WITH ARTICLE VI OF THE BOARD'S RULES AND REGULATIONS. APPLICATIONS MUST INCLUDE THE MATERIAL REQUIRED IN ARTICLE VI, SECTION 2(1) THROUGH (18).

IMPORTANT: APPLICANTS MUST HAVE COMPLETED A DRT MEETING AND REQUESTED AND RECEIVED A COMPLETED ZONING REVIEW MEMORANDUM PRIOR TO FILING AN APPLICATION FOR A COMPREHENSIVE PERMIT.

APPLICANT/PROPERTY OWNER CONSENT, CERTIFICATION & SIGNATURE

(Signatures are required)

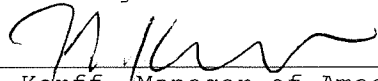
I am the applicant and/or owner of the property subject to this comprehensive permit application and I consent and certify as follows:

1. I grant permission for officials and employees of the City of Newton to access my property for the purposes of this application;
2. I certify that I have read the Board's Rules and Procedures before submittal to ensure the completeness of this application;
3. I certify that all the statements within this application and attachments are true and accurate to the best of my knowledge and belief.

Applicant Signature

X  12/20/19
Robert S. Korff, Manager of Amadan Management, LLC Date
Manager of Dunstan East, LLC

Owner of Record Signature

X  12/20/19
Robert S. Korff, Manager of Amadan Management, LLC Date
Manager of Mark Kempton, LLC

If Applicable:

Name of Attorney/Agent for Applicant: Stephen J. Buchbinder, Esquire

Address of Attorney/Agent: Schlesinger and Buchbinder, LLP, 1200

Walnut Street, Newton, MA 02461-1267

Phone Number of Attorney/Agent: O: 617-965-3500/C: 617-538-7392

Email Address of Attorney/Agent: sjbuchbinder@sab-law.com

12 Kempton Place

Owner of Record Signature

Fieldcom Realty Trust

By: Robert J. Rosenfield, Trustee
Robert J. Rosenfield, Trustee

By: _____
Philip I. Rosenfield, Trustee

By: _____
Alan I. Rosenfield, Trustee

12 Kempton Place

Owner of Record Signature

Fieldcom Realty Trust

By: _____
Robert J. Rosenfield, Trustee

By: Philip I. Rosenfield, Trustee
Philip I. Rosenfield, Trustee

By: _____
Alan I. Rosenfield, Trustee



Clifford R. Cohen
Partner
ccohen@burnslev.com
617.345.3286

December 30, 2019

Via Federal Express

Leslie Kivitz, Esq.
General Counsel
Mark Development, LLC
57 River Street, Suite 106
Wellesley, MA 02481

Re: 12 Kempton Place, West Newton, MA

Dear Attorney Kivitz:

Enclosed please find the signature page for Alan Rosenfield, signed with the authority of Alan's conservator, John H. Clymer.

Very truly yours,

A handwritten signature in black ink, appearing to read "Clifford R. Cohen".

Clifford R. Cohen

CRC/kam
Enclosure
cc: Lisa Cukier, Esq. (via email)

4830-5578-1040.1

12 Kempton Place

Owner of Record Signature

Fieldcom Realty Trust

By: _____
Robert J. Rosenfield, Trustee

By: _____
Philip I. Rosenfield, Trustee

By: John H. Clymer, conservator for Alan Rosenfield
Alan I. Rosenfield, Trustee

1179 Washington Street, 18 and 25 Kempton Place, 24 Kempton Place

Owner of Record Signature

Clair Trust

By: William H. McCabe, III
William H. McCabe, III, Trustee

Pinehurst Realty Trust

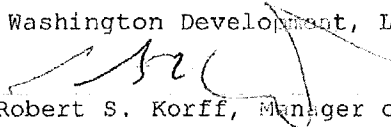
By: William H. McCabe, III
William H. McCabe, III, Trustee

1149 and 1151 Washington Street

Owner of Record Signature

1149 Washington Development, LLC

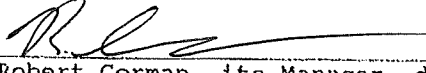
By:


Robert S. Korff, Manager of Amadan Management, LLC
Manager of 1149 Washington Development, LLC

1185 Washington Street, Unit 1

Owner of Record Signature

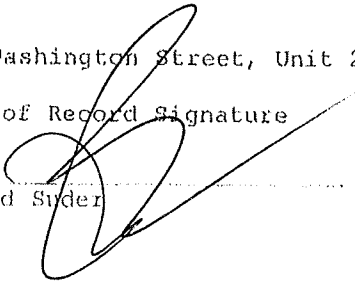
Robert Gorman, LLC

By: , Manager
Robert Gorman, its Manager, duly authorized

1185 Washington Street, Unit 2

Owner of Record Signature

Richard Syder

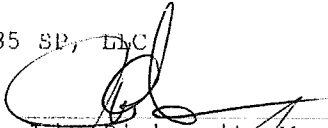


1185 Washington Street, Unit 3

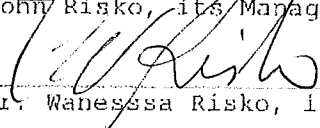
Owner of Record Signature

1185 SP, LLC

By:


John Risko, its Manager, duly authorized

By:

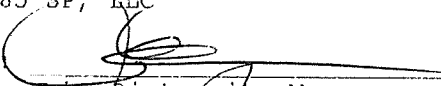

Dr. Wanessa Risko, its Manager, duly authorized

1185 Washington Street, Unit 5

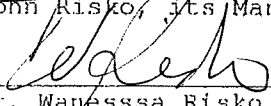
Owner of Record Signature

1185 SP, LLC

By:


John Risko, its Manager, duly authorized

By:

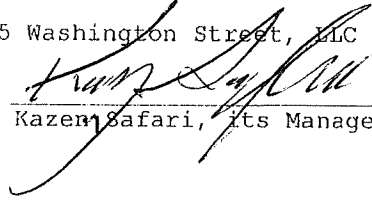

Dr. Wanessa Risko, its Manager, duly authorized

1185 Washington Street, Unit 4

Owner of Record Signature

1185 Washington Street, LLC

By:



Kazem Safari, its Manager, duly authorized

1185 Washington Street, Unit 6

Owner of Record Signature

Lulea Realty Trust

By:

Donald J. Stanton
Donald Stanton, Trustee

By:

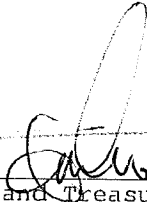
Edmund B. Stanton
Edmund B. Stanton, Trustee

1185 Washington Street, Unit 7

Owner of Record Signature

Torel Realty Trust, Inc.

By:

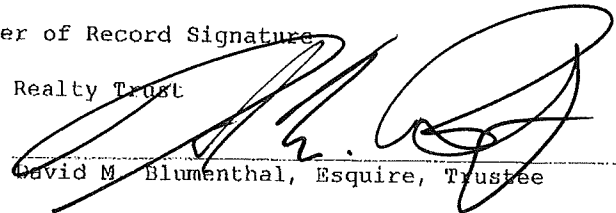

Joaquim Pires, its President and Treasurer, duly authorized

1185 Washington Street, Unit 8

Owner of Record Signature

ANA Realty Trust

By:

A large, stylized handwritten signature in black ink, appearing to read 'D. Blumenthal', is written over the line for the 'By:' field.

David M. Blumenthal, Esquire, Trustee

Vertical line and faint text along the right edge of the page.

Adrianna Henriquez

From: Julia Malakie
Sent: Monday, January 27, 2020 1:27 PM
To: Adrianna Henriquez
Subject: January 22 ZBA audio, and demolition starting

Hello Ms. Henriquez Olmsted,

Could you tell me when the audio for the Dunstan East hearing on Jan. 22 will be available on the city website? I would like to let people know when they can listen to it.

Also, could you forward this to the ZBA members to let them know that Mark Development is preparing to demolish the Carley Realty building. The chain link fence went up on Thursday, the morning after the ZBA hearing started, and on Saturday workers were removing anything lead or asbestos. I know they can demolish the building at any time since the demolition delay has expired, but to start with the National Register historic building long before the public hearing will conclude, seems presumptuous to me.

Thank you

Julia Malakie

Councilor, Ward 3



STEPHEN J. BUCHBINDER
ALAN J. SCHLESINGER
LEONARD M. DAVIDSON
A. MIRIAM JAFFE
SHERMAN H. STARR, JR.
JUDITH L. MELIDEO-PREBLE
BARBARA D. DALLIS
PAUL N. BELL
KATHERINE BRAUCHER ADAMS
FRANKLIN J. SCHWARZER
RACHAEL C. CARVER
ADAM M. SCHECTER

1200 WALNUT STREET
NEWTON, MASSACHUSETTS 02461-1267
TELEPHONE (617) 965-3500
www.sab-law.com

RECEIVED
City of Newton
Zoning Board of Appeals

Email: sjbuchbinder@sab-law.com

JAN 30 2020

Board Clerk January 29, 2020

BY HAND

Ms. Adrianna Henriquez Olmstead
Zoning Board of Appeals
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459-1449

Re: Comprehensive Permit Application Under M.G.L. Chapter 40B, Sections 20-23 Dunstan East, LLC/32-34 Dunstan Street, 12 Kempton Place, 18 and 25 Kempton Place, 24 Kempton Place, 1149 and 1151 Washington Street, 1169 Washington Street, 1171 Washington Street, 1179 Washington Street, and 1185 Washington Street

Dear Ms. Henriquez,

I am enclosing herewith fifteen copies of Attorney Leslie Kivitz' letter to Mass Housing dated January 21, 2020 together with an email response of even date from Katherine Miller of MassHousing.

Please feel free to contact me if you have any questions respecting the foregoing.

Sincerely,

A handwritten signature in black ink that reads 'Stephen J. Buchbinder'.

Stephen J. Buchbinder

SJB/mer
Enclosure

cc: (By Hand, w/enclosure)
Mr. Michael Gleba, Senior Planner

-----Original Message-----

From: Katherine Miller [mailto:KMiller@masshousing.com]

Sent: Tuesday, January 21, 2020 5:12 PM

To: Geoff Engler

Subject: RE: Supplemental Letter to Mass Housing_Dunstan East_Newton

Thanks, Geoff. Confirming that MassHousing would not consider the described changes as substantial and will review them more fully in addition to any other changes that come out of the comprehensive permit hearing process during our subsequent Final Approval review. I hope the hearing process goes well!

Best,
Kat

-----Original Message-----

From: Geoff Engler <gengler@s-e-b.com>

Sent: Tuesday, January 21, 2020 3:45 PM

To: Katherine Miller <KMiller@masshousing.com>

Subject: Supplemental Letter to Mass Housing_Dunstan East_Newton

Hi Kat,

I hope you are doing great.

Please see the attached letter regarding the Dunstan East Site Approval in Newton. We are beginning with the public hearing process tomorrow evening before the Newton ZBA.

Please let me know if you have any questions.

Thanks,
Geoff

57 River Street, Suite 106
Wellesley, MA 02481

Leslie E. Kivitz, Esq. • General Counsel
Direct: 617-614-9155 • lkivitz@markdevllc.com

January 21, 2020

Via Email
MassHousing
One Beacon Street
Boston, MA 02108
Attn: Katherine Miller
Planning and Programming

RE: 40B Application; Dunstan East

Dear Ms. Miller:

This letter is in reference to the Application for a Comprehensive Permit (the “**Application**”) for which Site Approval was granted by MassHousing on October 28, 2019 for an apartment development in Newton, MA known as Dunstan East.

The Applicant has made two minor changes to its Comprehensive Permit application; neither of which would rise to a “substantial change” under 760 CMR 56.04(5).

The changes more specifically are as follows:

- 1) Amended the density and unit mix:

	Comprehensive Permit Application	Site Approval Application
Studios	43	52
1BR	65	56
1BR +	47	47
2BR	63	61
3BR	26	27
TOTAL	244	243

- 2) The 40B parcel has been increased by 8,268 square feet of land by adding (the entirety of the property at 1149-1151 Washington Street. In the Application, only a portion of that property (5,343 SF) was included within the 40B parcel. The total 40B parcel size is now 138,142 SF; the original application represented a total 40B parcel of 129,874 SF. As noted in Rider to Section 4 of the Application, 1149 Washington Development LLC, an entity 100% owned and controlled by

the individual who is the 100% owner of the Applicant, owns 1149-1151 Washington Street as evidenced by the deed included in the Site Control section of the Application. 1149-1151 Washington Street contains an existing 8,222 SF, two-story office building that will remain and be incorporated into the project.

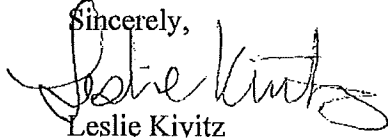
With respect to 760 CMR 56.04(5), the Applicant has not made any changes to any aspects of its proposal that would affect the project eligibility requirements set forth at 760 CMR 56.04(1) after receiving the determination of Project Eligibility. The Applicant will become a Limited Dividend Organization as it will execute a Regulatory Agreement with Masshousing as the Subsidizing Agency; the Applicant will secure financing consistent with the requirements under the New England Fund program under which Site Eligibility was granted; and the Applicant shall control the site, which it currently does, along with the parcel that is now included within the overall 40B parcel.

In addition, within section 56.04(5), the requirements state that if the Subsidizing Agency found that the changes were substantial, it would defer any review until the Board issues the comprehensive permit or the Applicant is denied and an appeal is made.

Nevertheless, for full transparency, the Applicant is providing this notification for the benefit of MassHousing and for the municipality.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Kivitz", written in a cursive style. The signature is positioned above the printed name "Leslie Kivitz".

Leslie Kivitz