

AN URBAN ENCLAVE IN A VILLAGE SETTING

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THE
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DAVID A. OLSON, OMC
NEWTON, MA 02459
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NEWTON CITY CLERK



What is the issue? The issue is density.
What is the density issue? The density issue is,
“How many people can use the same land at the same time?”

HARRINGTON & HARRINGTON
ATTORNEYS AT LAW

505 WALTHAM STREET
WEST NEWTON, MASSACHUSETTS 02465

TELEPHONE 617-558-7722
FACSIMILE 617-527-4763

James P. Harrington
1964 - 2015

Peter F. Harrington
Adrian P. Martins

November 16, 2016

Hon. Marc C. Laredo, Chairman
Land Use Committee
Newton City Council
1000 Commonwealth Avenue
Newton Centre, MA 02459

RE: Docket Items #179-16 & 180-16 Density Controls

Dear Marc,

At the November 1, 2016 Public Hearing on the Korff project in Newtonville, you asked for a clarification of a portion of the Newton Zoning Ordinance that deals with density controls. The following are my thoughts on your question.

Most agree that the earth is 4.5 billion years old. Paleontologists agree that dinosaurs were the dominate vertebrate on earth 200 million years ago. The recorded history of civilized society extends back over five thousand years.

The history of zoning in Massachusetts extends back to November 5, 1918 when Article XL of the Amendments to the Constitution was adopted by the voters. From this, we might conclude that zoning is in its infancy.

Article XL - The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

From that simple sentence our City Council has developed an 8 section, 176 page ordinance regulating uses of land in Newton dividing the city into 24 different types of zoning districts. Newton has 3 single family and 4 multifamily zoning districts; 9 mixed use business and residential districts; 2 manufacturing districts; an open space district, a public use/recreation district and 4 overlay districts.

A fair amount of time and space in the Ordinance is devoted to "density and dimensional controls". For example, Section 3.1.2 describes the density and dimensional standards for single family lots created after December 7, 1953. One of the key elements of this section is the required Lot Area per unit. That is, the amount of land required to be owned in order to build a single family home on a particular lot. There are other elements of the Section that address other restrictions or requirements such as the size of the house (floor area ratio), open space, frontage on a street, building height and setbacks, etc.

In the three zoning districts for single family homes, the Lot Area in each zone varies from 10,000 square feet (SR 3) to 15,000 square feet (SR2) to 25,000 square feet (SR 1).

The issue of density control becomes more complicated when applied to zoning districts that allow more than one use, such as Business Use and Mixed Use zoning districts. The intent of density control is to regulate the number of people that can live on one lot (site) at the same time.

Each zoning district has an underlying requirement that a lot in that particular zone be a minimum lot size. It is the basic density control regulation that is used in zoning laws to regulate the intensity of residential use of property. It is a determining factor in the projection of municipal population, school budgets, fire department costs and tax income to the city.

Density control helps determine how many people can live on the same lot of land at the same time. The difference is that in a Single Residence 1 zone, only one residential unit would be allowed on a lot containing 25,000 square feet of land. But, if that same lot was in a Business Use zone, residential units above the first floor could be constructed based upon the formula of one unit for each 1,200 square feet of land allowing up to 21 families to live on the same size lot.

In a Multi Family zone such as Foster Street, that abuts the Korff project for the Orr Block, one family is allowed per 5,000 square feet of land. This formula would allow 5 families on a 25,000 square foot lot.

At the proposed 30 acre Northland project on Needham Street, one family will be permitted for each 1,375 square feet of project land.

Under the current zoning laws, one family is permitted for each 1,200 square feet of land on Korff's site at Washington & Walnut Streets in Newtonville.

Mr. Korff is proposing a density of one family for each 715 sq. ft. of land on the project site.

If we used Mr. Korff's density formula in our Single Residence 1 zone, that would allow 35 families in a 25,000 square foot lot.

Another complication when applying a residential density formula in a Business Use or Mixed Use zone is the question of a double count. That is, allowing the developer to use some of the land for commercial purposes and then count that same land again when applying a density formula to determine the number of residential units that may be built on the site.

Using the City Assessor's information concerning the area of the lots contained in the Korff petition, the Korff's site has 115,000 square feet of land (this does not include Bailey Place). See **Exhibit 1**. Using this information, we can calculate how many residential units are permitted on the site, under the zoning Ordinance.

Under the BU 2 density formula of one unit per 1,200 sq. ft. (BU1 & BU2), 96 units are allowed (rounding up) on Korff's 115,000 sq. ft. site;

Under the MU 4 density formula of one unit per 1,000 sq. ft., 115 units are allowed;

Under the Korff density formula of one unit per 715 sq. ft., 161 units are allowed (rounding up).

The Korff proposal is requesting 65 additional units or 68% more than what's allowed in a Business Use zone.

If we correct the formula and subtract the building space used for commercial purposes from the total land area of 115,000 sq. ft., (49,325 sq. ft. ground floor area is set aside for retail use [PCA PROJECT #: 15063 Cover sheet] including corridors and common space, but not including the space taken up for commercial parking), we are left with 66,000 sq. ft. to be used for residential purposes, and we can calculate as follows:

1. On 66,000 sq. ft. of land, under the BU 2 density formula of one unit per 1,200 sq. ft. (BU1 & BU2), 55 units are allowed;
2. Under the MU 4 density formula of one unit per 1,000 sq. ft., 66 units are allowed;
3. Under the Korff density formula of one unit per 715 sq. ft., 92 units are allowed.

To qualify for 161 units, Korff is asking for a waiver to reduce the density ratio to one family per 410 sq. ft. That same formula would allow 61 families on a 25,000 square foot SR1 lot, 37 families on an SR2 lot and 24 families on SR3 and MR1 lots. MR1 is the zoning district adjacent to the project site. Under this formula the Korff proposal is requesting 106 additional units, nearly 2 times than what's allowed in a Business Use zone.

It is my best memory that in years past, the Building Inspector used the latter formula, deducting the amount of land used for other (commercial) purposes from the total land area before applying the residential density formula, as the proper application of the ordinance.

Mr. Korff's claim that he can not afford to build less is not based upon municipal regulation but is based upon his overpayment for the land. He is looking to the City Council to provide relief for his investment mistake. The issue of overpayment is presented in the attached Exhibit 2.

Under existing zoning, with a Special Permit, Mr. Korff can build 56,345 sq. ft. in the BU 1 zone and 154,700 sq. ft. in the Business 2 zone, for a total of 211,053 sq. ft. of new building space. That should calculate to about \$200.00 per foot. Consider that Developers are spending \$550,000.00 to \$600,000.00 per lot to tear down an existing home to build a new 3,300 sq. ft house, you will see that Korff paid high end prices on the gamble that he would get a Special Permit.

If you would like further explanation, I would be happy to provide it but I may need more than 3 minutes.

Sincerely,



Peter F. Harrington

Copy: Newton City Council members

FACT CHECK REPORT # 2 Lot Size

To: Newton City Council & Newton Special Permit Granting Authority

Docket Item #179-16, Special Permit Petition for Orr Building at Walnut St. and Washington St.

Docket Item #180-16, Special Permit Petition to rezone the Orr block to Mixed Use 4

ITEM	CLAIMED	ACTUAL
Lot Size	123,965 sq. ft.	114,915 sq. ft.

Address	Sec 21, Bk 29 Lot #	Value	Zoning District	Area
241 Walnut Street	10	\$ 950,000.00	BU 2	7,794 sq. ft.
245-261 Walnut Street	11	\$ 2,818,100.00	BU 1	12,788 sq. ft.
848-855 Washington Street	12	\$ 2,052,400.00	BU 1	7,478 sq. ft.
14-18 Bailey Place	13	\$ 234,600.00	BU 2	9,457 sq. ft.
22 Bailey Place	14	\$ 281,600.00	BU 2	6,914 sq. ft.
21 Bailey Place (Lot 15)	15	\$ 112,700.00	BU 2	3,364 sq. ft.
861-865 Washington Street	16	\$ 1,860,500.00	BU 2	17,072 sq. ft.
857-859 Washington Street	17	\$ 1,163,200.00	BU 1	3,235 sq. ft.
867 Washington Street	18	\$ 722,200.00	BU 1	3,300 sq. ft.
869 Washington Street	19	\$ 391,700.00	BU 2	19,971 sq. ft.
875 Washington Street	19A	\$ 696,200.00	BU 1	10,760 sq. ft.
6-8 Washington Terrace	20	\$ 544,300.00	BU 2	2,345 sq. ft.
10-12 Washington Terrace	21	\$ 588,000.00	BU 2	1,855 sq. ft.
16-18 Washington Terrace	22	\$ 439,800.00	BU 2	4,200 sq. ft.
22 Washington Terrace	23	<u>\$ 474,500.00</u>	BU 2	<u>4,382 sq. ft.</u>
TOTAL		\$13,329,800.00		114,915 sq. ft.

Business Use 1 area	37,561 sq. ft.
Business Use 2 area	<u>77,354 sq. ft.</u>
Total	114,915 sq. ft.

Inquiring minds ask

WHY ?

Is there a need to change the zoning district in Newtonville?

The City of Newton has agreed to lease 28 Austin Street, containing 74,536 sq. ft. of land for ninety-nine years for a one-time payment of \$1,050,000.00 (One Million Fifty Thousand) Dollars. That is a price of \$14.09 per sq. ft. Included in the lease terms is a requirement that the Lessee provide municipal parking. The cost of the municipal parking (124 surface parking spaces) would have to be added to the price for the purposes of comparison to recent sales. Considering the Lessee will have to put its own parking underground and using a generous adjustment factor of \$30,000.00 per parking space that would add \$3,700,000.00 to the lease cost and increase the price to **\$64.00 per square foot.**

It is reported that 773 Washington Street (BU2 zone) & 90 Court Street (MR1 zone), containing 74,518 sq. ft., are to be sold for \$12,000,000.00 (Twelve Million) Dollars. That is a sale price of **\$161.03 per square foot.**

Robert Korff has purchased six of the seven parcels identified in his Petition for a Special Permit. The six parcels contain 97,437 sq. ft. of land located on Washington and Walnut Streets (the Orr Block) (zoned BU1 & BU2) for a \$28,920,000.00 (Twenty-Eight Million Nine Hundred Twenty Thousand) Dollars. That is an **average purchase price of \$296.81 per square foot.**

1. \$20,000,000.00 (Twenty Million) Dollars for 83,579 sq. ft. on Washington, Walnut & Bailey Place (\$239.29 per square foot) See Attachment A;
 2. \$2,300,000.00 (Two Million Three Hundred Thousand) Dollars for 7,794 Sq. Ft. on 241 Walnut Street (\$295.10 per square foot) See Attachment B;
 3. \$2,000,000.00 (Two Million) Dollars for 2,345 sq. ft. at 6-8 Washington Terrace (\$852.88 per square foot) See Attachment C;
 4. \$1,200,000.00 (One Million Two Hundred Thousand) Dollars for 1,855 sq. ft. at 10-12 Washington Terrace (\$646.90 per square foot) See Attachment D;
 5. \$1,420,000.00 (One Million Four Hundred Twenty Thousand) Dollars for 4,200sq. ft. at 16-18 Washington Terrace (\$338.10 per square foot) See Attachment E;
 6. \$2,000,000.00 (Two Million) Dollars for 4,382 sq. ft. at 22 Washington Terrace (\$456.41 per square foot) See Attachment F.
- R Korff has not yet purchased 875 Washington Street (Sunoco Gas Station) containing 10,760.00 sq. ft. of land.
 - R Korff did not employ the standard safeguards used by prudent developers, such as: "the sale is pending receipt of permits".

Does Korff expect the Newton City Council help him recoup his overinvestment?

ATTACHMENT SCHEDULE

<u>Attachment A</u>	Deed
Parcel I	245-261 Walnut St. & 845-869 Washington St.
Parcel II	22 Bailey Place
Parcel III	14-18 Bailey Place
Parcel IV	861-869 Washington St.
Parcel V	857 Washington St.
Parcel VI	21 Bailey Place

<u>Attachment B</u>	Deed
241 Walnut Street	

<u>Attachment C</u>	Deed
6-8 Washington Terrace	

<u>Attachment D</u>	Deed
10-12 Washington Terrace	

<u>Attachment E</u>	Deed
16-18 Washington Terrace	

<u>Attachment F</u>	Deed
22 Washington Terrace	

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BOTH WAYS



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Page: 1 of 5 01/12/2016 02:28 PM

<u>Attachment A</u>	<u>Deed</u>
Parcel I	245-261 Walnut St. & 845-869 Washington St.
Parcel II	22 Bailey Place
Parcel III	14-18 Bailey Place
Parcel IV	861-869 Washington St.
Parcel V	857 Washington St.
Parcel VI	21 Bailey Place

Property Address: 845-869 Washington St, 245-261 Walnut Street, 14-18 Bailey Place, 22 Bailey Place, Newton, MA

QUITCLAIM DEED

We, Victor A. Nicolazzo, Jr. and Charles G. Nicolazzo, Trustees of the Bigelow Realty Trust under a Declaration of Trust dated December 16, 1964 recorded with the Middlesex South District Registry of Deeds in Book 10721, Page 417 (the "Grantor") for consideration paid and in full consideration of Twenty Million and 00/100 (\$20,000,000.00) Dollars grant to Mark Lolic, LLC, a New Jersey limited liability company, as tenant in common as to a 48.50% interest and Mark Newtonville, LLC, a Massachusetts limited liability company, as tenant in common as to a 51.50% interest,

** both having a business address at c/o Mark Investment LLC
57 River St Suite 100 Waltham MA 02451*

with quitclaim covenants:

Six certain parcels of land with the buildings thereon situated on Walnut Street, Washington Street, Bailey Place and Washington Terrace, in Newton, Middlesex County, Massachusetts and being bounded and described as follows:

PARCEL I:

A certain parcel of land lying between Walnut Street, Washington Street and Bailey Place, in said Newton, being shown on a plan of land entitled, "Plan of Land in Newtonville", dated September 1922, by E.S. Smilie, Surveyor, duly recorded with the Middlesex South District Registry of Deeds, in Plan Book 311, Plan 24, and being bounded and described as follows:

NORTHERLY: by a certain parcel of registered land situated on the easterly side of Bailey Place, being Parcel III hereinafter described, eighty-six and 3/100 (86.03) feet;

WESTERLY: by Bailey Place by two lines measuring ten (10) feet and seventy-seven and 92/100 (77.92) feet, respectively;

SOUTHERLY: by Washington Street, one hundred seventy and 80/100 (170.80) feet;

SOUTHERLY and SOUTHEASTERLY: by the curved intersection of Washington Street and Walnut Street twenty-three and 13/100 (23.13) feet;

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 01/12/2016 01:41 PM
Ct# 236795 18863 Doc# 01720146
Fee: \$91,200.00 Cons: \$20,000,000.00

116668-113-118

MS

- EASTERLY: by Walnut Street one hundred fifty-five and 20/100 (155.20) feet;
- NORTHERLY: by land now or formerly of Nazro, seventy-three and 04/100 (73.04) feet; and
- WESTERLY: by said registered land, seventy-eight (78) feet, more or less, or however otherwise said parcel may be bounded, measured or described.

PARCEL II:

A certain parcel of land situated on the easterly side of Bailey Place, in said Newton, being shown as Lot C on a plan entitled, "Plan of Land in Newtonville", dated September 1922, by E.S. Smilie, Surveyor, duly recorded with said Deeds, in Plan Book 311, Plan 24, and being bounded and described as follows:

- WESTERLY: by Bailey Place, eighty (80) feet;
- NORTHERLY: by land of owners unknown eighty-five and 90/100 (85.90) feet;
- EASTERLY: by land now or formerly of Eleanor Nazro eighty and 98/100 (80.98) feet; and
- SOUTHERLY: by a parcel of registered land, being Parcel III hereinafter described, eighty-five and 95/100 (85.95) feet.

Containing 6,914 square feet of land, or however otherwise said Lot C may be bounded, measured, or described.

PARCEL III:

Two certain parcels of REGISTERED land, being shown as Lots A and B on a plan on file in the Land Court as Plan No. 5173B, a copy of which is on file in the Middlesex County South District of the Land Court in Registration Book 96, Plan 289, with Certificate of Title No. 14250, and being together bounded and described as follows:

- WESTERLY: by Bailey Place, one hundred ten (110) feet;
- NORTHERLY: by land now or formerly of Newton Real Estate Association (Parcel II hereinabove described), eighty-five and 95/100 (85.95) feet;
- EASTERLY: by said Association land (land of Nazro and Parcel I hereinabove described), one hundred ten (110) feet; and

SOUTHERLY: by land now or formerly of John Beal, et al (Parcel I hereinabove described), eighty-six and 3/100 (86.03) feet.

Containing 9,457 square feet of land, or however otherwise said parcel may be bounded, measured or described.

PARCEL IV:

A certain parcel of land situated on Washington Terrace, Washington Street and Bailey Place, in said Newton, and being bounded and described as follows:

SOUTHERLY: by Washington Street two hundred thirteen (213) feet;

EASTERLY: by Lot 2 as shown on a plan duly recorded with said Deeds, in Plan Book 49, Plan 29, eighty and 15/100 (80.15) feet;

SOUTHERLY: by Lot 2 as shown on said plan, forty-three and 10/100 (43.10) feet;

EASTERLY: by Bailey Place, one hundred sixty (160) feet;

NORTHERLY: by Lot 13, as shown on said plan, eighty-five and 93/100 (85.93) feet;

EASTERLY: by said Lot 13, thirty-eight and 68/100 (38.68) feet;

NORTHERLY: by land of owners unknown, one hundred (100) feet;

WESTERLY: by land now or formerly of Rollins, one hundred sixty-five and 10/100 (165.10) feet;

NORTHERLY: by land now or formerly of Littlefield, seventy (70) feet; and

WESTERLY: by Washington Terrace, ninety-seven (97) feet, or however otherwise said parcel may be bounded, measured or described.

Excepting Lot A, as shown on Plan 12094 End, as deed to Sun Oil Company of Pennsylvania by deed, dated October 15, 1971, as recorded with the Middlesex County South District Registry of Deeds at Book 12093, Page 535, recorded on October 15, 1971.

PARCEL V:

A certain parcel of land, in said Newton, being shown as Lot 2 on a plan duly recorded with said Deeds, in Plan Book 49, Plan 29, and being bounded and described as follows:

SOUTHERLY: by Washington Street, forty-three and 10/100 (43.10) feet;

EASTERLY: by Bailey Place, eighty and 15/100 (80.15) feet;

NORTHERLY: by Lot 5, as shown on said plan, forty-three and 10/100 (43.10) feet; and

WESTERLY: by Lot 1, as shown on said plan, eighty and 15/100 (80.15) feet.

Containing 3,453 square feet of land, or however otherwise said Lot 2 may be bounded, measured or described.

Excepting and excluding from any of the above such portions thereof as have been taken by the City of Newton for the laying out, widening, or relocation of Washington and/or Walnut Streets.

PARCEL VI:

Also another certain parcel of land, with the buildings thereon, situated in that part of Newton, Middlesex County, Massachusetts, known as Newtonville, being now numbered 21 Bailey Place, being shown as Lot 13 on a plan drawn by E.X. Smilie, Surveyor, dated June 22, 1886, as recorded with said Deeds in Plan Book 49 as Plan 29, and being bounded and described as follows:

EASTERLY: by land now or formerly of Warren and by Bailey Place, thirty-nine and 66/100 (39.66) feet;

SOUTHERLY: by Lot 11, as shown on said plan, eighty-five and 93/100 (85.93) feet;

WESTERLY: by land now or formerly of Littlefield, thirty-eight and 68/100 (38.68) feet; and

NORTHERLY: by land now or formerly of the Heirs of Greiner and by land now or formerly of Wellington, eighty-five and 90/100 (85.90) feet.

Containing 3,364 square feet of land, according to said plan.

For title, see Deeds from (i) Frank L. Richardson, dated January 4, 1965, recorded with the Middlesex South Registry of Deeds in Book 10728, Page 101 and filed with the Middlesex County Southern District of the Land Court as Document No. 414379, creating Certificate of Title No. 116668 (for Parcels 1 - V); and (ii) Albert Leonard, dated August 13, 1965 and recorded with the Middlesex South Registry of Deeds in Book 10904, Page 484 (for Parcel VI).

[Signatures Appear on Next Succeeding Page]

Witness our hands and seals as of this 12 day of January, 2016.

Bigelow Realty Trust, u/d/t dated 12/16/64

By: [Signature]
Victor A Nicolazzo, Jr., as Trustee and not individually

By: [Signature]
Charles G. Nicolazzo, as Trustee and not individually

COMMONWEALTH OF MASSACHUSETTS

[Signature], ss.

On this 8 day of January, 2016, before me, the undersigned notary public, personally appeared Victor A. Nicolazzo, Jr., as Trustee of the Bigelow Realty Trust and provided to me through satisfactory evidence of identification, which was a MAS Public License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as a Trustee of the Bigelow Realty Trust.

[Signature]
Notary Public: [Signature]
My commission expires: 12/16/18

COMMONWEALTH OF MASSACHUSETTS

[Signature], ss.

On this 7 day of January, 2016, before me, the undersigned notary public, personally appeared Charles G. Nicolazzo, Jr., as Trustee of the Bigelow Realty Trust and provided to me through satisfactory evidence of identification, which was a MAS Public License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as a Trustee of the Bigelow Realty Trust.

[Signature]
Notary Public: [Signature]
My commission expires: 12/17/18



2016 00006086

Bk: 66662 Pg: 146 Doc: DEED
Page: 1 of 2 01/12/2016 02:28 PM

QUITCLAIM DEED

J&M Realty Management, LLC, a Massachusetts limited liability company ("Grantor"),

for consideration paid and acknowledged in the amount of Two Million Three Hundred Thousand Dollars and 00/100 Cents (\$2,300,000.00),

GRANTS to **Mark Lolich, LLC**, a New Jersey limited liability company, as tenant in common as to a 48.50% interest and **Mark Newtonville, LLC**, a Massachusetts limited liability company, as tenant in common as to a 51.50% interest, ("Grantee") both having an address of 57 River Street, Suite 106, Wellesley, Massachusetts 02481.

WITH QUITCLAIM COVENANTS

A certain parcel of land with the buildings and other improvements thereon situated on the westerly side of and being now numbered 239-241 Walnut Street, that part of the City of Newton called Newtonville, Middlesex County, Massachusetts, being shown as Lot B on a plan entitled "Plan of Land in Newtonville," E. S. Smilie, Surveyor, recorded with Middlesex South District Registry of Deeds, in Plan Book 311, Plan 24, and bounded and described as follows:

EASTERLY: By said Walnut Street, one hundred eight and 30/100 (108.30) feet;

NORTHERLY: by land now or formerly of Baker, sixty-eight and 80/100 (68.80) feet;

WESTERLY: by land now or formerly of Harry D. Cabot, Frank L. Richardson and Newton Trust Company, Trustees under the will of Horace W. Orr, one hundred eleven and 61/100 (111.61) feet; and

SOUTHERLY: by land now or formerly of Harry D. Cabot, Frank L. Richardson, and Newton Trust Company, Trustees under the will of Horace W. Orr, seventy-three and 41/100 (73.04) feet.

Containing 7,794 square feet of land, according to said plan.

Subject to the rights of way set forth in a deed of James A. Johnson et ux to Scipiones' Inc. dated December 29, 1964, recorded with Middlesex South Registry of Deeds in Book 10723, Page 216 and all other easements and restrictions of record, if any, insofar as in force and applicable.

Subject to variances granted by the City of Newton, Notices of which are recorded with Middlesex South District Registry of Deeds in Book 9971, Page 245 and Book 13706, Page 615.

Subject to a variance granted by the City of Newton, the Decision for which is recorded with Middlesex South District Registry of Deeds in Book 15845, Page 303.

The undersigned hereby certifies that the Grantor is taxed as a partnership for federal and Massachusetts income tax purposes.

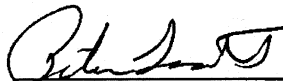
MASSACHUSETTS EXCISE TAX
Southern Middlesex District BOD # 001
Date: 01/12/2016 02:28 PM
Ctrl# 236804 07563 Doc# 00006086
Fee: \$10,488.00 Cons: \$2,300,000.00

Property Address: 239-241 Walnut Street, Newton, Massachusetts

For Grantor's title see deed of John P. Murphy, Trustee of Walnut Street Realty Trust, to J & M Realty Management, LLC, a Massachusetts limited liability company, dated December 21, 2004 and recorded with the Middlesex South District Registry of Deeds in Book 44343, Page 160.

Executed under seal this 11th day of January, 2016

J & M REALTY MANAGEMENT, LLC



Peter Leavitt
Manager

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

January 11, 2016

On this 11th day of January, 2016, before me, the undersigned notary public, personally appeared Peter Leavitt, Manager of J&M Realty Management, LLC, a Massachusetts limited liability company and provided to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Manager of J&M Realty Management, LLC.


Notary Public:

My commission expires:



~~MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 09/26/2016 02:31 PM
Ctrl# 281083 00101 Doc# 00169711
Fee: \$9,120.00 Cons: \$2,000,000.00~~



2016 00169711
Bk: 68084 Pg: 456 Doc: DEED
Page: 1 of 2 09/26/2016 02:31 PM

Quitclaim Deed

We, Joseph A. Arcuri and Rosina Arcuri, a married couple, of Wellesley, Norfolk County, Massachusetts, in consideration of Two Million and 00/100 Dollars (\$2,000,000.00) **GRANT TO** Mark Newtonville, LLC, a Massachusetts limited liability company with a principal place of business at 57 River Street, Suite 106, Wellesley, MA 02481

With **QUITCLAIM COVENANTS**

The land with the building thereon, situated in that part of Newton, Middlesex County, Massachusetts, called Newtonville; now known as and numbered 6-8 Washington Terrace, bounded and described as follows:

Beginning at a point on the Easterly side of said Washington Terrace, one hundred (100.00) feet from Washington Street, thence running

- EASTERLY: seventy (70) feet to land now or formerly of Orr; thence turning and running
- NORTHERLY: by said land now of formerly of Orr, thirty-three and 50/100 (33.50) feet; thence turning and running
- WESTERLY: to said Washington Terrace, seventy (70) feet by land now or formerly of Vachon; thence turning and running
- SOUTHERLY: by said Washington Terrace, thirty-three and 50/100 (33.50) feet to the point of beginning.

Containing 2,345 square feet of land, more or less.

Subject to the reservation of rights in a right of way seven (7) feet wide extending from west to east along the Northerly boundary line of this property as set forth in a deed from Joseph A. E. Vachon, dated April 30, 1940, recorded with the Middlesex South District Deeds in Book 6393, Page 397.

Together with the benefit of the right to use, in common with others entitle to use the same, a way thirty (30) feet wide called Washington Terrace, as a passageway to and from Washington Street, for all purposes for which public streets are now or may be used in said Newton.

We, the Grantors named herein, do hereby voluntarily release all rights of Homestead, if any, as set forth in M.G.L. Chapter 188 and state that there are no other persons or person entitled to any Homestead rights.

For Grantor's Title, see deed dated March 15, 1974 and recorded in the Southern Middlesex County Registry of Deeds at Book 12601, Page 425.

Chicago Title
265 Franklin St
Boston, MA 02110

Property Address: 6-8 Washington Terrace, Newton, MA 02460

Executed as a sealed instrument this 21st day of September, 2016.

Joseph A. Arcuri
Joseph A. Arcuri

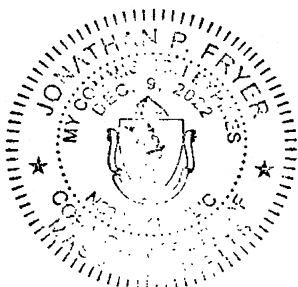
Rosina Arcuri
Rosina Arcuri

Commonwealth of Massachusetts

Norfolk, ss.

On 21st day of September, 2016, before me, the undersigned notary public, personally appeared Joseph A. Arcuri and Rosina Arcuri, the above-named and proved to me through satisfactory evidence of identification being Drivers License, to be the person whose name is signed on this document, and acknowledged to me that they signed it voluntarily for its stated purpose and that the foregoing instrument is their free act and deed.

Jonathan P. Fryer
Notary Public:
My Commission Expires:



Attachment D Deed
10-12 Washington Terrace



2016 00054988
Bk: 67072 Pg: 96 Doc: DEED
Page: 1 of 3 04/11/2016 02:58 PM

~~MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 04/11/2016 02:58 PM
Ctrl# 240149 14084 Doc# 00054988
Fee: \$5,472.00 Cons: \$1,200,000.00~~

Property Address: 10-12 Washington Terrace, Newton, Middlesex County, Massachusetts

QUITCLAIM DEED

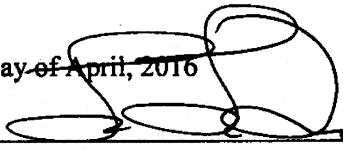
Lance R. LaFave, an individual with an address at 36 Tanglewood Road, Wellesley, Massachusetts ("Grantor"), for consideration paid, and in full consideration of One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000) grants to **Mark Newtonville, LLC**, a Massachusetts limited liability, with its offices located at 57 River Street, Suite 106 Wellesley, MA, with *quitclaim covenants*, the following parcels of land, together with the buildings and other improvements thereon, located at 10-12 Washington Terrace, Newton, Middlesex County, Commonwealth of Massachusetts, described on Exhibit A attached hereto and made a part hereof.

The above-described premises are conveyed subject to and with the benefit of all easements, restrictions, agreements and rights of record, insofar as the same are now in force and applicable.

For Grantor's title to the above-described parcel, see deed recorded with Middlesex (South) Registry of Deeds in Book 32070, Page 5.

[SIGNATURE APPEARS ON THE FOLLOWING PAGE]

EXECUTED under seal as of the 6 day of ~~April~~, 2016



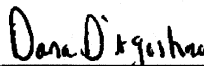
Lance R. LaFave

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

April

On this 6th day of ~~January~~ XXXXXX, 2016, before me, the undersigned notary public, personally appeared Lance R. LaFave, and proved to me through satisfactory evidence of identification, being [] driver's license or other state or federal governmental document bearing a photographic image; [] oath or affirmation of a credible witness known to me who knows the above signatory, or [] my own personal knowledge of the identity of the signatory, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public: []

My Commission Expires: [3/2/2023]


 **DANA D'AGOSTINO**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 2, 2023

EXHIBIT A

The land with the buildings thereon situated in that part of Newton, Middlesex County, Massachusetts called Newtonville, now known as and numbered 10-12 Washington Terrace and bounded and described as follows:

BEGINNING at a point on the Easterly side of Washington Terrace, one hundred thirty-three and one-half (133.5) feet from Washington Street; thence running

EASTERLY seventy (70) feet to land now or formerly of Orr; thence turning and running NORTHERLY by land of said Orr, twenty-six and one half (26.5) feet; thence turning and running

WESTERLY by said Washington Terrace, seventy (70) feet, by land now or formerly of Truesdell; thence turning and running

SOUTHERLY by said Washington Terrace, twenty-six and one half (26.5) feet to the point of beginning.

Together with a right of way seven (7) feet wide along land formerly of A. Joseph E. Vachon east and west for common use. Also a right to use in common with others a way thirty (30) feet wide along said Washington Terrace.



2016 00114436

Bk: 67594 Pg: 116 Doc: DEED

Page: 1 of 3 07/11/2016 01:11 PM

Quitclaim Deed

Attachment E Deed
16-18 Washington Terrace

We, Valery Saminsky and Elena Saminsky, married to each other of 6472 S. Forest Street, Centennial, CO 80121

For consideration paid, and in full consideration of One Million Four Hundred Twenty Thousand and 00/100 (\$1,420,000.00) Dollars

Grant to Mark Newtonville, LLC, a Massachusetts limited liability company with a principal place of business at 57 River Street, Suite 106, Wellesley, MA 02481

With quitclaim covenants,

The land in that part of Newton, Middlesex County, Massachusetts, called Newtonville, situated on the Easterly side of a private way running Northerly from Washington Street, called Washington Terrace, with the buildings thereon numbered 16-18 Washington Terrace in the present numbering, bounded and described as follows:

Beginning at the Northwesterly corner of the premises on the Easterly side of said Washington Terrace at land owned by Thomas C. Clay; thence running

EASTERLY: by land of said Clay seventy (70) feet to land now or formerly of Littlefield;

thence

SOUTHERLY: by said land of said Littlefield sixty (60) feet; thence

WESTERLY: by land now or formerly of Rollins, seventy (70) feet to Washington Terrace;

thence running

NORTHERLY: by said Way called Washington Terrace, sixty (60) feet to the point of beginning.

Together with the right to use in common with others a way thirty (30) feet wide along said Washington Terrace and containing 4200 square feet of land, more or less. Subject to easements, conditions and restrictions of record insofar as the same are in force and applicable.

Grantor hereby releases any and all rights of homestead in said premises and certifies under the pains and penalties of perjury that there are no other persons entitled to protection of the Homestead Act.

For Grantor's title see Deed in Middlesex Registry of Deeds in Book 36260, Page 131.

[Signature Page to Follow]

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 07/11/2016 01:11 PM
Ctrl# 245997 09428 Doc# 00114436
Fee: \$6,475.20 Cons: \$1,420,000.00

PLEASE RETURN TO:
CHICAGO TITLE INSURANCE COMPANY
265 FRANKLIN STREET, 8TH FLOOR
BOSTON, MA 02110
ATTN: _____ FILE NO. _____

16-18 Washington Terrace, Newton

3-N

Witness my hand and SEAL this 30 day of June, 2016

V. Saminsky

Valery Saminsky

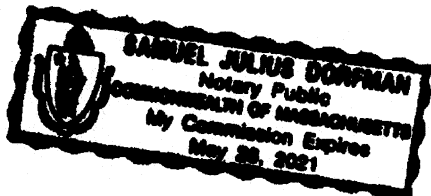
STATE OF Massachusetts

COUNTY OF Norfolk

On this 30 day of June, 2016, before me, the undersigned notary public, personally appeared Valery Saminsky proved to me through satisfactory evidence of identification, which was/were license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]
Notary Public

My Commission Expires:



Witness my hand and SEAL this 30 day of June, 2016

Elena Saminsky

Elena Saminsky

STATE OF Massachusetts

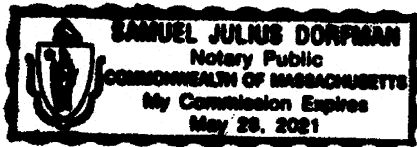
COUNTY OF Norfolk

On this 30 day of June, 2016, before me, the undersigned notary public, personally appeared Elena Saminsky proved to me through satisfactory evidence of identification, which was/were license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

[Signature]

Notary Public

My Commission Expires:



87



2016 00094220
Bk: 67418 Pg: 274 Doc: DEED
Page: 1 of 4 06/13/2016 02:17 PM

QUITCLAIM DEED

We, **Man Hee Tsang and Siu Ming Chow**, husband and wife of 22 Washington Terrace, Newton, MA 02460

For consideration paid of Two Million and 00/100 (\$2,000,000.00) Dollars paid, hereby

grant to **Mark Newtonville, LLC**, a Massachusetts limited liability company with a principal place of business at 57 River Street, Suite 106, Wellesley, MA 02481,

WITH QUITCLAIM COVENANTS

Property Address: 22 Washington Terrace, Newton, MA

The land situated in said Newton, in that part called Newtonville, being the premises known as and numbered 22 Washington Terrace, and being the same premises shown on plan entitled "Plan of land in Newtonville, Everett M. Brooks, C.E. July 14, 1939" recorded with Middlesex South District Registry Deeds in book 6309, page 310, bounded and described as follows:

Westerly by Washington Terrace 64.74 feet;

Northerly by land now or formerly of Railshack and by land of Taylor 70.29 feet;

Easterly by land now or formerly of Orr 59.20 feet; and

Southerly by land now or formerly of Truesdell 70 feet.

Containing 44,337 square feet of land according to said plan. Together with all rights and easements appurtenant to said property.

A certain parcel of land situated at the northerly end of Washington Terrace in that part of Newton called Newtonville, and bounded and described as follows:

Easterly by other land of Thomas C. Clay 3 feet;

Northerly by land formerly of the Griner Estate, so called 15 feet;

Westerly by land conveyed to Abbie I. Fiske by Carrie E. Clay 3 feet; and

Southerly by other land of Thomas C. Clay 15 feet.

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 06/13/2016 02:17 PM
Ctrl# 243767 07060 Doc# 00094220
Fee: \$9,120.00 Cons: \$2,000,000.00

Grantors hereby releases any and all rights of homestead they may have to the property, and swears under the pains and penalties of perjury that no other persons are entitled to any benefits of an existing estate of homestead.

For Grantors' title, see Deed dated 09/09/2002 and recorded 09/18/2002 with the Middlesex Registry of Deeds in Book 36439, Page 248.

[Signatures and acknowledgements to follow]