

COMMONWEALTH OF MASSACHUSETTS

HOUSING APPEALS COMMITTEE

**IN THE MATTER OF STONEHAM BOARD OF APPEALS AND
WEISS FARM APARTMENTS, LLC, NO. 2014-10**

INTERLOCUTORY APPEAL OF THE STONEHAM BOARD OF APPEALS

PRE-HEARING ORDER

I. INTRODUCTION

Pursuant to the provisions of 760 CMR 56.03(8)(a), by letter dated July 24, 2014, the Stoneham Board of Appeals (“Board”) informed the Department of Housing and Community Development (“DHCD”), with a copy of the same to counsel for Weiss Farm Apartments, LLC, (“Applicant”) that it believed the Town of Stoneham consistent with local needs, as that term is found at G.L. c.40B, s.20 and 760 CMR 56.00 et al, as the Town of Stoneham met the statute’s “1.5% General Land Area Minimum” and the regulation’s “related application” provision.

By letter dated September 2, 2014 (distributed to the parties by electronic mail on September 5, 2014) DHCD informed the Town of Stoneham that “the Board has not met the burden of proof in its assertion that a denial with conditions [sic] would be consistent with local needs.

II. STIPULATIONS

1. On or about June 30, 2014, Weiss Farm Apartments, LLC filed a comprehensive permit application with the Town of Stoneham for the development of 264 rental dwelling units on a 25.657 acre parcel of land with an address of 170 Franklin Street, Stoneham, Massachusetts.
2. The Department of Housing and Community Development (DHCD) includes ten housing developments in the Town of Stoneham on DHCD’s September 26, 2014

Subsidized Housing Inventory (SHI), each identified by a DHCD identification number.

3. On or about December 4, 2013, at the request of Weiss Farm, Inc., the Stoneham Planning Board voted to approve the endorsement of a plan dividing a 26.834-acre parcel into two lots.
4. On December 24, 2013, the plan approving the above noted land division was recorded at the Middlesex Registry of Deeds at Plan Book 1031 of 2013.
5. One of the two lots created following the above noted land division is the parcel of land identified in ¶ 1, above. Said lot consists of 25.657 acres.

III. ISSUES IN DISPUTE AND BURDENS OF PROOF

1. Pursuant to 760 CMR 56.03(8), the Board bears the burden of proving satisfaction of the grounds for asserting that a denial or approval with conditions would be consistent with local needs pursuant to G.L. c.40B, ss. 20-23.

Board's Case

1. To demonstrate that the Town of Stoneham is consistent with local needs pursuant to G.L. c.40B, s.20-23 or 760 CMR 56.00 et seq.

Applicant's Case

1. The Applicant agrees that the Board has the burden of proving that the Town of Stoneham met the "1.5% General Land Area Minimum" as well as the "related application" claim.

III. PROPOSED WITNESSES

For the Board

1. Cheryl Noble, Stoneham Building Inspector;
2. Brian Macdonald, Stoneham Director of Assessing;
3. Leverett Wing, Associate Director, DHCD Division of Community Services.

For the Applicant

The Applicant will rely on the cross-examination testimony of the Board's witnesses and, in particular, the testimony of Mr. Wing.

Respectfully submitted,

FOR the Stoneham Board of Appeals,

By its attorneys, acting as special Town Counsel

HUGGINS AND WITTEN, LLC

/s/ Jonathan D. Witten

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FOR Weiss Farm Apartments, LLC

By their attorneys,

/s/ Brian M. Hurley

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DATED: October 14, 2014