

REPORT OF THE TOWN COUNSEL (F/Y 2012)

The volume of issues presented in public and private land use continued to increase this year. Most prominent of these was the Town's considerable effort to monitor the possibility that 900 Worcester Street (site of St. James the Great Roman Catholic Church) would be made available for purchase. The work of many town officials, advisors, committees and planners intensified when the Archdiocese indicated its willingness to enter a discussion of a possible Purchase and Sale Agreement with the Town. Assistance was given in those discussions. Eventually an Agreement was reached which was presented to a Special Town Meeting called for June 13, 2012. Town Meeting approved the Purchase and Sale Agreement and voted an appropriation to include the 3.8 million dollars negotiated purchase price as well as other expenses to be incurred in future, including the costs of performing due diligence on the site prior to agreeing to accept title. The original Agreement's restrictive use conditions that the site not be used for an abortion clinic and like restrictions related to the owner's religious teachings for a period of 90 years were subsequently removed from the Agreement and replaced with a self-imposed (by the Town) restriction that the site shall be used for municipal purposes for 40 years. The matter remained pending at the close of the fiscal year because of an ongoing appeal by some parishioners contesting the authority of the Archbishop to relegate the site to non-religious use under Canon Law, thus encumbering title to the property. It is expected that the Town will resume its due diligence upon all Canon Law appeals being successfully resolved.

Assistance was also offered in other long-range land use matters, including the ongoing effort by the Selectmen and Council on Aging to find an appropriate site for a Senior Center. The earlier focus of perhaps joining uses with the Community Center building in the Hills eventually returned to further probing the site formerly owned by the American Legion, whose title passed to the Town by agreement with the Legion a few years before. The Town is also fortunate to have been named the beneficiary of approximately Eight Hundred Thousand Dollars by the Billie Tolles Trust, on several conditions. While this exercise has taken a long time, the gift has so far remained available thanks to the generosity and understanding of the Trustee.

Several town owned easements and other land title issues of interest to the Town were resolved, including several easements at 448 Washington Street, the site of the new Whole Foods Market; the Aqueduct strip at Cedar Street; and at Linden Square. Assistance was given in the possibility of acquiring title to the most westerly portion of the Aqueduct to the Natick line, currently owned by the State; and in a proposal for reuse of the MLP substation building at the Public Works complex on Worcester Street.

The Town's policy of encouraging more affordable housing continued to move forward. Advice was given to the Wellesley Housing Development Corporation and town officials on several of the developments in which related issues appeared, including the c. 40B project on Washington Street and the much larger project at 27 Washington Street.

In matters in litigation, an abutters' appeal of a subdivision approval was withdrawn; the appeal to the Housing Appeals Committee by the developer of 65 Washington Street remains pending on his effort, which seems to have calmed, to insist that the project be governed by a

homeowners association rather than a condominium association which the Zoning Board of Appeals has required; two appeals are currently pending on the proposed CVS to site a store on the Westerly end of Worcester Street; appeals in the Appellate Tax Board and at the Bureau of Special Education Appeals were managed by Special Counsel expert on those areas; other matters including an employment matter were managed by Labor Counsel; and the last (hopefully) in a concatenation of lawsuits brought by a town resident was disposed of favorably when the Supreme Judicial Court denied further appellate review of a judgment entered in the Appeals Court favorable to the Town.

Advice continued to be offered in a wide variety of other matters, including several local licensing issues; in the Wellesley Square Initiative sponsored by the Selectmen, Planning Board and others; on a proffered gift of land which was ultimately declined on a finding that no public interest in acquiring title could be discerned because the parcel was land locked. The issues on a proposal for a Farmers' Market were discussed; the Council on Aging's proposal for a volunteer drivers' program were reviewed in the context of the town's risk management program managed by the Selectmen. The Town's ownership of the Kepes Panels were copyrighted in the Register of Copyrights Office at the request of the Kepes Panels Study Committee. Opinions were rendered on many issues, including that public opinion advisory questions are permissible on an election ballot if the statutory requirements are complied with; and that this Town does not provide for a recall process for its elected officials. The Town's building projects ran smoothly thanks to the competence of the town officials and administrators responsible for them, of which the spanking new High School is but the latest jewel in the crown of town building assets.

As before, requests continued to be responded to on the Conflict of Interest Law, the Uniform Procurement Law, the Open Meeting Law and Public Records Law. Records and witness subpoenas were attended to. All sessions of the Annual and Special Town Meetings were prepared for and attended, as were almost all sessions of the Board of Selectmen's weekly meetings. Meetings of other boards were attended when requested.

The Town continues to be ably represented specially by Morgan, Brown and Joy, the Town's Labor Counsel and other special counsel in education matters and regulatory matters involving the Municipal Light Plant.

More detailed reports are contained in the monthly reports of the Town Counsel, which remain available for public inspection.