

**CITY OF SOMERVILLE, MASSACHUSETTS
SOMERVILLE CONDOMINIUM REVIEW BOARD**

*JOSEPH A. CURTATONE
MAYOR*

Staff

Hannah Carrillo
Sustainable Neighborhoods Coordinator

Board Members

Daniel Maltzman
William Medeiros
Victor Silva
Marlene Smithers
Zachary Zasloff

DRAFT Minutes

January 29, 2018 Meeting – 6:00 PM

Visiting Nurses Association, Third Floor Conference Room
259 Lowell St. Somerville, MA 02144

Board Members Present: Daniel Maltzman, William Medeiros, Victor Silva, Zachary Zasloff

City staff present: Hannah Carrillo (Sustainable Neighborhoods Initiative Program Coordinator), Michael Feloney (Housing Division Director)

Board Chair Zasloff convened the meeting at 6:00 PM. With several people in attendance wishing to provide public comment regarding the application for Millbrook Lofts, Housing Director Mike Feloney informed those in attendance that a sign-up sheet would be on the table in front of the Board for people to sign up to make their comments. In addition, Mike Feloney informed everyone that the meeting was being recorded for meeting minute purposes.

1. Approval of Meeting Minutes
A motion was introduced and PASSED 3-0 to approve the meeting minutes for the December 18, 2017 meeting.
2. New Business – Applications for Certificates of Exemption and/or Removal Permits
Board members moved to review each removal permit application before the Board.

WARD 5-PRECINCT 1

Application of 448 Medford St. LLC, Nicole Starck representing, seeking a Removal Permit for Unit #1 and Unit #2 located at 448 Medford St. The \$500 per unit application fee was paid and no real estate taxes or water bills were owed to the City. The engineer/architect's report was provided during the meeting. The property was purchased vacant September 2017. Materials included with the application were:

- Engineer/architect's report
- Master deed

Staff reported that no tenant complaints had been received in regard to the application or property.

On a motion duly made and seconded, it was VOTED 4-0:

To grant Certificate of Condominium Review Board Approval for Unit #1 and Unit #2 located at 448 Medford St.

WARD 4-PRECINCT 3

Application of James Igoe and Fatima Dutra, seeking a Removal Permit for Unit A and Unit B located at 37 Montrose St. The \$500 per unit application fee was paid and no real estate taxes or water bills were owed to the City. Unit B was vacated August, 2015. Unit A is still occupied, with the property owner wanting to maintain tenancy for as long as desired by the current tenants. The tenants have expressed interest to potentially buy their unit, but if they choose not to purchase, the property owner has stated they would renew the rental lease for as long as desired. Materials included with the application were:

- Engineer/architect’s report
- Master deed

Staff reported that no tenant complaints had been received in regard to the application or property.

On a motion duly made and seconded, it was VOTED 4-0:

To grant Certificate of Condominium Review Board Approval for Unit A and Unit B located at 37 Montrose St.

WARD 2 - PRECINCT 2

Application of Alexis Realty Trust and Bliss Realty Trust, Michelle Baratta representing, seeking a Removal Permit for Units 23-1, 23-2, 25-1, and 25-2 located at 23-25 Clark St. The \$500 per unit application fee was paid and no real estate taxes or water bills were owed to the City. The property was purchased May 2016 with all units except for 25-1 vacant. The tenant in Unit 25-1 would like to purchase their unit. The Board requested that an offer letter or verification of an agreement be provided to the Board prior to the Removal Permit being issued. Materials included with the application were:

- Engineer/architect’s report
- Master deed

Staff reported that no tenant complaints had been received in regard to the application or property.

On a motion duly made and seconded, it was VOTED 4-0:

To grant Certificate of Condominium Review Board Approval for Units 23-1, 23-2, 25-1, and 25-2 located at 23-25 Clark St., conditioned on the applicant submitting verification of an offer of sale to the current tenant.

WARD 4 - PRECINCT 1

Application of James Del Ponte, Anne Vigorito representing, seeking a Certificate of Exemption for Unit #19 and Unit #21 located at 19-21 Hall Ave. The \$500 per unit application fee was paid and no real estate taxes or water bills were owed to the City. The property is fully owner occupied. The Master Deed and Engineer/Architect’s report were not included with the application.

Staff reported that no tenant complaints had been received in regard to the application or property.

On a motion duly made and seconded, it was VOTED 4-0:

To grant a Certificate of Condominium Review Board Approval for Unit #19 and Unit #21 located at 19-21 Hall Ave., conditioned on the applicant submitting a master deed and engineer/architect’s report.

WARD 2- PRECINCT 1

Application of Somerville Millbrook Associates, LLP, Atty. Adam Dash representing, seeking Removal Permits for Units: 202, 207, 212, 404, 411, 501, 502, 504, 604, 610, 612, 711, PH2, PH4, PH5, PH8, and PH10 located at 9 Medford St., Millbrook Lofts. The \$500 per unit application fee was paid and no real estate taxes or water bills were owed to the City.

Board Chair Zachary Zasloff noted that while he would be chairing the meeting, he would not be voting, as he was not present at the prior meeting regarding this application. Attorney Dash presented the application to the Board, explaining that the owner is requesting removal permits for the same 17 units that were presented at the last meeting, none of which are inclusionary rental units. Attorney Dash stated that all 17 units are vacant at this time. Attorney Dash emphasized that his clients have done many things they are not required to do, such as hosting an information session for the tenants at Millbrook and paying a constable to deliver notice. Attorney Dash stated that since the last Condominium Review Board (CRB) meeting, discussions have taken place between the property owners and tenants, with discussions ongoing. Attorney Dash stated that thus far negotiations had been conducted in good faith and that the property owner is committed to continuing the conversation.

Attorney Dash explained that while negotiations are ongoing, they are seeking Removal Permits for 17 vacant units at this time. Attorney Dash noted that the property owners would not be seeking to do renovations at this time, but that renovations may be a part of a final negotiated agreement. Attorney Dash stated that the property owner would continue to work with the tenants to reach an agreement, but that it does not benefit anyone to allow these 17 units to remain vacant.

Board Chair Zasloff opened the floor to questions from the Board. The question was posed by Chair Zasloff as to the status of SCC discussions regarding potential 'bulk purchase' of some or all inclusionary housing units (depending on whether tenants wished to exercise their right to purchase). Attorney Dash stated that while discussions with SCC have been delayed, they are ongoing. Chair Zasloff followed up by asking whether or not there is a contingency plan in place in the event that SCC is unable to purchase the 15 inclusionary units. Attorney Dash noted that the 15 units would be affordable in perpetuity as per the Inclusionary Zoning Ordinance (IZO), and that the property owners would look to other investors as potential options in the event SCC could not purchase these units.

The Chair also asked whether or not the property owners were offering incentives to tenants who may want to purchase their units. Attorney Dash said that because the deal was not yet finalized, he was not sure if it was appropriate to share offer details for public record, but did say that there was a price reduction and cash incentives involved. Attorney Dash made the point that the deal was unprecedented in its generosity, but has not been finalized.

With there being no additional questions from the Board, public comment commenced. There were 11 members of the public who commented, with main points of comment summarized below.

Michael Gervais - Mr. Gervais explained that he lives in an affordable unit, and would like to try and appeal to common sense and for the Board to look at the bigger picture at hand. Mr. Gervais expressed concern over potential displacement and loss of community within the building that he currently enjoys. Mr. Gervais also expressed concern over the long waitlists for available affordable housing. Mr. Gervais commented that the building was built to provide rental opportunity and appealed to the property owners to not put greed ahead of good, stating that everyone shares a common responsibility to the greater good. Mr. Gervais also expressed that he would like to see a better flow of communication between all parties.

Trevor Tierney - Mr. Tierney stated that while the ongoing negotiations do not directly involve the 17 units currently on the agenda, they are all connected. Mr. Tierney requested more time to allow for negotiations to continue and move forward toward conclusion.

Jim Manning - Mr. Manning stated that the tenant association has just been formed, and had not had much time to organize at this point. Mr. Manning indicated that he was unsure as to why this application was being heard tonight, as the negotiations are not yet completed. Concern was also expressed in regard to potential construction in vacant units; as Mr. Manning works from home, he had particular concern that construction will negatively impact him. Mr. Manning requested the Board not vote at this meeting, and instead allow the negotiations to conclude prior to granting any permits.

Ellen Czuba - Ms. Czuba wanted to reiterate that the tenants are still negotiating, and expressed concern that if the applications were approved that evening the tenants would lose negotiating power. Ms. Czuba explained that the tenant association had only just met for the first time a few days prior. She is hoping for a positive outcome, but expressed the need for more time.

Mike Cornish- Mr. Cornish requested that the Board not approve the conversion at this time, as the tenants are still in talks with Berkeley Investments to reach an agreement. Mr. Cornish stated that he has lived in Somerville for about 10 years, and that displacing this many citizens is not good for the city or the tenants. Mr. Cornish stated that he felt the initial meeting was a sales pitch, and that people were told they would need to leave within one year. Mr. Cornish also stated that the building is filled with people who have leases that came with incentives to help make them feasible, and that many tenants who are not in a position to purchase their units. Mr. Cornish expressed hope that they would be able to reach better terms with the property owner.

Jessica Mayer -Ms. Mayer explained that she had just moved into her unit from out of state on November 4, 2017. She went on to say that nothing was disclosed at that time regarding the building being sold or converted. She received a relocation package from her employer that helped make renting the unit viable, and is not in a position to buy her unit. Ms. Mayer stated asked for a delay in issuing the removal permits because she did not think the negotiation would be concluded swiftly. Additionally, she would like to be able to move without losing money.

Nicole Burton - Ms. Burton explained that she understands SCC is trying to work out an agreement, but if that does not happen she is concerned she still might not be able to buy even with incentives, as she has a child in college. Ms. Burton noted that the 17 units have not been approved yet and there are already posters in the lobby advertising the units. Ms. Burton reiterated that more time is needed to conclude negotiating, and that she does not want to move.

Gregory Santos - Mr. Santos provided an update on the tenant association he had initiated. Mr. Santos stated that the Millbrook Tenant Association continues to grow with 70 residents in 50 units. Mr. Santos noted that some tenants were unable to make it to the meeting, adding that attending the CRB meetings can be difficult for tenants. Mr. Santos noted disturbance from construction as an issue facing all tenants. Mr. Santos further noted that requests had been made for a timeline from the property owners, but all that has been received is a general estimate of 1-2 months. Mr. Santos also made note of the fact that the November 16th information session was not advertised to tenants as a meeting regarding rights or condominium conversion, which may account for many tenants not attending.

Mr. Santos explained that while the tenant association has met with Berkeley Investments, no agreement has been reached. He stated that the tenant association hopes to meet again in coming weeks, and stated that more time is needed to conclude negotiations.

Mr. Santos suggested the Board assist by holding a special meeting at Millbrook to maximize tenant participation and transparency.

Following Mr. Santos, Board member Willy Medeiros inquired about what the tenants had received thus far regarding a timeline, to which Mr. Santos explained that they had only been giving the estimate of 1-2 months for construction. Mr. Medeiros expressed that he intended to ask for a

continuance for more time. Board member Daniel Maltzman then asked Mr. Santos of what residents hope to accomplish with additional time.

Mr. Santos explained that it is difficult to organize such a large group, and that the Millbrook Tenant Association is seeking to meet with Berkeley Investments in the hopes of agreeing on a counteroffer.

Alderman Jefferson Thomas Scott - Alderman Scott stated that he met with representatives from Berkeley Investments and was impressed by the commitment to do the right thing. Alderman Scott also stated he was impressed by the tenants' efforts to organize. Alderman Scott concluded with stating that he is looking forward to the good-faith negotiations continuing.

Kaitlyn Nealon - Ms. Nealon stated that while she is new to the tenant association, she has been impressed with the work done thus far. Ms. Nealon explained that she is a student, and that construction would severely impact her ability to do her work, as the walls are already quite thin and noise easily travels. Ms. Nealon stated that she appreciated the opportunity to share her concerns.

Michael Devlin - Mr. Devlin explained that the Millbrook Tenant Association had only received an offer from Berkeley Investments this past Thursday (1/25/2018). He noted that between last CRB meeting and this one, the tenant association had several time-consuming tasks, such as setting up a meeting with Berkeley Investments and reviewing/responding to the offer presented. Addressing previous comments regarding construction not taking place, Mr. Devlin expressed confusion regarding what will be considered 'maintenance' versus 'construction'. Mr. Devlin concluded by stating that many of the tenants have only just moved in recently, and that it would be unusual for a conversion to happen so quickly after a building's opening.

Board Chair Zasloff asked the public if anyone else had a comment they would like to make, and upon no one replying, the public comment period was concluded.

Attorney Dash requested the floor in order to clear up what may have been misconceptions. Chair Zasloff explained that he would open the floor to Board members for follow up first, and then allow Attorney Dash the opportunity to comment further. Chair Zasloff stated that the only way a negotiation will be successful is if all parties are open, transparent, and honorable. He expressed uncertainty regarding whether a blanket agreement will work for all of the tenants at Millbrook, and stated that the agreement is for Berkeley and the tenants to negotiate. With that being said, Chair Zasloff encouraged Berkeley to be as open and transparent as possible.

Board member Willy Medeiros asked Attorney Dash if there had been any discussion of relocation costs, to which Attorney Dash replied by providing the outline of the offer as of that time. Attorney Dash stated that each tenant would receive a \$1,000 cash payment, in addition to \$1,000-\$5,000 for moving expenses, or a 5% discount on the purchase price. In addition, tenants would receive one month of free rent if the tenants agree to allow construction to take place and a discount on moving their belongings along with assistance in finding a new unit. Attorney Dash stated that this was a good offer and he does not want the 17 units to remain vacant any longer than they have to. Attorney Dash explained that no leverage is to be had by keeping those 17 units vacant, and that the conversation will not stop if the removal permits for those units were granted at the meeting.

Following a request for clarification regarding the status of the affordable units in the event that SCC or another third party organization does not purchase the 15 inclusionary units, Housing Director Mike Feloney explained that the affordable rental units must be maintained as affordable due to the IZO. If SCC or another entity did not purchase the units, they would then convert from affordable rental to affordable ownership units, which are affordable to households at a higher income level, compared to rental units.

Mr. Feloney explained that the desired outcome is for the units to be maintained as rental for those who would like to continue to rent, and that those who wish to purchase may do so. Michael Gervais made the comment that without a mandate requiring a third party to purchase the affordable units,

there is no guarantee the current inclusionary tenants will be protected beyond the two years required. Mike Feloney explained that the goal is to ensure tenant protections are enforced and that no one is displaced from their units.

Chair Zasloff inquired as to why units continued to be rented as late as November when property owners already intended to convert to condos at that time. Attorney Dash stated those tenants will still get a year's notice as per the condo conversion ordinance, and shared his belief that some tenants may end up staying longer than they normally would have without the conversion.

Board member Victor Silva shared that at the last CRB meeting the same request was made, with the applicant having been in compliance for the 17 requested units. Mr. Silva commented that he had previously requested good faith on both sides, and that has been shown thus far by both parties. Mr. Silva went on to say that he does not see a reason why the Board should not grant the removal permits for the 17 units at this meeting, as the applicant has done what is required of them by the condo conversion ordinance. Mr. Silva clarified that each unit will continue to be considered individually, and that as the process progresses the Board will continue to enforce the conversion ordinance.

Board member Daniel Maltzman commented, saying that he agreed with Mr. Silva's remarks. He further indicated that he understood the difficulty of the situation, as a renter who had lived in 10 apartments in Somerville over 12 years. Mr. Maltzman noted that he had never received any kind of relocation package, and that the offer made by Berkeley seemed to be a good start. Mr. Maltzman inquired whether Gregory Santos could represent the tenants of Millbrook. It was clarified that inclusionary units are a separate matter; Mr. Maltzman acknowledged that the suggestion was offered in the spirit of efficiency, as it is difficult to organize a large group in short period of time.

Mr. Santos stated that he did not believe the deal that was offered was explained in full, and reiterated that he believed the permits for the 17 units should not be granted at this time. He stated that there are a lot of issues yet to be addressed. Mr. Silva commented in response that the Board intends address issues that may arise, and ensure that each unit is handled in accordance with the ordinance.

Chair Zasloff stated he does not see a negative impact on deferring the vote for a month to allow both sides to come to an agreement. Chair Zasloff made it clear that the Board would vote on the permits at the next CRB meeting, February 26th, 2018 and encouraged as much transparency as possible. Mr. Santos stated that the tenants do not have all of the information they need to negotiate, to which Mr. Dash replied that they would continue to have good faith conversations.

Chair Zasloff confirmed with both sides that each would make a good faith effort to continue to meet and negotiate, and be prepared to have an agreement by the next meeting. Gregory Santos requested that a special meeting be held at Millbrook; Chair Zasloff explained that there likely would be other applications on the agenda as well. He expected as of that time that the next meeting would be at the VNA as regularly scheduled.

On a motion duly made and seconded, it was VOTED 2-1:

To table a decision regarding the application for Somerville Millbrook Associates, LLP until the next Condo Review Board Meeting on February 26, 2018.

Chair Zasloff introduced a motion to adjourn the meeting at 7:30 PM, which was seconded and accepted.