



**Town of Arlington
Legal Department**

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To: Arlington Redevelopment Board;
Sandy Pooler, Town Manager
Claire Ricker, Director of Planning and Community Development
Kelly Lynema, Deputy Director of Planning and Community Development

From: Douglas W. Heim, Town Counsel

Date: March 13, 2023

Re: 2023 Town Meeting Articles 21, 22, and 23: Transfer of ARB Property to the Town of Arlington

Members of the Arlington Redevelopment Board ("ARB"), I write in advance of the Select Board's warrant article hearings on Article 21, 22, and 23 of the 2023 Town Meeting, each of which seek to transfer custody and management of properties currently owned and managed by the ARB to "the Town."¹ Specifically, as the ARB knows, you hold title and management responsibility for a number of commercial properties – 20 Academy Street, "the

¹ The ARB is of course primarily an instrumentality of the Town. However, when it exercises its authority under c. 121B ("Urban Renewal") the ARB has the legal authority and identity to hold property during the execution of an Urban Renewal Plan separate and distinct from the rest of the Town at large.

Central School Building”, 611 Massachusetts Avenue, “the Jefferson Cutter House”, and 23 Maple Street (the current home Inspectional Services) – which you maintain and lease. Your largest leaseholder in terms of both budget and square footage to this Office’s understanding is the Town itself. I expect the Town Manager and/or Department of Planning and Community Development staff to highlight the operational and budgeting challenges of a subdivision of the Town serving as a commercial landlord for the Town’s own departments such as Health and Human Services, Inspectional Services, and the Council on Aging. However, from a process standpoint, in order for Town Meeting to vote on any transfer from you, the ARB must first vote to approve of same. Some members may recall this same process was utilized following the successful acquisition and redevelopment of the properties that formed McLennen Park, wherein the ARB transferred management and ownership back over to the Town and Town Manager.

ARB Properties In Context

For a brief refresher on how and why the ARB came to hold and manage these properties, G.L. c. 121B (“Housing and Urban Renewal”) authorizes municipalities to create redevelopment authorities. *See e.g.*, G.L. c. 121B, §§ 4, 9, 11. The ARB was established as one such authority (in addition to its Planning Board and special permit granting authority roles) as codified in § 17 of the Town Manager Act with citations to c. 121B for your authorities. In short, the ARB has specialized powers to acquire, hold and redevelop property for the purposes of rehabilitating substandard or blighted properties and otherwise engage in urban renewal activities. However, those powers are very much anchored in renewal, including specific and discrete goals, rather than indefinite retention and management.

Applied to Central School, Jefferson Cutter, and 23 Maple Street Parcels

There can be little doubt that the properties in question in Articles 21, 22, and 23 have been successfully redeveloped from their prior blighted or unutilized states, serving as among other things, a community center, a museum, commercial art space, and highly utilized Town offices. As such, there is not an apparent clear and continuing “urban renewal” purpose for the ARB or the Department of Planning and Community Development to serve as the landlord for

the various government offices and non-profits that utilize them. While the matter remains in the ARB's discretion to vote upon as it so chooses, it is important to stress that if the properties are to remain with the ARB, they should do so pursuant to an active urban renewal plan under c. 121B. With great respect and deference to your stewardship and the stewardship of the Department of Planning and Community Development, absent such a plan the properties likely should be treated in the same way as McClennen Park – as ARB redevelopment successes which became “Town” properties.

Should you have any questions, please contact this Office. But should you be inclined to proceed, it should be noted that you are not providing a “warrant article hearing” for these Articles, merely your consent to proceed on each. The Select Board will hold warrant article hearings, informed by your position. If you are inclined to approve the transfers, an appropriate motion would be:

VOTED: That the Arlington Redevelopment Board consents to the transfer of Article 21, 22, and 23 of the 2023 Town Meeting, each of which seek to transfer title, custody and management of its properties located 20 Academy Street, known as “the Central School Building;” 611 Massachusetts Avenue (known as “the Jefferson Cutter House”), and 23 Maple Street to the Town of Arlington under the custody and management of the Town Manager.

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