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October 5, 2015

Kathy DeMarsh, Executive Director
Scituate Housing Authority
791 Country Way
Scituate, MA 02066

Re: Zoning and Title Opinion

Dear Ms. DeMarsh:

In connection with the Scituate Housing Authority's desire to put forth a public request for proposal regarding the division of land located behind the existing Central Park senior housing facility and the construction of a multiunit residential building under Massachusetts General Laws chapter 40B for additional senior housing with an affordability component ("Premises"), you have requested my opinion with respect to the status of the existing title and the proposed use of said premises for age restricted affordable residential housing under the Scituate Zoning Bylaw and Map as well as Massachusetts statutory law. In connection with this opinion, I have made such investigation of law and public records and have made such other investigations, as I considered necessary to enable me to express an opinion as to the matters set forth below. I have assumed the authenticity of all signatures, the accuracy of all plans and maps, the completeness and validity of all documents, laws, ordinances, rules and regulations, and the validity of the administrative practices, determinations, and other actions referred to herein.

In connection with my examination, I have reviewed and relied upon, among other documents, the following:

1. The Zoning Bylaw for the Town of Scituate, Massachusetts as of this date.
2. The Zoning District Map for the Town of Scituate, Massachusetts, (the "Zoning Map").
3. Massachusetts General Laws Chapter 40A, §6 and 40B.
4. The Assessors' Field Card.
5. Title abstract examination by MacInnis Title.
6. Recorded Plan dated April 7, 1981 entitled "Plan of Land in the Town of Scituate, Massachusetts located at First Parish Road and Branch Street" by Loring H.

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Jacobs Co. A Division of Boston Survey Consultants, Inc. endorsed by the Scituate Planning Board on July 27, 1982 and recorded with the Plymouth County Registry of Deeds as Plan No. 420 of 1982 in Plan Book 23 at Page 112.

7. Town of Scituate's Clerk's office List of Street and Ways.
8. Unrecorded plan of land entitled "Concept Plan" dated August 4, 2015 by McKenzie Engineering Group, Inc. and
9. Annual Reports of the Town of Scituate for the years 1981, 1982 and 1983.

Based upon and subject to the foregoing, my opinions are set forth as follows:

A. Title

Record Title stands in the name of the Scituate Housing Authority by deed dated August 3, 1982 from the Town of Scituate in the amount of \$250,000.00 as consideration stated therein recorded with the Plymouth County Registry of Deeds in Book 5188 at page 376. Said Scituate Housing Authority is a public body corporate and politic duly organized and existing under the laws of the Commonwealth of Massachusetts.

B. Zoning District

Based on the Zoning Map, the Premises are located entirely within the R-2 Zoning District (the "Zoning District").

C. The Premises is the site of the Scituate Housing Authority Central Park Age Restricted Residential Apartment Complex.

D. Uses

The use of the site by the Scituate Housing Authority as an age restricted affordable housing complex originated in and around 1982 when the original building and grounds were deeded to it by the Town of Scituate. The Premises was at that time closed but historically used as a school. Since then the Premises has been used as an age restricted affordable housing complex. This multifamily residential use is not permitted within the R2 zoning district.

The premises has frontage on Central Park Drive and First Parish Road. The status of Central Park Drive as a public way is unclear. There is no evidence on record that Central Park Drive was taken, established or dedicated by the Town of Scituate as a public way. In fact, in

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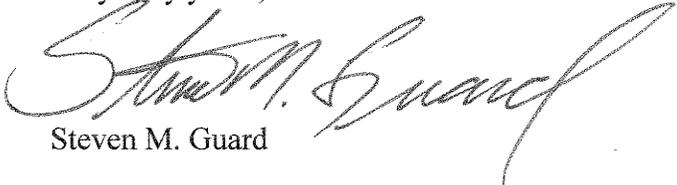
1982 Central Park Drive was referred to as an access and utility easement per the Loring Jacobs plan referenced in item no. 6 above. There is no reference in the annual town reports of 1981, 1982 or 1983 that Central Park Drive was or became a public way. The only evidence that Central Park Drive is a public way is a notation in the Town Clerk's Office as "P" (Public Road) in the list of Street and Ways on file with the same. This fact is significant in that if Central Park Drive is not a public way then the subject Premises takes its frontage from First Parish Road which is only 50 feet. Assuming it has grandfather protected status as a preexisting, nonconforming lot, the zoning bylaw does not allow for making such lots more nonconforming and a variance would be necessary to divide the land as proposed in the McKenzie Engineering concept plan referenced in item no. 8 as such division would render the existing premises without frontage on any public ways.

To alleviate the issue of frontage and the status of the existing premises, I recommend reconfiguring the lot to be conveyed for the new building to be directly behind the existing building only, with no frontage and with a minimum amount of land area associated therewith. This will reserve to the town the maximum amount of land area for future use or development. This would also preserve and not detrimentally affect any preexisting nonconforming status of the existing housing complex as the land area exceeds that which is required under the zoning bylaws and presumably its grandfather protected frontage on First Parish Road. The concept plan indicates access to the new building will be over the existing parking lot and an extension thereof, all of which can be achieved under M.G.L. c. 40B, which allows applicants to avoid certain use and dimensional zoning regulations by providing affordable residential housing in towns that have not achieved the ten (10%) percent affordability benchmark. The proposed additional affordable housing complex on its own independent lot with title thereto to be conveyed to a third party is achievable only by invoking M.G.L. c. 40B otherwise variances would be required, which in the opinion of the undersigned would not be achievable as the premises would not meet the stringent statutory requirements to issue such variances.

In summary, the proposed use is not allowed in the R2 zoning district, the lot cannot be divided under the existing zoning bylaw unless the status of Central Park Drive is made clear by documentation recorded at the Plymouth County Registry of Deeds and two conforming lots can be achieved. It is the opinion of the undersigned that the premises can be divided and used for an age restricted, affordable, multifamily residential housing complex under M.G.L. c. 40B only.

The opinions expressed herein are based solely on laws and regulations as now in effect, and are limited to matters herein expressed. The opinions expressed herein are provided for the benefit of the Scituate Housing Authority and may not be relied upon by any other party without my written consent.

Very truly yours,


Steven M. Guard

SMG/gd