Measure #: 2024-072

TOWN COUNCIL MEASURE SUBMITTAL

Date: 3/11/2024	**Submitted By:** Town Manager	**Telephone #:** 508-699-0100

MEASURE DESCRIPTION:

Authorization to approve a New Request for Bid Sale of Real Property for the parcels of land only, located at both 35 Johnson St. and 35 Whiting St.

Signed: Michael Borg

Digitally signed by Michael Borg
DN: C=US, OU=Town Manager, CN=Michael Borg, E=mborg@nattleboro.com
Reason: I am the author of this document
Location:
Date: 2024.03.07 15:15:22-05'00'
Foxit PDF Editor Version: 12.0.0

PURPOSE AND JUSTIFICATION:

On April 28, 2023, bids were solicited for two properties, but all offers received fell short of expectations. The 2023 assessed valuation of 35 Whiting Street stood at $223,800, and that of 35 Johnson Street was $308,000, representing the minimum amounts the Town was willing to accept. Due to the inadequacy of the bids, they were consequently declined.

Given the declining state of the houses on these properties, I propose selling the parcels for no less than 90% of the land assessed values.

35 Whiting Street
2024 Total Assessed Value $243,400.00
Land-only Assessed Value $ 113,800.00
90% of Land-only Assessed Value = $102,420.00

35 Johnson Street
2024 Total Assessed Value $330,200.00
Land-only Assessed Value $144,600.00
90% of Land-only Assessed Value = $130,140.00

I respectfully request the Town Council approve this measure allowing the Town Manager to initiate a new bidding process for the sale of real property situated at 35 Johnson Street and 35 Whiting Street. The bids should start at a minimum of 90% of their appraised land values.

SPECIAL REQUIREMENTS:

ATTACHMENTS: Property Cards

REFER TO SUB-COMMITTEE: Finance

35 JOHNSON ST

Location	35 JOHNSON ST	**Mblu**	43/ 183/ / /
Acct#		**Owner**	INHABITANTS OF TOWN OF NORTH ATTLEBORO
Assessment	$330,200	**Appraisal**	$330,200
PID	10295	**Building Count**	1

Current Value

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$185,600	$144,600	$330,200

Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$185,600	$144,600	$330,200

Owner of Record

Owner	INHABITANTS OF TOWN OF NORTH ATTLEBORO	**Sale Price**	$0
Co-Owner		**Certificate**	
Address	43 S WASHINGTON ST N ATTLEBORO, MA 02760	**Book & Page**	27016/0239
		Sale Date	05/14/2021
		Instrument	1E

Ownership History

Ownership History					
Owner	**Sale Price**	**Certificate**	**Book & Page**	**Instrument**	**Sale Date**
INHABITANTS OF TOWN OF NORTH ATTLEBORO	$0		27016/0239	1E	05/14/2021
DOYLE BONNIE	$1		13900/0080	1F	07/22/2004
OLEARY EDWIN F + GENEVIEVE	$0		01094/0247		01/01/1953

Building Information

Building 1 : Section 1

Year Built: 1950
Living Area: 1,238

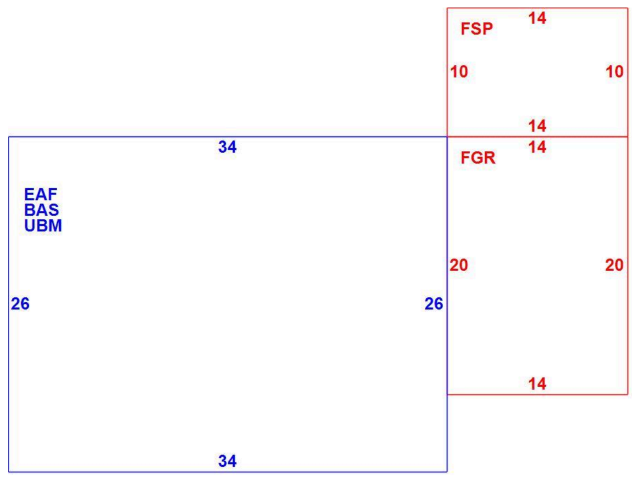
Replacement Cost: $331,378
Building Percent Good: 56
Replacement Cost Less Depreciation: $185,600

Building Attributes	
Field	**Description**
Style:	Cape Cod
Model	Residential
Grade:	Average
Stories:	1.25
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Carpet
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	5
Bath Style:	Average
Kitchen Style:	Standard
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

Building Photo

(https://images.vgsi.com/photos2/NorthattleboroPhotos//\00\00\27\68.jpg)

Building Layout



(ParcelSketch.ashx?pid=10295&bid=9589)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	884	884
EAF	Attic, Finished	884	354
FGR	Garage, Attached	280	0
FSP	Porch, Screen, Fin	140	0
UBM	Unfin Bsmnt	884	0
		3,072	1,238

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code	931R
Description	SELECTMEN-IMPRVD
Zone	R15
Neighborhood	0060
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	0.27
Frontage	0
Depth	0
Assessed Value	$144,600
Appraised Value	$144,600

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2023	$163,400	$144,600	$308,000
2022	$128,100	$144,600	$272,700
2021	$141,200	$144,600	$285,800

Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2023	$163,400	$144,600	$308,000
2022	$128,100	$144,600	$272,700
2021	$141,200	$144,600	$285,800

Property Information

Property ID	43-183
Location	35 JOHNSON ST
Owner	INHABITANTS OF TOWN OF NORTH ATTLEBORO

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

Town of North Attleborough, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 05/03/2023
Data updated 05/03/2023

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

Property Location **35 JOHNSON ST** Map ID **43/ 183/ / /** Bldg Name State Use **931R**
Vision ID **10295** Bldg # 1 Sec # 1 of 1 Card # 1 of 1 Print Date 3/5/2024 10:51:54 AM

CURRENT OWNER	TOPO	UTILITIES	STRT / ROAD	LOCATION
INHABITANTS OF TOWN OF NORTH				
43 S WASHINGTON ST				
N ATTLEBORO MA 02760				

SUPPLEMENTAL DATA

Alt Prcl ID	04300183	Lots	
Water		Plan/Bldr L	
Sewer/Sep		I & E	
Old Parcel	21/107	Occ Permit	
ZBA Decis		Suppleme	
Trailing			
GIS ID	F_698626_2817984	Assoc Pid#	

CURRENT ASSESSMENT

Description	Code	Assessed	Assessed
EXEMPT	9310	185,600	185,600
EXM LAND	9310	144,600	144,600
	Total	330,200	330,200

712

N ATTLEBORO, MA

VISION

RECORD OF OWNERSHIP

RECORD OF OWNERSHIP	BK-VOL/PAGE		SALE DATE	Q/U	V/I	SALE PRICE	VC
INHABITANTS OF TOWN OF NORTH ATTL	27016	0239	05-14-2021	U	I	**0**	1E
DOYLE BONNIE	13900	0080	07-22-2004	U	I	**1**	1F
OLEARY EDWIN F + GENEVIEVE	01094	0247	01-01-1953			**0**	

PREVIOUS ASSESSMENTS (HISTORY)

Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed
2024	9310	185,600	2023	9310	163,400	2022	1010	128,100
	9310	144,600		9310	144,600		1010	144,600
	Total	**330,200**		Total	308,000		Total	272,700

EXEMPTIONS

Year	Code	Description	Amount
		Total	0.00

OTHER ASSESSMENTS

Code	Description	Number	Amount	Comm Int

This signature acknowledges a visit by a Data Collector or Assessor

APPRAISED VALUE SUMMARY

Appraised Bldg. Value (Card)	185,600
Appraised Xf (B) Value (Bldg)	0
Appraised Ob (B) Value (Bldg)	0
Appraised Land Value (Bldg)	144,600
Special Land Value	0
Total Appraised Parcel Value	330,200
Valuation Method	C
Total Appraised Parcel Value	**330,200**

ASSESSING NEIGHBORHOOD

Nbhd	Nbhd Name	B	Tracing	Batch
0060				

NOTES

2021 OVERGROWN

TT 15489/34 12/21/05

REDM 13366/23 3/3/04

INST OF TAKING 20153/0142 - 5/14/2012

TT 11234/173 11/19/02

BUILDING PERMIT RECORD

Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Notes

VISIT / CHANGE HISTORY

Date	Id	Type	Is	Cd	Purpost/Result
07-29-2021	MM			50	Reval Review
07-29-2013	SB			50	Reval Review
10-08-2008	RW			20	MEASU/NAH

LAND LINE VALUATION SECTION

B	Use Code	Description	Zone	LA	Land Type	Land Units		Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value
1	931R	SELECTMEN-IM	R15			11,614	SF	10.83	1.00000	6	1.00	0060	1.150		1.0000	12.45	144,600

Total Card Land Units 0.2666 AC Parcel Total Land Area 0.2666 AC Total Land Value 144,600

Property Location 35 JOHNSON ST | Map ID 43/ 183/ / / | Bldg Name | State Use 931R
Vision ID 10295 | Account # | Bldg # 1 | Sec # 1 of 1 | Card # 1 of 1 | Print Date 3/5/2024 10:51:55 AM

CONSTRUCTION DETAIL

Element	Cd	Description
Style:	04	Cape Cod
Model	01	Residential
Grade:	03	Average
Stories:	1.25	
Occupancy	1	
Exterior Wall 1	14	Wood Shingle
Exterior Wall 2		
Roof Structure:	03	Gable/Hip
Roof Cover	03	Asph/F Gls/Cmp
Interior Wall 1	05	Drywall/Sheet
Interior Wall 2		
Interior Flr 1	14	Carpet
Interior Flr 2		
Heat Fuel	02	Oil
Heat Type:	05	Hot Water
AC Type:	01	None
Total Bedrooms	03	3 Bedrooms
Total Bthrms:	1	
Total Half Baths	0	
Total Xtra Fixtrs		
Total Rooms:	5	
Bath Style:	02	Average
Kitchen Style:	02	Standard

CONSTRUCTION DETAIL (CONTINUED)

Element	Cd	Description

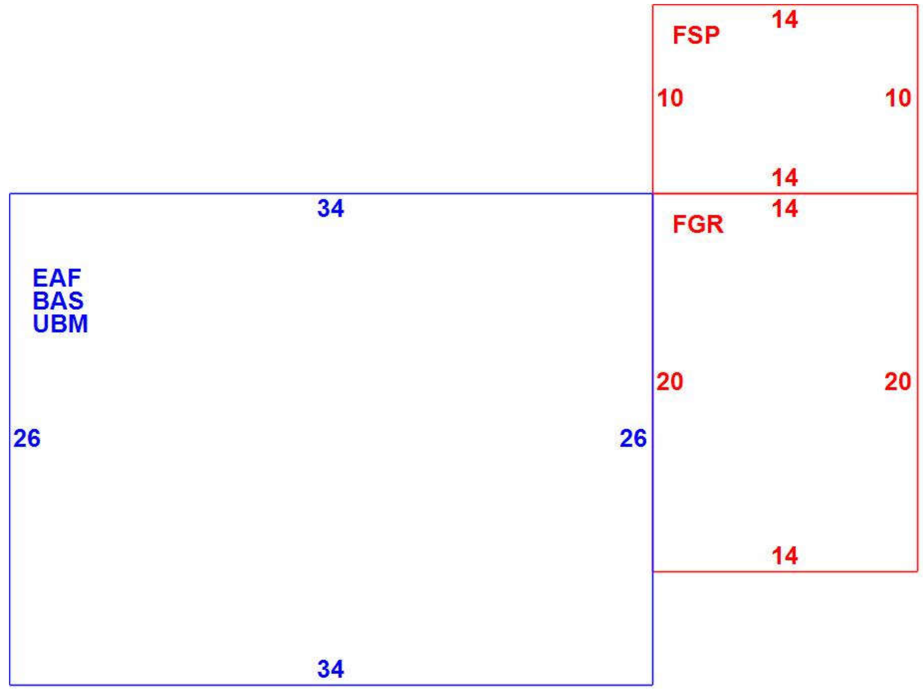
CONDO DATA

Parcel Id		C		Owne	0.0
			B		S

Adjust Type	Code	Description	Factor%
Condo Flr			
Condo Unit			

COST / MARKET VALUATION

Building Value New	331,378
Year Built	1950
Effective Year Built	1978
Depreciation Code	P
Remodel Rating	
Year Remodeled	
Depreciation %	44
Functional Obsol	0
External Obsol	0
Trend Factor	1
Condition	
Condition %	
Percent Good	56
RCNLD	185,600
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value

BUILDING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	884	884	884	212.15	187,541
EAF	Attic, Finished	354	884	354	84.96	75,101
FGR	Garage, Attached	0	280	112	84.86	23,761
FSP	Porch, Screen, Fin	0	140	35	53.04	7,425
UBM	Unfin Bsmnt	0	884	177	42.48	37,551
	Ttl Gross Liv / Lease Area	1,238	3,072	1,562		331,379

35 WHITING ST

Location	35 WHITING ST	**Mblu**	8/ 12/ / /
Acct#		**Owner**	INHABITANTS OF TOWN OF NORTH ATTLEBORO
Assessment	$243,400	**Appraisal**	$243,400
PID	1457	**Building Count**	1

Current Value

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$129,600	$113,800	$243,400
Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$129,600	$113,800	$243,400

Owner of Record

Owner	INHABITANTS OF TOWN OF NORTH ATTLEBORO	**Sale Price**	$0
Co-Owner	TREASURERS OFFICE - TAX TITLE	**Certificate**	
Address	43 S WASHINGTON ST N ATTLEBORO, MA 02760	**Book & Page**	25202/0086
		Sale Date	07/09/2019
		Instrument	1K

Ownership History

Ownership History					
Owner	**Sale Price**	**Certificate**	**Book & Page**	**Instrument**	**Sale Date**
INHABITANTS OF TOWN OF NORTH ATTLEBORO	$0		25202/0086	1K	07/09/2019
HART KATHLEEN R M, FEID D R, K D, ET AL	$100		19449/0109	1F	05/19/2011
HART K, LEBLANC D, FIED D R JR, K L, J +	$0		D CERT/0		02/26/2010
FEID DAVID ROBERT	$1		04906/0098		12/23/1991
FEID DAVID ROBER + KATHLEEN RO	$0		00964/0272		12/17/1948

Building Information

Building 1 : Section 1

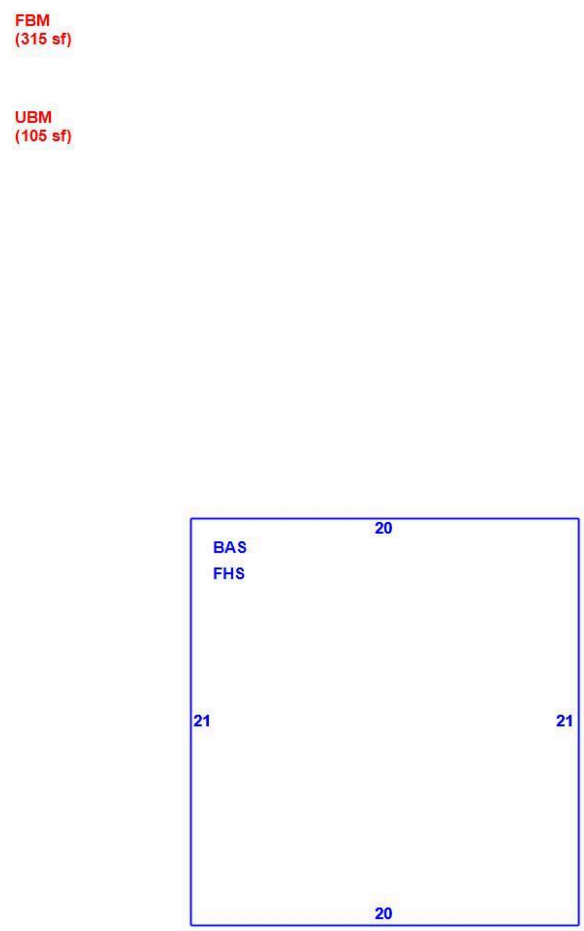
Year Built:	1910
Living Area:	630
Replacement Cost:	$249,231
Building Percent Good:	52
Replacement Cost Less Depreciation:	$129,600

Building Attributes	
Field	**Description**
Style:	Conventional
Model	Residential
Grade:	Average
Stories:	1.5
Occupancy	1
Exterior Wall 1	Asbest Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	Carpet
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	5
Bath Style:	Average
Kitchen Style:	Standard
Num Kitchens	
Cndtn	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

Building Photo

(https://images.vgsi.com/photos2/NorthattleboroPhotos//\00\01\59\55.jpg)

Building Layout



(ParcelSketch.ashx?pid=1457&bid=1433)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	420	420
FHS	Half Story, Finished	420	210

FBM	Finished Bsmnt	315	0
UBM	Unfin Bsmnt	105	0
		1,260	630

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 931R
Description SELECTMEN-IMPRVD
Zone IC30
Neighborhood 0050
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.29
Frontage 0
Depth 0
Assessed Value $113,800
Appraised Value $113,800

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	$110,000	$113,800	$223,800
2022	$96,600	$113,800	$210,400
2021	$89,000	$113,800	$202,800

Assessment			
Valuation Year	Improvements	Land	Total
2023	$110,000	$113,800	$223,800
2022	$96,600	$113,800	$210,400
2021	$89,000	$113,800	$202,800

Property Information

Property ID	8-12
Location	35 WHITING ST
Owner	INHABITANTS OF TOWN OF NORTH ATTLEBORO

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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Geometry updated 05/03/2023
Data updated 05/03/2023

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

Property Location **35 WHITING ST** Map ID **8/ 12/ / /** Bldg Name State Use **931R**
Vision ID **1457** Bldg # 1 Sec # 1 of 1 Card # 1 of 1 Print Date 3/5/2024 10:52:25 AM

CURRENT OWNER

INHABITANTS OF TOWN OF NORTH

43 S WASHINGTON ST

N ATTLEBORO MA 02760

TOPO	UTILITIES	STRT / ROAD	LOCATION

SUPPLEMENTAL DATA

Alt Prcl ID	00800012	Lots	
Water	Town:	Plan/Bldr L	
Sewer/Sep		I & E	
Old Parcel		Occ Permit	
ZBA Decis		Suppleme	
Trailing			
GIS ID	F_702095_2823163	Assoc Pid#	

CURRENT ASSESSMENT

Description	Code	Assessed	Assessed
EXEMPT	9310	129,600	129,600
EXM LAND	9310	113,800	113,800
	Total	243,400	243,400

712

N ATTLEBORO, MA

VISION

RECORD OF OWNERSHIP

RECORD OF OWNERSHIP	BK-VOL/PAGE		SALE DATE	Q/U	V/I	SALE PRICE	VC
INHABITANTS OF TOWN OF NORTH ATTL	25202	0086	07-09-2019	U	I	**0**	1K
HART KATHLEEN R M, FEID D R, K D, ET	19449	0109	05-19-2011	U	I	**100**	1F
HART K, LEBLANC D, FIED D R JR, K L, J	D CE	0	02-26-2010	U	I	**0**	
FEID DAVID ROBERT	04906	0098	12-23-1991			**1**	
FEID DAVID ROBER + KATHLEEN RO	00964	0272	12-17-1948			**0**	

PREVIOUS ASSESSMENTS (HISTORY)

Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed
2024	9310	129,600	2023	9310	110,000	2022	9310	96,600
	9310	113,800		9310	113,800		9310	113,800
	Total	**243,400**		Total	223,800		Total	210,400

This signature acknowledges a visit by a Data Collector or Assessor

EXEMPTIONS

Year	Code	Description	Amount
		Total	0.00

OTHER ASSESSMENTS

Code	Description	Number	Amount	Comm Int

APPRAISED VALUE SUMMARY

Appraised Bldg. Value (Card)	129,600
Appraised Xf (B) Value (Bldg)	0
Appraised Ob (B) Value (Bldg)	0
Appraised Land Value (Bldg)	113,800
Special Land Value	0
Total Appraised Parcel Value	243,400
Valuation Method	C
Total Appraised Parcel Value	**243,400**

ASSESSING NEIGHBORHOOD

Nbhd	Nbhd Name	B	Tracing	Batch
0050				

NOTES

ECO=ABUTS COMM

FINAL JUDGEMENT 6/6/2019

INST OF TAKING - 20153/0144 - 5/14/2012

BUILDING PERMIT RECORD

Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Notes
0428-01	05-24-2001		ROOF	1,000		100		

VISIT / CHANGE HISTORY

Date	Id	Type	Is	Cd	Purpost/Result
10-25-2021	KJ			01	Measur+1Visit
07-26-2021	DM			50	Reval Review
07-22-2013	DED			25	Field Review
05-15-2013	SS			01	Measur+1Visit
02-11-2009	RW			00	Measur+Listed
02-05-2009	RW			20	MEASU/NAH

LAND LINE VALUATION SECTION

B	Use Code	Description	Zone	LA	Land Type	Land Units		Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value
1	931R	SELECTMEN-IM	IC30			12,478	SF	10.13	1.00000	5	0.90	0050	1.000	ACC	1.0000	9.12	113,800

Total Card Land Units 0.2865 AC Parcel Total Land Area 0.2865 AC Total Land Value 113,800

Property Location 35 WHITING ST | Map ID 8/ 12/ / / | Bldg Name | State Use 931R

Vision ID 1457 | Account # | Bldg # 1 | Sec # 1 of 1 | Card # 1 of 1 | Print Date 3/5/2024 10:52:26 AM

CONSTRUCTION DETAIL

Element	Cd	Description
Style:	06	Conventional
Model	01	Residential
Grade:	03	Average
Stories:	1.5	
Occupancy	1	
Exterior Wall 1	07	Asbest Shingle
Exterior Wall 2		
Roof Structure:	03	Gable/Hip
Roof Cover	03	Asph/F Gls/Cmp
Interior Wall 1	03	Plastered
Interior Wall 2		
Interior Flr 1	12	Hardwood
Interior Flr 2	14	Carpet
Heat Fuel	02	Oil
Heat Type:	05	Hot Water
AC Type:	01	None
Total Bedrooms	02	2 Bedrooms
Total Bthrms:	1	
Total Half Baths	0	
Total Xtra Fixtrs		
Total Rooms:	5	
Bath Style:	02	Average
Kitchen Style:	02	Standard

CONSTRUCTION DETAIL (CONTINUED)

Element	Cd	Description

CONDO DATA

Parcel Id		C		Owne	0.0
			B		S

Adjust Type	Code	Description	Factor%
Condo Flr			
Condo Unit			

COST / MARKET VALUATION

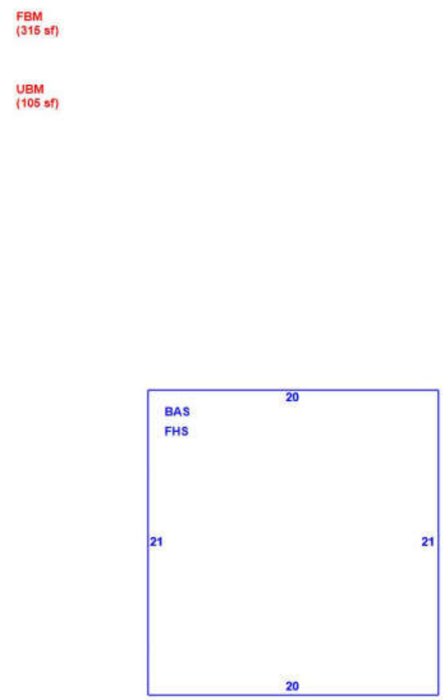
Building Value New	249,231
Year Built	1910
Effective Year Built	1979
Depreciation Code	F
Remodel Rating	
Year Remodeled	
Depreciation %	43
Functional Obsol	0
External Obsol	5
Trend Factor	1
Condition	
Condition %	
Percent Good	52
RCNLD	129,600
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value

BUILDING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	420	420	420	334.09	140,318
FBM	Finished Bsmnt	0	315	95	100.76	31,739
FHS	Half Story, Finished	210	420	210	167.05	70,159
UBM	Unfin Bsmnt	0	105	21	66.82	7,016
	Ttl Gross Liv / Lease Area	630	1,260	746		249,232



CHAPTER 8. Real Property Transactions

Overview

Chapter 30B applies to the purchase, sale, lease or rental of real property (including interests in real property). Chapter 30B establishes an advertised proposal process that you must follow in **acquiring** real property by purchase or rental with a **cost** greater than $35,000, and in **disposing** of real property by sale or rental with a **value** greater than $35,000.[99] Chapter 30B has additional requirements for the disposition of real property, regardless of its value.

M.G.L. c. 7C, § 38, requires that a disclosure of beneficial interests be filed for each real property transaction regardless of the cost or value of the acquisition or disposition. The person acquiring property from, or selling or leasing property to, a public agency must file the disclosure. No agreement, renewal or extension is valid until the disclosure is filed with the Division of Capital Asset Management and Maintenance. Also, a new disclosure must be filed within 30 days of a change in beneficial interests during the term of an agreement.

Real property is defined as property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it. Interests in real property include leases, mortgages, preservation restrictions, easements and profits à prendre (such as the right to remove gravel or ledge from land).

Profits à prendre do not include the right to enter property to remove standing wood or timber. Under Massachusetts case law, transactions involving the right to remove standing wood or timber are not considered to be interests in real property subject to Section 16 of Chapter 30B. Such transactions are subject to the rules governing the sale of surplus supplies contained in Section 15 of Chapter 30B.

The following real property transactions are *not* subject to Chapter 30B, either because they are specifically exempted or because the transactions are governed by other statutes:

[99] M.G.L. c. 30B, § 16.

In addition, it is our Office's opinion that Chapter 30B does not apply a private party's exercise of a unilateral option, granted prior to the enactment of Chapter 30B, to renew or extend a lease for real property if the right to exercise that option, and all the terms and conditions that govern the option, were spelled out in the original lease. A typical example would be a lease, executed by your local jurisdiction prior to the effective date of Chapter 30B in May 1990, that gives the lessee one or more unilateral option(s) to extend or renew the lease. However, Chapter 30B would apply to any change to the lease outside of the original terms.

Chapter 30B allows you to shorten the period for advertising for proposals or dispense with advertising altogether in only two special circumstances: (1) in an emergency, if you determine that the time required would endanger the health or safety of people or property; or (2) for an acquisition, if you determine that advertising for proposals would not benefit your local jurisdiction because of the unique quality or location of the property you need. Additional information on these circumstances is presented at the end of this chapter's section on real property acquisitions.

Chapter 30B places no restrictions on who within your jurisdiction may undertake or approve a real property transaction. Consult with your legal counsel if you have questions about who is authorized by your local charter, bylaws, ordinances, or other local rules to conduct real property transactions.

Under Chapter 30B you must conduct an open and fair competition that places all proposers on common footing, solicit information that will allow manageable and meaningful comparisons of offers and base your decisions solely on the information you solicited.

Chapter 30B gives you flexibility in fashioning a proposal solicitation process (solicitation) for real property transactions. You may structure your solicitation to resemble a bid, through which you will select the proposer that meets your quality requirements and offers the best price, or to resemble an RFP for supplies or services, through which you will also consider the relative merits of the proposals submitted. It is important to note that even though Section 16 of Chapter 30B requires you to solicit

Real Property Acquisitions

You must solicit proposals to acquire real property by lease or purchase at a *cost* of more than $35,000. The *value* of the property is irrelevant to determining whether Chapter 30B applies. For example, you may lease a valuable piece of property for ten years for $1.00 per year without issuing a solicitation because the cost to your jurisdiction is less than $35,000, even if the value of the property is higher.

If you are leasing space, you determine the value of the acquisition by calculating the lease price over the entire contract term. For example, if a three-year lease with a monthly rent of $1,000 has an entire contract cost of $36,000, it must be procured by an advertised solicitation.

Step 1: Determine what you need to acquire

As a practical matter, before you acquire any property you must determine what you need. The initial cut at determining your needs may be simple: for example, you need land for a public works yard, a parking lot or office space. However, you should consider the details. For example:

- Do you want to purchase the property or lease it?
- How much land or office space is needed? Are you interested in acquiring a set amount, or are you willing to consider offers for more than your minimum needs?
- What level of finish do you want for office space?
- What are your location requirements? Is any area in your local jurisdiction acceptable?
- How much parking is needed? Is there access to public transportation?
- Is the space accessible to persons with disabilities?
- Are there any environmental issues relevant to the site?
- Do you have any special utility requirements?

Once you have identified what you need, check to see whether your local government already owns a suitable property. If you have a real property inventory, consult it. Also, consult with department heads and other officials concerning the current and future availability of property that meets your needs.

- the purpose for which the property is to be used (for example, "a public works yard");
- any special requirements (for example, "the property may not be adjacent to wetlands or over an aquifer");
- the method of acquisition, such as a lease or purchase; and
- the planned occupancy date and, if you plan to lease the property, the lease term.

You may append other documents (for example, a study of your need for a public works yard) or describe them and indicate how they may be obtained.

Evaluation criteria. Indicate how you will select a proposal from among the competing proposals. The process is similar to developing evaluation criteria for supplies or services (described in Chapters 4 and 5). You should establish:

- criteria to evaluate responsiveness (whether the proposer agrees to provide property that meets your specifications and whether the proposal contains all the required documents and forms, properly completed) and responsibility (whether the proposer has the capability, reliability and integrity to perform under the contract);
- comparative criteria, if you decide that you want to look at the relative merits of the property proposals rather than selecting the responsive and responsible proposal that offers the best price; and
- a method to evaluate prices.

You may establish any rating scheme that preserves open and fair competition, keeps proposers on a common footing, and allows manageable and meaningful comparisons. You have the option to use the same rating categories that are used in Chapter 30B RFPs for supplies and services: highly advantageous, advantageous, not advantageous and unacceptable. However, you are not required to do so.

The box on the next page illustrates two alternate methods of using evaluation criteria in real property acquisitions. The first is, in effect, a bid process through which you will acquire property by selecting the lowest-priced proposal meeting your defined requirements. The second is a proposal process through which you may select a higher-priced proposal because of advantages the higher-priced property offers.

rents for each year of the lease? If rent escalators may be proposed, you should state how you will calculate the present value of the rental payments and include the formula in your solicitation.

> **You may solicit prices for two different lease terms if you state a rule for how you will decide which term to select.** This can be useful if you want to compare, say, a five-year lease to a ten-year lease. Be careful to establish a clear decision rule up front and follow it to avoid the appearance of favoritism.

Similarly, if you plan to accept price proposals for a lease that includes utilities and for a lease that does not, you should include in the solicitation the method you will use to determine the value of the utilities. To simplify price comparisons in a lease acquisition, it is helpful to provide a standard price form for all proposers to complete.

Rule for award. Your solicitation should contain a clear rule for award stating how the winning offer will be selected. For example, if you plan to select the lowest-priced offer of leased space meeting your evaluation criteria, your rule for award might be stated as follows:

> *The lowest-priced offer from a responsive and responsible proposer will be selected.*

If you plan to weigh offers from responsive and responsible proposers, your rule for award might be stated as follows:

> The most advantageous offer from a responsive and responsible proposer, taking into consideration all evaluation criteria and price, will be selected.

Submission requirements. Your solicitation should state the rules for proposal submission. Specify when (date and time) and where sealed proposals must be delivered, how proposal packages should be marked, and how proposers may correct, modify or withdraw proposals. State that the selected proposer will be required to submit a disclosure of beneficial interests to the Division of Capital Asset Management and

> **Price and non-price proposals need not be submitted separately.** Unlike the Chapter 30B RFP requirements for supplies and services, the Chapter 30B requirements for real property transactions do not require separate submissions of price and non-price proposals. Moreover, real property proposals, including price proposals, are not confidential after they are opened.

The box below contains information about contract terms and conditions for real property acquisitions.

Real Property Acquisitions: Contract Terms and Conditions

Purchases. If you are purchasing real property, have your attorney draft any required terms into the purchase and sale agreement. Include any mandatory purchase terms in the solicitation. Require a certification of tax compliance from the seller (M.G.L. c. 62C, § 49A) and a disclosure of beneficial interests (M.G.L. c. 7C, § 38).

Leases. If you are acquiring property by lease, spell out mandatory lease terms in the solicitation. A typical lease should:

- Name the parties to the lease and the responsible parties to receive any notices under the lease.
- Incorporate by reference the proposal chosen, including a detailed description of the leased property.
- Specify the duration of the lease, including any renewal, extension or other options. If the lease will include a renewal option, you must specify how the rent will be determined for the renewal period.
- Identify the payment terms, including when payments are due.
- Spell out all of the responsibilities and obligations of the parties for maintenance, cleaning, utilities, rubbish disposal, snow removal, liability and casualty insurance, etc.
- Specify that lease amendments must be in writing and signed by individuals authorized to contract on behalf of your local government.
- Specify what constitutes cause to terminate the lease, what notice must be provided prior to termination and what opportunity must be granted to correct any problem.
- Prohibit any activity that would constitute a violation of the conflict of interest law (M.G.L. c. 268A).
- Specify that the lease constitutes the entire agreement and that there are no agreements other than those incorporated therein.
- Require a certification of tax compliance by the lessor (M.G.L. c. 62C, § 49A) and a disclosure of beneficial interests (M.G.L. c. 7C, § 38).

Step 3: Advertise for proposals

You must advertise for proposals in a newspaper with a circulation sufficient to inform the people in the affected locality.[110] The advertisement must be published at least once a week for two consecutive weeks before the day you selected for opening

[110] M.G.L. c. 30B, § 16(d).

Step 5: Open and evaluate proposals

Proposals must be opened in public at the time and place specified in the solicitation. You should record the name of each proposer, the location of the property each proposer is offering and each proposal price. The proposals become public information when they are opened. All documents should be submitted in one sealed envelope.

You must evaluate the proposals using only the criteria you identified in the solicitation. If your solicitation states that you will make an award to the responsive and responsible proposer that offers the best price (in essence, a bid process), you may simply identify the lowest-priced proposal and then evaluate that proposal to determine whether it meets the requirements stated in the solicitation. If the proposal does not meet the requirements, reject it and proceed to evaluate the next lowest-priced proposal.

If your solicitation states that you will evaluate proposals using comparative evaluation criteria, it will usually be most efficient to first look at the responsiveness and responsibility of the proposals and reject any that you deem nonresponsive or not responsible. Then evaluate all the remaining proposals on the basis of your comparative criteria and price, prepare written evaluations and decide which proposal best meets the needs of your local jurisdiction, considering the evaluation criteria and price.

If you determine that it is not in the best interest of your local jurisdiction to award the contract, you may choose to cancel the proposal process.[112] You may do so before or after you open and evaluate proposals. However, after you have executed a contract, you will not be able to cancel the transaction.

Step 6: Submit disclosures

You must submit the name of the selected proposer and the amount of the transaction to the *Central Register*, which is published by the Secretary of the Commonwealth.[113]

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[112] See *Mangano v. Town of Wilmington*, 51 Mass. App. Ct. 857 (2001).

[113] Appendix B provides the website address for the online submission form for this notice, and Appendix D provides contact information for the Secretary of the Commonwealth.

Real Property Acquisitions: Unique Property Acquisitions and Emergencies

Unique Acquisitions

Chapter 30B does not require you to solicit proposals to acquire property if your local jurisdiction has determined that it needs a particular piece of property because of its unique qualities or location.[115] For example, you may use this Chapter 30B provision to acquire open land abutting an existing park or a particular parcel of wooded land for conservation purposes. You may not, however, use this provision to acquire property simply because you are not aware of any other property that will meet your requirements. For example, if you need space for an office in a particular area, you may be aware of only one available location, but you still must advertise for proposals to test the market.

Chapter 30B does not authorize "swaps" of real property between a local government and a private party. You can acquire a property without competition if it meets the requirements for a unique acquisition, but there is no basis for disposing of property without an advertised competition. Acquisitions and dispositions of real property must be carried out as separate processes under the statute.

The Chapter 30B rules for acquiring unique property require you to make a written determination that advertising will not benefit your local jurisdiction because of the unique qualities or location of the property needed. The determination must specify how the property proposed for acquisition satisfies the unique requirements of your local jurisdiction.

You may execute a separate option contract to purchase unique property before publishing a public notice, as long as the contract does not require you to purchase the property. After you have identified property that meets the standard for waiving the advertised solicitation process, you may secure an option for the property obliging the owner to sell it to you for an agreed-upon price. You can then publish the required 30-day notice in the *Central Register.*

Although such an acquisition of real property is exempt from the advertised solicitation

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115 M.G.L. c. 30B, § 16(e)(2).

If you invoke this provision, you must publish a notice in the *Central Register* at the earliest opportunity stating the reason for declaring the emergency.[119]

M.G.L. c. 7C, § 38, requires disclosure of all beneficial interests in real property acquired or disposed of by a public agency. The selected proposer must file the disclosure of beneficial interests with DCAMM. No contract to lease or sell property, and no renewal or extension of such an agreement, is valid until the seller or lessor files this form with DCAMM.[120] An updated disclosure form must be filed within 30 days of any change in beneficial interests during a lease term.

[119] Appendix B provides the website address for the online submission form for this notice, and Appendix D provides contact information for the Secretary of the Commonwealth.

[120] Appendix B contains the website address for DCAMM's real estate transaction disclosure form for this purpose, and Appendix D provides contact information for DCAMM.

requirements. In that case, you would not specify a use restriction. However, if you were leasing only part of a school building, M.G.L. c. 40, § 3, would require you to specify that the use be compatible with the functioning of the school.

Step 2: Determine the value of the property

You must determine the value of the property before you can dispose of it. Chapter 30B requires that you determine the property's value by using procedures customarily accepted as valid by the appraising profession. You may hire an appraiser, although you are not required to do so. You may also rely on the municipal assessment of a property's value if it is current, if the municipality is assessed at 100 percent, and if the assessment is determined through valid procedures. The value of most parcels of property will likely exceed the $35,000 threshold for advertised competition. For a lease, you may use market rent data, or even advertised rental rates, if the number of similar properties on the market is sufficient to determine the lease value.

Step 3: Develop the solicitation

If the value of the property exceeds $35,000, you must solicit proposals. Your solicitation provides interested parties with the information they need to decide whether they want the property and to submit a responsive proposal. The major components of a real property disposition solicitation are as follows:

- a description of the property and interest in the property you plan to sell or lease (the "property description") and any use restrictions;
- evaluation criteria;
- rule for award;
- proposal submission requirements; and
- the contract terms and conditions.

Property description. The property description must be detailed enough for interested parties to understand what you are offering. Be sure to identify use restrictions established by your local jurisdiction. If the property is being offered for sale, include a reference to a deed or survey. Also identify in the property description the buildings and structures included in the disposition and any restrictions on their use, such as deed restrictions. Drawings, plot plans and other relevant documents should either be

You should inform proposers how you will determine the best price. For example, in a multi-year lease, specify whether proposers may propose level monthly payments over the term, or if they may propose escalating rents for each year of the lease. If rent escalators may be proposed, you should state how you will calculate the present value of the rental payments and include the formula in the solicitation. To simplify lease price comparisons, it is helpful to provide a standard price form for all proposers to complete.

If you are interested in promoting a public purpose and price is less important, you will have to carefully think through what you want and how you will evaluate it. The box on the next page presents information on dispositions to promote public purposes.

Rule for award. Your solicitation should contain a clear rule for award stating how the winning offer will be selected. For example, if you plan to select the highest-priced offer meeting your evaluation criteria, your rule for award might be stated as follows:

> *The highest-priced proposal from a responsive and responsible proposer will be selected.*

If you plan to weigh offers from responsive and responsible proposers, your rule for award might be stated as follows:

> *The most advantageous proposal from a responsive and responsible proposer, taking into consideration price and all other evaluation criteria set forth in the solicitation, will be selected.*

If, when leasing surplus real property, your objective is to promote a public purpose, such as an affordable day care center, you may award a fixed-rent contract to the responsive and responsible proposer that meets your evaluation criteria. Thus, your rule for award would not include price as a selection factor; for example:

> *The most advantageous proposal from a responsive and responsible proposer, taking into consideration all evaluation criteria set forth in the solicitation, will be selected.*

The box below contains additional information about real property dispositions to promote public purposes.

Proposal submission requirements. Your solicitation should state the rules for proposal submission. Specify when (date and time) and where sealed proposals must be delivered, how proposal packages should be marked, and how proposers may correct, modify, or withdraw proposals. If the disposition is a lease, include any options to renew or extend the lease. State that the selected proposer will be required to submit a disclosure of beneficial interests to DCAMM, as required by M.G.L. c. 7C, § 38, and include any standard forms proposers must submit.

Price and non-price proposals need not be submitted separately. Unlike Chapter 30B's RFP requirements for supplies and services, Chapter 30B does not require separate submissions of price and non-price proposals for real property transactions. Moreover, real property proposals, including price proposals, are not confidential after they are opened.

Contract terms and conditions. Any terms and conditions you will require in the agreement must be specified in the solicitation and in the contract, including use restrictions and the terms of any renewal, extension or purchase options. It is important to note that Chapter 30B does not limit the length of real property contracts. That is, the Chapter 30B majority vote requirement for supply and service contracts exceeding three years[123] does not apply to Chapter 30B real property contracts. However, there may be other statutory or local restrictions that apply to your real property contracts. For example, M.G.L. c. 40, § 3, limits towns to public building leases of 30 years and leases of school houses in use as schools to 25 years. A Massachusetts Appeals Court decision affirmed a Superior Court ruling that held that an automatic renewal clause on the same terms that exceeded the limit violated M.G.L. c. 40, § 3.[124] Your legal counsel can advise you regarding restrictions that may apply to your local jurisdiction's real property transactions.

[123] M.G.L. c. 30B, § 12(b).

[124] *Comets Community Youth Center, Inc. v. Town of Natick*, 56 Mass. App. Ct. 1109 (2002).

Step 4: Advertise for proposals

You must advertise for proposals in a newspaper with a circulation sufficient to inform the people of the affected locality.[125] The advertisement must be published at least once a week for two consecutive weeks before the day you select for opening the proposals. The last publication must occur at least eight days before the proposal opening. You may, of course, advertise in more newspapers, in newspapers outside your area, and more frequently.

> **You can contract with a broker to help dispose of property.** The broker's job will be to show the property and encourage the submission of sealed proposals on the due date. Your contract with the broker is subject to Chapter 30B.

The advertisement must specify the geographical area, the terms and conditions of the proposed transaction, and the time and place for the submission of proposals and awarding of the contract. It must also state where and when prospective proposers may obtain a copy of the solicitation.

> **Advertise where you will maximize exposure to potentially interested parties.** For example, if you are offering to lease office space, you will probably reach more potential lessees by advertising in the classified section under "office space" rather than advertising in the legal notices section.

If the proposed disposition involves more than 2,500 square feet, you must also publish an advertisement, at least 30 days before the opening of proposals, in the *Central Register*, which is published by the Secretary of the Commonwealth.[126]

You may inform potential proposers, including brokers and developers, of the availability of the solicitation. Be careful to avoid favoritism or the appearance of favoritism.

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[125] M.G.L. c. 30B, § 16(d).

[126] Appendix B provides the website address for the online submission form for this advertisement, and Appendix D contains contact information for the Secretary of the Commonwealth.

If you determine that it is not in the best interest of your local jurisdiction to award the contract you may choose to cancel the proposal process.[127] You may do so before or after you open and evaluate proposals. However, once you have executed a contract, you will not be able to cancel the transaction.

Step 7: Submit disclosures

You must submit the name of the selected proposer and the amount of the transaction to the *Central Register*, which is published by the Secretary of the Commonwealth.[128] If you intend to dispose of the property for less than the value determined in Step 2, your *Central Register* notice must explain the reasons for your decision and disclose the difference between the value and the price to be received.[129] To be consistent with its purpose, this notice should be published prior to entering into a binding agreement to dispose of the property.

Also, M.G.L. c. 7C, § 38, requires disclosure of all beneficial interests in real property acquired or disposed of by a public agency. The selected proposer's disclosure of beneficial interests must be filed with DCAMM. No contract to lease or sell property, and no renewal or extension of such an agreement, is valid until the seller or lessor files this form with DCAMM.[130] An updated disclosure form must be filed within 30 days of any change in beneficial interests during a lease term.

Step 8: Execute the contract

If you are selling real property, have your legal counsel draft a purchase and sale agreement that incorporates all of the mandatory terms and conditions required by the solicitation. If you are disposing of the property by lease, execute a lease that incorporates all the terms and conditions stated in the solicitation.

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[127] See *Mangano v. Town of Wilmington*, 51 Mass. App. Ct. 857 (2001).

[128] M.G.L. c. 30B, § 16(f). Appendix B provides the website address for the online submission form for this disclosure, and Appendix D contains contact information for the Secretary of the Commonwealth.

[129] M.G.L. c. 30C, § 16(g).

[130] Appendix B contains the website address for DCAMM's real estate transaction disclosure form for this purpose, and Appendix D provides contact information for DCAMM.

disclosure of beneficial interests with DCAMM. No contract to lease or sell property, and no renewal or extension of such an agreement, is valid until the seller or lessor files this form with DCAMM.[132] An updated disclosure form must be filed within 30 days of any change in beneficial interests during a lease term.

Intragovernmental and Intergovernmental Dispositions

Intragovernmental real property transactions, such as the transfer of use of a property from one department to another department within a single city or town, are not subject to Chapter 30B. However, intergovernmental real property transactions, such as the sale of land by one local government to another local government, are subject to some Chapter 30B requirements.[133] If you intend to dispose of real property to the federal government, the Commonwealth, another state, a county or another local jurisdiction, you must first declare the property available for disposition, identify use restrictions and determine the property's value. If you are going to dispose of the property for less than the determined value, you must publish a notice in the *Central Register* explaining the reasons for your decision and disclosing the difference between the value and the price to be received.[134]

[132] Appendix B contains the website address for DCAMM's real estate transaction disclosure form for this purpose and Appendix D provides contact information for DCAMM.

[133] M.G.L. c. 30B, § 16(i).

[134] Appendix B provides the website address for the online submission form for this notice and Appendix D provides contact information for the Secretary of the Commonwealth.

ARTICLE IV. GENERAL PROVISIONS

Section 1. CONTRACTS

a. The procedures established under various Massachusetts General Laws shall apply to all Town Contracts for the procurement of supplies, services or real property and for the disposing of supplies or real property, except where additional requirements are stipulated in these By-Laws.

b. In all cases where the amount of the procurement is ten-thousand dollars ($10,000) or greater, the same shall be in writing and signed by at least a majority of the Board or Committee, or their delegated authority or designee, making such procurement. Copies of the related purchase order or contract shall be filed with the Town Accountant, the involved department or committee and the contractor.

c. The Town Accountant, or his/her designee, shall verify the availability of funds for all procurement contracts under which the town shall be a party.

d. The Chief Procurement Officer as appointed by the Board of Selectmen may delegate powers and duties in accordance with c. 30B s. 19.

e. Any Board or officer in charge of a Department of the Town may, with the prior approval of the Selectmen in writing, sell or otherwise dispose of property within the control of the Department which has become obsolete or is not required for further use by such Department. Property of a value exceeding three hundred dollars ($300.00) shall be sold, traded in, or otherwise disposed of on the basis of competitive bids

f. Whenever a Town board or officer having charge of real estate, except for park, forest and conservation land, shall determine that such real estate is no longer needed for the use of the Department, such Board or officer shall forthwith give notice of such determination to the Board of Selectmen. The board of Selectmen shall then have custody of such property and shall dispose of same by two-thirds vote of a regular or special Town meeting in accordance with M.G.L. Ch. 40, Sections 3 and 15A.

g. All contractual agreements, surety bonds and deeds and easements which the Town is a party shall be submitted to Town Counsel for approval as to form and manner of execution.

Section 2. ELIGIBILITY OF TOWN OFFICERS TO DO BUSINESS WITH THE TOWN

No Town officer, elected or appointed, or member of a Committee chosen by the Town or by the Board of Selectmen, nor any agent of such officer or Committee, shall have any financial interest in any contract or bargain made or approved in behalf of the Town by himself, any Board or Committee of which he is a member, or for which he may act as agent. The Town Treasurer shall pay no bills contracted in violation of this section.