

## **STATE HOUSING APPEALS BOARD**

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### **Minutes of the September 18, 2013 Board Meeting**

**The State Housing Appeals Board (“SHAB” or the “Board”) held a public meeting on September 18, 2013 at The Department of Administration, One Capitol Hill, Providence, Rhode Island.**

#### **ATTENDANCE**

**The following members were present: Chairwoman Kelley Morris, Brenda Clement, James Grundy, June Sager Speakman, Robert Cuttle, Luis Torrado and municipal alternate member Steven Stycos. Also present were Steven M. Richard, legal counsel to the SHAB, and Christine DaRocha, administrative staff to the SHAB. Because all municipal members were present, Mr. Stycos did not participate in the voting in the S.W.A.P. vs. Town of West Greenwich appeal discussed below.**

**Call to Order**

**Chairwoman Morris called the meeting to order at 4:10 p.m.**

### **Approval of 7/31/13 Minutes**

**The Board unanimously approved the 7/31/13 minutes.**

### **Update from SHAB's legal counsel regarding status of docket**

**Mr. Richard stated he is drafting the Board's decision in the Ocean Breeze Condominium, LLC v. Town of Narragansett appeal.**

**Regarding NEMA v. Westerly, settlement efforts are still ongoing and SHAB will monitor the status of the appeal.**

**Regarding North End Holdings v. Barrington, SHAB is awaiting briefs and should be able to schedule a hearing during the Fall.**

### **S.W.A.P. vs. Town of West Greenwich, SHAB Appeal No. 2013-01**

**Review and Consideration of Town of West Greenwich's Motions to Dismiss**

**Mr. Richard raised the issue of the participation of Board member June Sager Speakman, who serves on the Barrington Town Council which is represented by the same law firm as the Town of West Greenwich. Ms. Speakman confirmed that she is able to participate in**

**this appeal impartially. William Landry, attorney for the Developer, Nancy Letendre, attorney for the Town, and Robert Craven, attorney for owners of Blueberry Heights, confirmed that the parties have no objection to Ms. Speakman's participation.**

**Attorney Letendre focused on the Town's argument that SHAB lacks statutory jurisdiction to address the issues raised in the Developer's appeal. The Town contends that the Solicitor acted on behalf of the Town Council when sending its letter dated February 13, 2013 stating that the master plan approval had expired. The Town contended that issues relating to vesting rights are beyond SHAB's appellate review. The Town asserted that any issues relating to the interpretation of the parties' Consent Order belong in the courts.**

**Attorney Craven argued that Blueberry Heights agrees with the Town's argument.**

**Attorney Landry argued that SHAB has jurisdiction because the Town's action equates to a denial. He indicated that the Planning Board was moving forward with the application and working with the Developer, yet the Town Council took a different position and stopped the project entirely. Attorney Landry contended that SHAB could take additional evidence, if needed, and has the ability to look at the issue of vesting.**

**SHAB discussed the arguments. SHAB members expressed significant concerns about the Town's position, especially given the timing of some of its actions and mixed signals sent to the Developer.**

**SHAB members found the Town's positions to be dubious. Nonetheless, SHAB determined that it was constrained from taking action in this matter because of its limited appellate powers under the Low and Moderate Income Housing Act. Also, SHAB has a very limited record before it and cannot develop a new record in the manner suggested by the Developer. Reluctantly, SHAB determined that it must dismiss the appeal.**

### **Votes**

**Chairwoman Morris moved that SHAB must dismiss the appeal for lack of jurisdiction, and Mr. Cuttle seconded the motion. A roll call vote was taken with 5 votes to 1 in favor of the dismissal, with Mr. Torrado voting against the motion. SHAB will issue a written decision regarding its ruling.**

### **Adjournment**

**The meeting adjourned at 6:15 p.m.**

**Respectfully submitted,**

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**Kelley Morris, Esq., Chairwoman**