



Massachusetts Housing Finance Agency
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March 16, 2018

Mr. Haralambos Katsikis
Byfield Estates, LLC
2 Dearborn Way
Middleton, MA 01949

**Re: Byfield Estates, Newbury
Project Eligibility/Site Approval
Project #838**

Dear Mr. Katsikis:

I write regarding the determination of Project Eligibility (Site Approval) that Massachusetts Housing Finance Agency ("MassHousing") issued to you on or about October 26, 2016 in connection with your proposal to build 24 homeownership units on 16.36 acres of land in Newbury, Massachusetts (the "Project Eligibility Letter" and the "Project," respectively). For the reasons set forth herein, MassHousing hereby rescinds the Project Eligibility Letter.

Massachusetts General Laws c. 40B, §§ 20-23 ("Chapter 40B"), promotes responsible housing growth by creating a streamlined permitting process for eligible projects that utilize subsidized financing to meaningfully accommodate lower-income residents. As the Supreme Judicial Court has recognized, Chapter 40B was enacted to address an acute shortage of decent, safe low and moderate cost housing throughout the Commonwealth. The success of Chapter 40B projects is of critical importance to the Commonwealth of Massachusetts as it has, since its enactment, supported the vast majority of affordable housing construction in Massachusetts outside of our largest cities.

MassHousing is an independent, quasi-public agency charged with providing financing for safe, affordable housing in Massachusetts. MassHousing takes its mission very seriously, and integrity is among the core values that guide our culture. Indeed, some of the functions that MassHousing performs with respect to the Chapter 40B process are designed to prevent fraud and abuse. With respect to applications for Project Eligibility (Site Approval) for Chapter 40B developments, MassHousing relies on applicants to provide truthful and complete information. Unfortunately, you failed to do so.

Your Application for Chapter 40B Project Eligibility/Site Approval, dated March 16, 2016 (the "Application"), contains a "Certification." In this section, you were required to "certify" "under

pains and penalties of perjury” whether you or any of the “Applicant Entities”^{1/} have “ever been subject to a felony indictment or conviction,” and, if so, provide a written explanation of any required disclosure. In response to this question, you checked “No.” Further, you certified that the information disclosed in the Application was “true, accurate and complete,” and you acknowledged that you “understood that MassHousing [would be] relying on this information in processing the request for Site Approval.” You signed the Application and Certification, in your name, as the applicant.

After issuing the Project Eligibility Letter, MassHousing became aware that you had been indicted on several felony counts of indecent assault and battery on a person fourteen or older, in violation of G. L. c. 265, § 13H, and several additional misdemeanor counts of accosting and annoying a person of the opposite sex, in violation of G. L. c. 272, § 53, and assault and battery, in violation of G. L. c. 256, § 13A(a). The District Attorney’s Press Release states that authorities determined that you “harassed and accosted numerous women” you had hired to work in your restaurant, “taking advantage of [your] authority as an owner and placing the women in uncomfortable situations while they were trying to earn a living” and that you subjected the five victims to a “barrage of sexualized comments and unwanted physical contact.”^{2/}

On or about February 23, 2018, you provided us with a communication from Attorney Doolin who represented you in the criminal matter. According to Mr. Doolin, “ten counts of the indictment were dismissed and the remaining counts were continued without a finding of guilty.” After completion of the terms set by the court, including two years of probation, your case was dismissed in April 2014. The court’s public docket indicates that you admitted to sufficient facts to support five misdemeanor counts of annoying and accosting a person of the opposite sex (which is consistent with contemporaneous news reports that the District Attorney agreed to drop the felony counts as part of a plea agreement).^{3/}

Although the felony charges against you were dismissed, the Application expressly required you to disclose “if you have ever been the subject of” any felony indictments and, if so, to provide an explanation of the circumstances. The indictments were not disclosed on the Application, nor was any written explanation of the indictments provided to MassHousing with the Application.

MassHousing relied on the accuracy of your disclosures, including but not limited to your disclosures regarding your criminal history, in issuing the Project Eligibility Letter. Your

^{1/} As set forth in the Application, the “Applicant Entities” include: the Applicant and the Proposed Development Entity, and the Managing Entities, Principals, Controlling Entities and Affiliates of each. Managing Entities include natural persons.

^{2/} See March 29, 2012 Middlesex District Attorney Press Release, *Billerica Restaurant Owner Admits To Sufficient Facts To Charges of Annoying And Accosting A Person Of the Opposite Sex Regarding 5 Female Employees*, available here: <http://middlesexda.com/news/press-release.php?reference=563>.

^{3/} Redmond, *Billerica Restaurant Owner Admits to Facts in Groping Case*, Lowell Sun (Mar. 30, 2012) (“As part of the plea agreement, prosecutor Elizabeth Dunigan agreed to drop charges of indecent assault and battery on a person over 14 and assault and battery.”). See also, above, March 29, 2012 Middlesex District Attorney Press Release.

criminal history is material, as you acknowledged in certifying that you understood MassHousing would be relying on the information in the Application and as reflected by the circumstances of your indictment and the serious nature of the charges. You further certified that you "underst[ood] the requirements for [] completing [the] [A]pplication." Because you chose to conceal your criminal history by affirmatively representing that you had not ever been the subject of a felony indictment, you made a material misrepresentation in the Application. Because MassHousing relied on your false statement of material fact, MassHousing hereby rescinds the Project Eligibility Letter effective immediately. Moreover, to allow a developer to proceed under these circumstances would sanction such misrepresentations and invite fraud in the Chapter 40B process. MassHousing is also suspending you immediately from further participating in MassHousing's Chapter 40B site approval process.

Contemporaneously herewith, we are providing a courtesy copy of this letter to the Newbury Zoning Board of Appeals and Board of Selectmen. In addition, please be advised that, by copy of this letter, we are notifying the other Chapter 40B Subsidizing Agencies (the Department of Housing and Community Development, the Massachusetts Housing Partnership Fund Board, and the Massachusetts Development Finance Agency) of this suspension with the recommendation that the you be suspended from participation in the Chapter 40B process for projects in which they may serve as Subsidizing Agency.

Sincerely,



Paul McMorrow
Director of Communications & Policy

cc: Howard Traister, Chairman, Zoning Board of Appeals for the Town of Newbury
Geoffrey Walker, Chairman, Town of Newbury Board of Selectmen
The Honorable Bruce E. Tarr
The Honorable Leonard Mirra
Roberta Rubin, Chief Counsel, DHCD
Judy Jacobson, Deputy Director & General Counsel, MHP
Robert Ruzzo, Deputy Director & General Counsel, MassDevelopment