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BIDDER'S INFORMATIONAL PACKAGE 650 & 652 SOUTH EAST STREET AMHERST, MASSACHUSETTS

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THE FOLLOWING MATERIALS ARE FURNISHED SOLELY FOR INFORMATIONAL PURPOSES. NO WARRANTIES OR REPRESENTATIONS ARE MADE BY EITHER THE MORTGAGE HOLDER, OR THE AUCTION COMPANY AS TO THE ACCURACY, COMPLETENESS OR USEFULNESS OF THESE MATERIALS OR THE INFORMATION CONTAINED THEREIN. PROSPECTIVE PURCHASERS SHOULD MAKE THEIR OWN INVESTIGATIONS AND INSPECTIONS AND DRAW THEIR OWN INDEPENDENT CONCLUSIONS. THESE MATERIALS AND THE INFORMATION CONTAINED THEREIN ARE ALSO SUBJECT TO POSSIBLE CHANGE PRIOR TO OR AT THE TIME OF THE SCHEDULED FORECLOSURE SALE.

NOTICE OF MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage ("Mortgage") given by The Levi-Nielsen Co., Inc. ("Mortgagor") to Greenfield Savings Bank (the "Mortgagee") dated September 12, 2007, and recorded with the Hampshire County Registry of Deeds in Book 9266, Page 101, of which Mortgage the Mortgagee is the present holder, for breach of the conditions of said Mortgage and for the purpose of foreclosing the same, the premises described in said Mortgage all and singular will be sold at Public Auction AT 11:00 AM on Tuesday, November 13, 2012 at the mortgaged premises known as 650-652 South East Street, Amherst, MA, to wit:

"Parcel One:

The land in Amherst, Hampshire County, Massachusetts, shown as Lots 1, 2, 3, 4, 5 & 6 on a Plan of Land entitled "'SUBDIVISION APPROVAL NOT REQUIRED' Plan of Land in Amherst, Massachusetts prepared for THE LEVI-NIELSEN COMPANY", Scale 1" = 50', dated June 30, 2004, prepared by Harold L. Eaton and Associates, Inc., Registered Professional Land Surveyors, 235 Russell Street, Hadley, Massachusetts, and recorded in the Hampshire County Registry of Deeds in Plan Book 202, Page 32, bounded and described as follows:

BEGINNING at an iron pin to be set at a point on the easterly sideline of South East Street, in said Amherst, which iron pin marks the northerly most point of the hereinafter described parcel and the intersection of South East Street and the former right of way of the Canadian National Railroad, now known as the Norwottuck Trail; thence along said former right of way on a curve of a circle having a radius of 1678.25 feet, an arc length of 282.01 feet to an iron pin to be set; thence S. 40° 57' 32" E along said former right of way a distance of 838.66 feet to an iron pin to be set at land now or formerly of Heather L. Colson; thence N. 86° 06' 04" W. along said Colson land a distance of 358.88 feet to an iron pin to be set; thence S. 09° 17' 46" W. along said Colson land a distance of 128.00 feet to an iron pin to be set at land now or formerly of Nicholas E. Thaw Family Trust; thence N. 87° 32' 14" along said Thaw land a distance of 98.07 feet to an iron pin to be set at the "Rock Lot" as shown on said plan; thence N. 33° 08' 15" W. along said "Rock Lot" a distance of 109.70 feet to an iron pin to be set on the easterly sideline of said South East Street; thence N. 00° 15' 59" W. along said easterly sideline of South East Street a distance of 798.41 feet to an iron pin to be set at the point of beginning.

Subject to an Order of Conditions dated May 2, 2007 and recorded in the Hampshire County Registry of Deeds, Book 9118, Page 83.

Being the same premises conveyed by deed of Caroline M. Flower to The Levi-Nielsen Co., Inc., dated September 21, 2004 and recorded in the Hampshire County Registry of Deeds, Book 7997, Page 18.

Parcel Two:

A certain tract or parcel of land situated on South East Street, Amherst, Hampshire County, Massachusetts, described in an Amendment to Judgment in the matter of Nicholas Rock, Administrator of the Estate of Frank Rock, et al., v. Caroline Flower, et al., and recorded in the Hampshire County Registry of Deeds, Book 7997, Page 17, and more particularly bounded and described as follows:

Beginning at an iron pin to be set in the easterly side of South East Street, thence N. 58° 20' 42" E. a distance of 109.70 feet to an iron pin to be set; thence S. 33° 08' 15" E. a distance of 259.95 feet to an iron pin to be set; thence N. 87° 32' 14" W. a distance of 235.00 feet to the easterly line of South East Street; thence N. 00° 15' 59" W. 150 feet along South East Street to the place of beginning.

For title see Judgment on Plaintiff's First and Second Claims for Relief and on Defendant's Third Counterclaim in the matter of Nicholas Rock, Administrator of the Estate of Frank Rock, et al., v. Caroline Flower, et al., Hampshire Superior Court, Civil No. 94-174, recorded in the Hampshire County Registry of Deeds, Book 7233, Page 239. For further reference see Amendment to Judgment in the matter of Nicholas Rock, Administrator of the Estate of Frank Rock, et al., v. Caroline Flower, et al., and recorded in the Hampshire County Registry of Deeds, Book 7997, Page 17.

Subject to a utility easement to Western Massachusetts Electric Company and New England Telephone and Telegraph Company dated December 4, 1973, and recorded in the Hampshire County Registry of Deeds, Book 1755, Page 36.

Subject to a pipeline easement to Berkshire Gas Company recorded in the Hampshire County Registry of Deeds, Book 1899, Page 1."

Said premises will be sold and conveyed subject to and with the benefit of the following, if any there be, insofar as in force and applicable and having priority over the Mortgage: any and all restrictions, easements, improvements, covenants, unpaid taxes, tax titles, municipal liens, assessments, oil and hazardous materials and environmental liens, other liens or claims in the nature of liens, rights of parties in possession, attachments and encumbrances, boundary line disputes, overlaps, encroachments and any matters which would be disclosed by an accurate survey and inspection of the premises.

Without limiting the generality of the foregoing, said premises will also be sold subject to and with the benefit of the following specific items, to the extent the same are in force and applicable: Special Permit recorded in said Registry at Book 9645, Page 72 and Orders of Conditions recorded in said Registry at Book 9118, Page 83 and at Book 9601, Page 49.

The premises are also subject to a Mortgage and Security Agreement and Assignment of Rents and Leases to the Mortgagee each dated September 23, 2004 and recorded respectively at Book 7997, Page 20 and Book 7997, Page 40, as affected by Amendment recorded in Book 9266, Page 126 (the "Prior Mortgage and Assignment"). The Prior Mortgage and Assignment will be discharged upon delivery of the foreclosure deed to the successful bidder at the foreclosure sale of the mortgaged premises.

TERMS OF SALE. The successful bidder will be required to make a deposit at the sale as follows: an initial deposit shall be paid at the time and place of the foreclosure sale in the amount of \$10,000. Within five (5) business days after the sale an additional deposit shall be paid by the successful bidder sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price. The deposit shall be paid by the successful bidder to Shatz, Schwartz and Fentin, P.C. ("Escrow Agent") as earnest money, by certified or bank cashier's check, unless otherwise announced at the sale. The successful bidder will be required to pay the balance of the purchase price plus a 5% commission payment to the auctioneer in addition to the bid price, within thirty (30) days from the date of sale. **TIME WILL BE OF THE ESSENCE.**

In the event that the successful bidder at the public auction shall default in purchasing the within described property according to the terms of this Notice of Mortgagee's Sale and/or the terms of the Memorandum of Sale executed at the public auction, the Mortgagee reserve all of

their rights against such successful bidder and in addition, Mortgagee may, at their election, purchase the property for the amount bid by the successful bidder or sell the property to the second highest bidder at the public auction, provided that Mortgagee in their discretion may require, (i) said second highest bidder to deposit with the Escrow Agent the amount of the required deposits as set forth herein within three (3) business days after written notice to the second highest bidder of the default of the previous highest bidder, (ii) the second highest bidder to execute a Memorandum of Sale and (iii) the closing to occur within twenty (20) days of said written notice time being of the essence.

The Mortgagee reserve the right to sell any parcel or any portion thereof separately, or in any order that Mortgagee may choose and/or to postpone this sale to a later time or date by public proclamation at the time and date appointed for the sale and to further postpone any adjourned sale date by public proclamation at the time and date appointed for the adjourned sale date. The description for the premises contained in said Mortgage shall control in the event of a typographical error in this publication.

The successful bidder shall pay all recording fees and documentary stamps in connection with the transfer of the premises, any costs of obtaining smoke detectors, carbon monoxide detectors and smoke and carbon monoxide detector certificates and the transfer or issuance of any licenses, all real estate taxes, tax titles, and municipal charges due as of the date of sale and those due thereafter through the date of Closing, as well as all of its costs in connection with the transaction, including but not limited to title examinations and title premiums. No adjustments whatsoever will be made, whether for taxes, municipal charges, utilities or otherwise.

Other terms to be announced at the time and place of sale.

The successful bidder will be required to sign at the auction sale a Memorandum of Sale containing the terms of sale.

October 22, 2012

Greenfield Savings Bank, Mortgagee
By Shatz, Schwartz and Fentin, P.C.
Its attorney
Gary S. Fentin, Esquire
1441 Main Street
Springfield, MA 01103
(413) 737-1131

MEMORANDUM OF SALE

This Memorandum of Sale is made this January 16, 2013, by and among Greenfield Savings Bank of 400 Main Street/PO Box 1537, Greenfield MA 01302-1537 (the "Mortgage Holder"), Aaron Posnik & Co., of 83 State Street, Springfield, MA 01103 (the "Auctioneer") and _____ of _____ (the "Buyer").

1. **MORTGAGE HOLDER'S SALE AT PUBLIC AUCTION.** Pursuant to a public auction (the "Auction") conducted on Wednesday, January 16, 2013 by the Auctioneer on behalf of the Mortgage Holder as holder of a Mortgage from The Levi-Nielsen Co., Inc. ("Mortgagor") to the Mortgage Holder dated September 12, 2007, and recorded in the Hampshire County Registry of Deeds in Book 9266, Page 101 (the "Mortgage") and pursuant to the Power of Sale contained therein, the Buyer, as the highest bidder, agrees to purchase the property described below (the "Property") in accordance with the terms hereof.

2. **DESCRIPTION OF THE PROPERTY.** The Property shall mean the following:

a. **The Property.** A certain parcel of land with the buildings thereon situated at 650-652 South East Street, Amherst, MA, as more particularly described in the Mortgagee's Notice of Sale ("Mortgagee's Notice") attached to the form of Deed and Affidavit attached as Exhibit A and incorporated herein by reference, together with the property and subject to the terms and conditions set forth in said Mortgagee's Notice (the "Property").

b. **Inaccuracy of the description of the Property and known and unknown defects SHALL NOT BE REASON FOR FAILURE ON THE PART OF THE BUYER TO COMPLETE THE SALE.** The Buyer will consider the Property as sufficiently described by the descriptions available at the time of the Auction. Verbal qualifications by the Mortgage Holder or Auctioneer or their respective agents SHALL NOT INVALIDATE nor become part of this sale as THE BUYER HAS EXAMINED THE PROPERTY TO HIS/HER SATISFACTION.

3. **TRANSFER OF THE PROPERTY.** The Property shall be conveyed by mortgagee's deed (Massachusetts General Laws, Chapter 183), under the statutory power of sale and delivered together with an Affidavit, such Deed and Affidavit to be substantially in the form set forth in attached as Exhibit A.

4. **PRICE AND DEPOSIT.** The bid price for which the Property has been sold to the Buyer is \$ _____ of which \$10,000 has been paid this day in escrow to Shatz, Schwartz and Fentin, P.C. ("Escrow Agent") in accordance with the terms of the Mortgagee's Notice. Within five (5) business days after the sale an additional deposit shall be paid by the Buyer sufficient to bring the aggregate deposit up to an amount equal to ten (10%) per cent of the auction price. The Buyer will be required to pay the balance of the purchase price plus a five (5%) per cent buyer's premium payment to the auctioneer, in addition to the bid price, within thirty (30) days from the date of sale. The deposit shall be deposited in a noninterest bearing account.

5. **BALANCE OF PRICE; CLOSING.** The deed and associated papers shall be delivered and the balance of the consideration paid by certified or bank treasurer's check at the office of Shatz, Schwartz and Fentin, P.C., 1441 Main Street, Springfield, Massachusetts at ten

o'clock (10:00) A.M. on or before February 15, 2013, time being of the essence, unless Mortgage Holder otherwise agrees (the "Closing").

6. TITLE. Buyer acknowledges that it has reviewed this Memorandum of Sale, the Mortgagee's Notice, the Municipal Lien Certificate, and all other materials delivered at the sale (referred to collectively as the "Bidder's Package"), and agrees to purchase the Property subject to the items disclosed in such Bidder's Package.

In the event the Mortgage Holder cannot convey title to the Property as stipulated, for any reason whatsoever except the fault of the Buyer, the deposit shall be refunded and all rights hereunder shall cease, and the Buyer shall have no recourse against the Mortgage Holder or Escrow Agent or their employees, agents and representatives, whether at law or in equity; provided, however, that at the election of the Buyer and the Mortgage Holder, Buyer may accept such title as the Mortgage Holder can deliver to the Property in its then condition and to pay therefor the purchase price without deduction.

7. RISK OF LOSS/INJURY.

a. Mortgage Holder shall be under no obligation to maintain casualty insurance covering the Property after the execution of this Agreement. If the Property is damaged by fire or other casualty after the date hereof and prior to the Closing, Buyer shall nonetheless accept the deed to the Property and pay therefor the full balance of the bid price. Buyer may at its expense, obtain insurance on the Property upon the execution of this Agreement to insure itself against any loss or damage occurring prior to Closing. In the event of any loss or damage has occurred to the Property prior to the execution of this Agreement, any insurance proceeds now or hereafter received for such damage shall belong to the Mortgage Holder, it being acknowledged that, except as stated herein, the Premises shall be delivered in their AS IS condition.

b. Neither Buyer nor any of its agents or employees shall enter upon the Property prior to Closing for any purpose without obtaining the prior written authorization of the Mortgage Holder. In the event Mortgage Holder, in its sole and exclusive discretion, permits the Buyer or its agents to enter upon the Property, Buyer indemnifies Mortgage Holder for any loss, damage, liability or expense, including reasonable attorneys' fees, incurred on account of such entry and any activity conducted by Buyer, it being acknowledged that any entry or activity shall be at the sole risk and expense of the Buyer.

8. ACCEPTANCE OF DEED. The acceptance of a deed to the Property by the Buyer shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed or arising out of said Auction on the part of the Mortgage Holder to be performed or observed. The Mortgage Holder shall be under no obligation to provide any certifications or affidavits to the Buyer, Buyer's lender or title company with regard to the conduct of the sale or condition of the Property.

9. CONDITION OF THE PROPERTY. THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS", AND "WITH ALL FAULTS" AS OF THE DATE OF CLOSING. MORTGAGE HOLDER WILL MAKE NO AGREEMENT TO ALTER OR IMPROVE THE PROPERTY. MORTGAGE HOLDER AND AUCTIONEER SPECIFICALLY DISCLAIM ANY

WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY OR ITS OPERATION, OR ANY OF THE INFORMATION CONTAINED IN THE BIDDER'S PACKAGE, EXCEPT AS SPECIFICALLY SET FORTH IN THE MEMORANDUM OF SALE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO CONSTRUCTION, FITNESS FOR HABITATION, ZONING, PERMITS, USE, OR CONDITION OF THE PROPERTY, OR THE EXISTENCE ON OR UNDER THE PROPERTY OF ANY OIL, HAZARDOUS WASTE, SUBSTANCES, OR MATERIALS, OR ABOVE GROUND OR UNDERGROUND STORAGE TANKS FOR OIL OR OTHER MATERIALS. BUYER SHOULD INDEPENDENTLY EXAMINE, OR HAVE ITS OWN CONSULTANTS EXAMINE, ALL FINANCIAL AND LEGAL DOCUMENTS, CONTRACTS, LICENSES, PERMITS, ENVIRONMENTAL MATTERS, AND INFORMATION RELATING TO THE PROPERTY. ALL PURCHASES OF THE PROPERTY WILL BE BASED SOLELY ON BUYER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE ON ANY INFORMATION PROVIDED BY MORTGAGE HOLDER OR AUCTIONEER. IN THE EVENT ANY INFORMATION CONTAINED IN THE BIDDER'S PACKAGE VARIES FROM DATA OBTAINED ELSEWHERE, THE INFORMATION CONTAINED IN THE BIDDER'S PACKAGE SHALL GOVERN, SUBJECT TO BEING UPDATED AT THE SALE.

Without limiting the generality of the foregoing, it is acknowledged as follows:

a. No representation or warranty is made as to whether any contracts, leases, licenses or permits (including without limitation any licenses or permits needed to operate any aspect of the Property) are in full force and effect, whether the same are transferable or assumable, or whether they terminate upon sale of the Property.

b. No representation is made as to the zoning or permitted use of the Property OR AS TO THE VALIDITY OR USE OF ANY SPECIAL PERMIT AFFECTING THE PREMISES. A SPECIAL PERMIT WAS ISSUED TO MORTGAGOR TO BUILD 17 DWELLING UNITS (5 SINGLE FAMILY HOMES & 12 DUPLEX UNITS IN 6 BUILDINGS), RECORDED AT BOOK 9645, PAGE 72 SUBJECT TO ORDER OF CONDITIONS RECORDED AT BOOK 9118, PAGE 83 AND AT BOOK 9601, PAGE 49). The Special Permit and copies of two Massachusetts statutes and answers by the Massachusetts Executive Office of Housing and Economic Development entitled Frequently Asked Questions with respect to such statutes are included in the Bidders' Package received by the Buyer. **BUYER ACKNOWLEDGES THAT IT WAS ADVISED TO CONSULT WITH ITS ATTORNEY TO DETERMINE ANY RIGHTS IT MAY HAVE TO USE SUCH SPECIAL PERMIT AND THE APPLICABILITY OF SUCH STATUTES TO SUCH DETERMINATION. NO REPRESENTATION OR WARRANTY WHATSOEVER IS MADE BY THE MORTGAGEE, THE AUCTIONEER OR THEIR AGENTS, ATTORNEYS OR EMPLOYEES, AS TO A BIDDER'S RIGHTS UNDER THE ATTACHED SPECIAL PERMIT OR STATUTES.**

c. No representation is made as to whether any Certificate of Municipal Liens or any tax information is accurate or complete or whether the Property can be used for any particular purpose. Buyer assumes full responsibility with regard to municipal charges,

including without limitation, taxes and tax titles, outstanding as of the date of the foreclosure sale and those outstanding as of the Closing and for determining the proper uses for the Property.

d. The property will be conveyed subject to any and all persons who may occupy all or a portion of the Premises. The Mortgagee makes no representation or warranty whatsoever as to the terms or conditions of any such occupants, whether any security or last month rent was paid, whether rent has been paid, whether the occupant or the prior owner are in default, or whether there are any defenses or claims by such occupants, or otherwise.

e. The Buyer agrees to investigate all of the foregoing prior to the sale to its satisfaction and indemnifies and holds the Mortgage Holder harmless from all liability and expenses, including reasonable attorney's fees, incurred by Mortgage Holder on account of the condition or use of the Property or the status or use of any permits.

10. BUYER'S DEFAULT; DAMAGES. The Auction sale is not complete until the Buyer has executed this Memorandum of Sale and made the required deposit. Failure of the Buyer to execute this Memorandum of Sale or failure by the Buyer to fulfill the Buyer's agreements herein, shall constitute a default hereunder. Upon Buyer's default, Mortgage Holder shall be entitled, at its election, to either retain the deposit as liquidated damages or to hold Buyer responsible for all damages caused by its breach of contract, including, without limitation any deficiency resulting from a resale, whether to the second highest bidder, Mortgage Holder, or otherwise, together with costs of resale and any costs of maintaining or owning the Property. In the event Mortgage Holder resells the Property, Buyer shall have no claim to any excess of the eventual sale price over the amount bid.

11. ASSIGNMENT. The successful bidder may not assign the bid or its rights under this Memorandum of Sale without the prior written consent of the Mortgage Holder.

12. DEED STAMPS, DETECTORS, FEES, ADJUSTMENTS. The Buyer shall pay all recording fees and documentary stamps and sales tax in connection with the transfer of the Property, any real estate taxes, tax titles, or tax lien, and municipal charges due as of the date of this Agreement and those due from the date of this Agreement to the date of the Closing, as well as all of Buyer's costs in connection with the transaction, including but not limited to title examinations and title premiums. There shall be no adjustments whatsoever, whether for taxes, municipal charges, rent, utilities or otherwise.

13. CONSTRUCTION OF AGREEMENT. This instrument is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Mortgage Holder and the Buyer. If two or more persons are named herein as Buyer, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Memorandum or to be used in determining the intent of the parties.

IN WITNESS WHEREOF, the parties have executed this Memorandum in multiple counterparts as of the date first written above.

GREENFIELD SAVINGS BANK
MORTGAGE HOLDER

By: _____

BUYER

By: _____

AARON POSNIK & CO, INC.
AUCTIONEER

By: _____

Received from Buyer the sum of \$ _____ as a deposit on account of the above Memorandum, subject to the terms and conditions of sale hereinabove set forth.

SHATZ, SCHWARTZ AND FENTIN, P.C.
attorney for the Mortgage Holder

By: _____

Exhibit

Form of Deed and Affidavit and attached Mortgagee's Notice

09\0010\Foreclosure Amherst\CDrafts\04 Memo of Sale.2

Exhibit A

Foreclosure Deed

Greenfield Savings Bank (the "Mortgage Holder"), a Massachusetts bank having a usual place of business at 400 Main Street, Greenfield, MA 01301, holder of a mortgage

from The Levi-Nielsen Co., Inc.

to the Mortgage Holder

dated September 12, 2007, and recorded with the Hampshire County Registry of Deeds in Book 9266, Page 101

by power conferred by said mortgage and every other power, for \$ _____, paid, grants to _____

the premises conveyed by said mortgage.

Executed under seal this _____, 2013.

GREENFIELD SAVINGS BANK

By: _____

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this _____, 2013, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, namely the person was [known to me, identified by affirmation of a credible witness, or identified in _____], to be the person whose name is signed on the preceding or attached document and acknowledged to me that such person is the duly authorized _____ of Greenfield Savings Bank and that such person signed such document voluntarily as such person's free act and deed for its stated purpose on behalf of such Greenfield Savings Bank.

_____ sign and stamp

Affidavit of Sale

_____, the _____ of Greenfield Savings Bank (the "Mortgagee") named in the foregoing deed, make oath and say that the principal, interest and tax obligations mentioned in the above-described mortgage were not paid or tendered or performed when due prior to the sale,

that I complied with Chapter 244, Section 14 of the Massachusetts General Laws, as amended, the above-described mortgage and the Massachusetts statutory power of sale, by

causing to be published on October 22, October 29 and November 5, 2012, in the Hampshire Gazette, a newspaper published or by its title page purporting to be published in Amherst, MA or having a general circulation in such city/town, a notice of which a true copy is attached hereto as Exhibit A and made a part hereof, and by mailing the required notices by registered mail, return receipt requested.

Attach tear sheet

Pursuant to said notice at the time and place therein appointed, the sale was postponed, by public proclamation by the auctioneer, Aaron Posnik & Co., Inc. (the "Auctioneer"), to December 17, 2012 at 11: 00 am, at which time and place the sale was further postponed, by public proclamation by the Auctioneer, to January 16, 2013 at 11:00 am at the mortgaged premises, at which time and place upon the mortgaged premises the Mortgagee sold the mortgaged premises at public auction by the Auctioneer to _____ ("Grantee") - for _____ bid by said Grantee, being the highest bid made therefor at said auction.

Executed under seal this _____, 2013.

GREENFIELD SAVINGS BANK

By: _____

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this ____ day of _____, 20__ before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, namely the person was [known to me, identified by affirmation of a credible witness, or identified in _____], to be the person whose name is signed on the preceding or attached document and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of such person's knowledge and belief.

_____ sign and stamp

COMMONWEALTH OF MASSACHUSETTS

County of _____

On this _____, 2013 before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, namely the person was [known to me, identified by affirmation of a credible witness, or identified in _____], to be the person whose name is signed on the preceding or attached document and acknowledged to me that such person is the duly authorized _____ of Greenfield Savings Bank and that such person swore or affirmed to me that the contents of the document are truthful and accurate to the best of such person's knowledge and belief.

_____ sign and stamp

09\0010\Foreclosure Amherst\CDrafts\04 Memo of Sale.3

State Tax Form 290
 Certificate: 2013204
 Issuance Date: 10/17/2012

MUNICIPAL LIEN CERTIFICATE
 TOWN OF AMHERST
 COMMONWEALTH OF MASSACHUSETTS

Requested by Shatz, Schwartz and Fentin, P.C.
 Counsellors at Law
 1441 Main St
 Springfield, MA 01103

I certify from available information that all taxes, assessments and charges now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on 10/09/2012 are listed below.

DESCRIPTION OF PROPERTY

Parcel ID: 17D-000-021 652 SOUTH EAST ST

LEVI NIELSEN CO INC 171 GRAY ST AMHERST MA 01002	Land area : 31,859 SF Land Value : 126,400 Impr Value : 5,800 Land Use : 0 Exemptions : 0 Taxable Value: 132,200
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Deed date: 09/12/2007 Book/Page: 9266/99
 Class: 1010-RESIDENTL

FISCAL YEAR	2013	2012	2011
DESCRIPTION			
CPA SURCHARGE	\$4.88	\$9.53	\$8.79
REAL ESTATE	\$1,337.44	\$2,609.63	\$2,406.04
TOTAL BILLED:	\$1,342.32	\$2,619.16	\$2,414.83
Charges/Fees	\$0.00	\$10.00	\$10.00
Abatements/Exemptions	\$0.00	\$0.00	\$0.00
Payments/Credits	\$0.00	\$0.00	-\$2,102.16
Interest to 10/17/2012	\$19.82	\$301.84	\$30.57
TOTAL BALANCE DUE TO 10/17/12:	\$1,362.14	\$2,931.00	\$353.24

NOTE: Actual 2013 taxes not yet issued.

TOTAL INTEREST PER DIEM: \$1.3860

Real Estate taxes in the Town of Amherst are subject to the Community Preservation Surcharge under G.L. Chapter 44B. Real Estate Parcels in the Town of Amherst are subject to Supplemental Tax Assessments under G.L. Chapter 59 Section 2D.


 Claire McGinnis
 TREASURER/COLLECTOR

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

State Tax Form 290
 Certificate: 2013203
 Issuance Date: 10/17/2012

MUNICIPAL LIEN CERTIFICATE
 TOWN OF AMHERST
 COMMONWEALTH OF MASSACHUSETTS

Requested by Shatz, Schwartz and Fentin. P.C.
 Counsellors at Law
 1441 Main St
 Springfield, MA 01103

I certify from available information that all taxes, assessments and charges now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on 10/09/2012 are listed below.

DESCRIPTION OF PROPERTY

Parcel ID: 17D-000-024

SOUTH EAST ST

LEVI NIELSEN CO, INC
 171 GRAY ST
 AMHERST MA 01002

Land area : 6.69 AC
 Land Value : 145,300
 Impr Value : 0
 Land Use : 0
 Exemptions : 0
 Taxable Value: 145,300

Deed date: 09/23/2004 Book/Page: 7997/18
 Class: 1300-RES LAND

FISCAL YEAR	2013	2012	2011
DESCRIPTION			
CPA SURCHARGE	\$6.87	\$13.41	\$12.15
REAL ESTATE	\$1,469.96	\$2,868.22	\$2,629.90
TOTAL BILLED:	\$1,476.83	\$2,881.63	\$2,642.05
Charges/Fees	\$.00	\$10.00	\$10.00
Abatements/Exemptions	\$.00	\$.00	\$.00
Payments/Credits	\$.00	\$.00	-\$1,923.73
Interest to 10/17/2012	\$21.81	\$331.58	\$69.00
TOTAL BALANCE			
DUE TO 10/17/12:	\$1,498.64	\$3,223.21	\$797.32

NOTE: Actual 2013 taxes not yet issued.

TOTAL INTEREST PER DIEM: \$1.6680

Real Estate taxes in the Town of Amherst are subject to the Community Preservation Surcharge under G.L. Chapter 44B. Real Estate Parcels in the Town of Amherst are subject to Supplemental Tax Assessments under G.L. Chapter 59 Section 2D.


 Claire McGinnis
 TREASURER/COLLECTOR

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

DISCLAIMER

THE ATTACHED SPECIAL PERMIT WAS ISSUED TO MORTGAGOR TO BUILD 17 DWELLING UNITS (5 SINGLE FAMILY HOMES & 12 DUPLEX UNITS IN 6 BUILDINGS), RECORDED AT THE HAMPSHIRE COUNTY REGISTRY OF DEEDS AT BOOK 9645, PAGE 72, SUBJECT TO ORDERS OF CONDITIONS RECORDED AT BOOK 9118, PAGE 83 AND AT BOOK 9601, PAGE 49).

ATTACHED IS A COPY OF TWO MASSACHUSETTS STATUTES AND ANSWERS BY THE MASSACHUSETTS EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT ENTITLED FREQUENTLY ASKED QUESTIONS, WITH RESPECT TO SUCH STATUTES.

BIDDERS MUST CONSULT WITH THEIR ATTORNEY TO DETERMINE ANY RIGHTS A BUYER MAY HAVE TO USE SUCH SPECIAL PERMIT AND THE APPLICABILITY OF THE ATTACHED STATUTES TO SUCH DETERMINATION. NO REPRESENTATION OR WARRANTY WHATSOEVER IS MADE BY THE MORTGAGEE, THE AUCTIONEER OR THEIR AGENTS, ATTORNEYS OR EMPLOYEES, AS TO A BIDDER'S RIGHTS UNDER THE ATTACHED SPECIAL PERMIT OR STATUTES.

SPECIAL PERMIT

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Recorded: 11/17/2008 03:37 PM

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted
To The Levi-Nielsen Company, Inc., Scott Nielsen, President
Address 30 Boltwood Walk
City or Town Amherst, MA 01002

Identify Land Affected: Map 17D, Parcels 21 and 24, R-O & PURD Zoning District

By the Town of Amherst Zoning Board of Appeals affecting the rights of the owner
with respect to the use of the premises on
650 and 652 South East Street Amherst
Street City or Town

The record of title standing in the name of
The Levi-Nielsen Company, Inc., Scott Nielsen, President
Name of Owner

Whose address is 30 Boltwood Walk Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 9266, Page 99 and Book 7997, Page 18

or
Hampshire Registry District of the Land Court, Certificate No. _____
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2008-00022
In the office of the Town Clerk Sandra J. Burgess

Certified this 22nd day of October 2008

Board of Appeals: _____ Chairman
(Board of Appeals)
Barbara Ford Clerk
(Board of Appeals)

at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

SPECIAL PERMIT

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Application No. ZBA.FY2008-00022

Town of Amherst Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to The Levi-Nielsen Company, Inc., under Section 4.4 of the Zoning Bylaw, Planned Unit Residential Development (PURD), to construct a total of 17 dwelling units (five single-family homes plus twelve duplex units in six buildings), to waive Section 7.104 of the Zoning Bylaw to allow an increase in the width of the entry drive to accommodate the turning movement of emergency vehicles and to waive Section 7.101 of the Zoning Bylaw to allow for paving within eight (8) feet of a building wall, as applied for by The Levi-Nielsen Company, Inc., Scott Nielsen, President, at 650-652 South East Street, (Map 17D, Parcels 21 and 24, R-O/PURD Zone).

1. Site Plans, Site Improvements and Landscaping

1. a. Final revised site plans including fencing, sidewalks, parking, roadways, dimensions of parking spaces and dimensions of driveways, landscaping, lighting, grading and drainage shall be submitted to the Board for review and approval at a public meeting prior to the issuance of a Building Permit for the first unit(s).
1. b. Site improvements shall be constructed in accordance with the site plans approved by the Board at a public meeting, with particular reference to Conditions 1. a., 1. i., 1. j. and 1. o.
1. c. If any substantive changes to the site plans become necessary during construction, the changes shall be submitted to the Board for review and approval at a public meeting or alternatively submitted to the Board to determine if a modification to the Special Permit is required.
1. d. All exterior lighting shall be downcast and shall not shine onto adjacent properties or streets, in accordance with Sections 10.382 and 10.385 of the Zoning Bylaw.
1. e. A sign plan, including details of proposed signs (main entry sign, parking sign, other signs as needed), shall be submitted to the Board for review and approval at a public meeting prior to installation of signs.
1. f. There shall be a sign at the South East Street entrance to the development that clearly identifies the address of the project as a whole and the range of unit numbers included therein, with the address visible from both directions. Addresses or unit numbers for each unit shall be displayed on each building, in accordance with the requirements of the Town Bylaws. The address signs shall either be lit with downcast lighting or the letters shall be reflective, so that the signs are clearly visible in the daytime and nighttime.
1. g. The drainage system shall be constructed and maintained in accordance with the plans and storm water management plan reviewed and approved by the Town Engineer.
1. h. A 6 foot high wooden or vinyl fence, with fence posts of 8 feet in height above grade, shall be installed and maintained along the property line between the proposed development and the adjacent farm property to the south. The adjacent property is identified as of the date of this approval as Assessors Map 17D, Parcel 14. A plan and details for this fence shall be submitted for review and approval by the Board at a public meeting. The fence shall not intrude on wetland buffer zones or wetland resource areas.

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1. i. A public sidewalk, five (5) feet wide, constructed of impervious material such as concrete or bituminous concrete shall be installed in the Town Right of Way, along the east side of South East Street from the main entry drive of the development, going north to the concrete pad at the pump station, opposite the entrance to Mill Lane.
Note: Separate approvals are required from the Town Engineer and the Select Board prior to installation of this sidewalk.
1. j. A final revised landscape plan shall be submitted to the Board for approval at a public meeting. The revised landscape plan shall include the area within the Town Right-of-Way and shall include a mixture of deciduous and evergreen plantings, to provide adequate screening of the property from neighboring properties and from the Norwottuck Rail Trail.
1. k. Landscaping shall be installed and continuously maintained, including the landscaping proposed for the area within the Town Right-of-Way, in accordance with the plans approved by the Board at a public meeting. Damaged or dying landscape plantings shall be replaced.
1. l. Any existing trees to remain on the site or within the Town Right-of-Way shall be protected against damage during construction. Damaged or dying landscape plants shall be replaced.
1. m. All utilities shall be underground.
1. n. Use of sodium chloride, pesticides, and other hazardous lawn & garden chemicals is prohibited on the property.
1. o. A site plan shall be submitted to the Board for review and approval at a public meeting showing proposed active and passive recreational spaces located in appropriate places, graded and seeded for communal active or passive recreation, throughout the site, linked by a walking path, or accessible by a path from the main interior roadway. Such active and passive open spaces shall comprise a minimum of 1,000 square feet per dwelling unit, in accordance with the requirements of Section 4.4217 of the Bylaw.

2. Architecture

- 2a. Final revised architectural plans and elevations for each unit shall be submitted to the Board for review and approval at a public meeting prior to the issuance of a Building Permit for that unit.
- 2b. Buildings shall be no higher than one and one-half (1 ½) stories, not to exceed 25 feet above the top of the foundation wall, as measured on the front entry side of the structure.
- 2c. Buildings shall be similar in size, character and architectural style to the conceptual architectural plans approved by the Board on September 8, 2008, and constructed in accordance with the floor plans and elevations approved by the Board on that date.
- 2d. If there are any substantive changes to the approved architectural plans, as referred to in Condition 2.c. above, the changes shall be submitted to the Board for review and approval, or alternatively to determine if a modification to the Special Permit is required, at a public meeting.

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- 2.c. No more than 17 dwelling units shall be constructed on this property. All units shall be owner occupied, except as allowed in Conditions 5.d. and 5.e. No additional supplemental apartments, as defined in Section 5.011 of the Zoning Bylaw, shall be constructed in this development.
 - 2.f. The first floor of each of the units shall be universally accessible, in accordance with AAB and ADA requirements. All stairways shall be at least 4 feet in width, and stairways shall be straight from the top to the bottom, with turning areas at the top and bottom of sufficient size to allow entering and exiting an inclined stair/chair lift from a wheelchair. First floor accessibility shall be maintained in perpetuity.
 - 2.g. The colors of the buildings shall be chosen from the exterior color palette approved by the Board on September 8, 2008. If there are substantive changes to the approved color palette the new color palette shall be submitted to the Board for review and approval at a public meeting.
3. Affordable Units
- 3.a. In accordance with Sections 12.20 and 15 of the Zoning Bylaw, two (2) dwelling units out of the seventeen (17) units proposed for this development shall be provided as affordable housing units, and shall be affordable in perpetuity to households whose income is 120% of median area income or lower.
 - 3.b. An Affordable Housing Agreement between the Town of Amherst and the Developer shall be submitted to the Board for review and approval at a public meeting for the two (2) affordable units required under Section 15 of the Zoning Bylaw.
 - 3.c. An Affordable Housing Deed Restriction and Deed Rider shall be submitted to the Board for review and approval at a public meeting for the two (2) affordable units required under Section 15 of the Zoning Bylaw. After approval by the Board these documents shall be signed and filed with the Registry of Deeds, prior to the issuance of a Building Permit.
 - 3.d. Long-term enforcement and monitoring of the Affordable Housing Agreement shall be by an entity approved by the Town. The enforcement and monitoring program shall be paid for by an escrow account established prior to the sale of the first unit and contributed to on an annual basis at a rate negotiated between the Town and the Developer.
 - 3.e. A Marketing Plan shall be submitted to the Board for review and approval at a public meeting for the two (2) affordable units required under Section 15 of the Zoning Bylaw. The Marketing Plan for the affordable units shall be submitted to the Housing Partnership/Fair Housing Committee for its review prior to submission to the Zoning Board of Appeals.
 - 3.f. If the project is built in phases the first phase shall include at least one (1) affordable unit and the second phase shall include the second affordable unit. At the time that the development exceeds (9) units, or earlier, the second affordable unit shall be constructed.
 - 3.g. In accordance with Section 15.14 of the Zoning Bylaw, the affordable housing units provided shall be dispersed throughout the development, and the exterior of the affordable units shall be indistinguishable from the market rate units in terms of the quality of their design, materials, and general appearance of their architecture and landscape.

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4. **Phased Growth Bylaw**
 4. a. This project is subject to Section 14, of the Zoning Bylaw, Phased Growth. At the public meeting on, August 12, 2008, the Zoning Board of Appeals assigned the project a total of 53.6 points on the Phased Growth Tally Sheets, thus allowing 80% of the units to be constructed during the first year. The Board has assigned development authorization dates as follows:
 - October 2008 – 80% of the total number of units (14 units)
 - October 2009 – the remainder (3 units)
5. **Management**
 5. a. The project shall be managed in accordance with the Management Plan and the Condominium Documents (including but not limited to management of trash removal, snow removal, landscape maintenance, maintenance of the drainage system and any other structures, site features or utilities owned and managed by the Condominium Association) as approved by the Board at a public meeting.
 5. b. If there are any substantive changes to the Management Plan or Condominium Documents the changes shall be submitted to the Board for review and approval, or alternatively to determine if a modification to the Special Permit is required, at a public meeting.
 5. c. Each Buyer shall be notified in writing and given a copy of the Town of Amherst "Right-to-Farm" Bylaw, prior to the sale of each unit.
 5. d. Each homeowner may lease his/her unit for a minimum of 9 and a maximum of 24 consecutive months, with permission of the Board of Trustees of the Homeowners' Association. Periods of rental shall be interspersed with periods of owner-occupancy that shall last for a minimum of three (3) consecutive years. Renters may not sublet the units.
 5. e. When a unit is leased to a tenant by the homeowner, as described in Condition 5. d. above, the unit shall be registered with the Rental Registry in the Health Department for the period of rental.
 5. f. The developer shall not lease any unsold units.
 5. g. During periods of owner-occupancy, unit owners may lease no more than one room of their unit to a person or couple, with permission of the Board of Trustees of the Homeowners' Association.
6. **Substantive vs. de minimus changes**
 6. a. The Zoning Enforcement Officer (Building Commissioner) is hereby authorized to determine whether proposed changes to architectural plans, elevations or site plans, or field changes, are substantive or de minimus and whether such changes are required to be brought to the Zoning Board of Appeals at a public meeting for review and approval.

SPECIAL PERMIT

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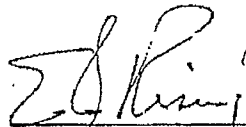
Application No. ZBA FY2008-00022

7. Performance

- 7. a. Prior to the issuance of a Certificate of Occupancy for the ninth (9) unit (over 50% of the total number of units) a performance bond or other financial surety acceptable to the Town shall be posted and submitted to cover the cost of completing the infrastructure for the development, including the final landscaping. The infrastructure shall include but shall not be limited to street trees, fire hydrants, water lines, sewer lines, storm drainage systems (including but not limited to all drainage structures and piping and any detention basins and rain gardens), roadways with base and final coats, improvements to common open space recreational areas such as the walking path, and all site improvements that are necessary for access and public safety. The amount of the performance bond or surety shall be determined by the Town Engineer and shall be based on the cost of completing construction of the infrastructure.

8. Miscellaneous

- 8.a. All marketing materials shall state that this development was designed for and targeted to persons 55 years of age and older. Sample marketing materials shall be submitted to the Board for review and approval at a public meeting.
- 8.b. All units shall, at a minimum, be Energy-Star Certified as described in documents published by the U.S. Environmental Protection Agency and submitted as part of this application.
- 8.c. The loop road shall remain in private ownership and shall not become a town road.
- 8.d. The open space or common land shall be legally protected and maintained in accordance with the procedures prescribed in Section 4.35 of the Zoning Bylaw. All common land shall be conveyed to a corporation or trust owned or to be owned by the owners of the residential units within the development. Ownership shall pass with conveyances of the residential units. A restriction enforceable by the Town of Amherst shall be recorded providing that such land shall be kept in an open and natural state and not be built upon for residential use or developed for accessory uses such as parking or roadway. This condition shall not preclude development of portions of the common land for recreational purposes, as shown on the plan described in Condition 1. c., above.


EDWARD RISING, Chair
Amherst Zoning Board of Appeals

10/22/08
DATE

CHAPTER 240 OF THE ACTS OF 2010, AN ACT RELATIVE TO ECONOMIC DEVELOPMENT REORGANIZATION

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a business friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, And by the authority of the same, as follows:

SECTION 173. Notwithstanding any general or special law to the contrary, certain regulatory approvals are hereby extended as provided in this section.

(a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Approval” except as otherwise provided in subsection (b), any permit, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of the municipal, regional or state governmental entity, concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made under chapter 21 , chapter 21A excepting section 16, chapter 21D , sections 61 to 62H, inclusive, of chapter 30 , chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91 , chapter 131 , chapter 131A , chapter 143 , sections 4 and 5 of chapter 249 , or chapter 258 , of the General Laws or chapter 665 of the acts of 1956, or any local bylaw or ordinance.

“Development”, division of a parcel of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of a building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

“Tolling period”, the period beginning August 15, 2008, and continuing through August 15, 2010.

(b) (1) Notwithstanding any general or special law to the contrary, an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval.

(2) Nothing in this section shall be deemed to extend or purport to extend:

(i) a permit or approval issued by the government of the United States or an agency or instrumentality of the government of the United States or to a permit or approval, of which the duration of effect or the date or terms of its expiration are specified or determined by or under law or regulation of the federal government or any of its agencies or instrumentalities; (ii) a comprehensive permit issued by a board of appeals under sections 20 to 23, inclusive, of chapter 40B of the General Laws; or; (iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife under chapter 131 for hunting, fishing or aquaculture.

(3) Nothing in this section shall affect the ability of a municipal, regional or state governmental entity, including an agency, department, commission or other instrumentality of a municipal, regional or state governmental entity to revoke or modify a specific permit or approval or extension of a specific permit or approval under this

section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.

(4) In the event that an approval tolled under this section is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this section. Priority regarding the distribution of further gallonage to a permit holder who has received the extension of an approval under this section shall be allocated in order of the granting of the original approval of the connection.

(5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for an approval to receive an extension, all commitments made by the original owner or petitioner under the terms of the permit must be upheld by the new owner or petitioner. If the new owner or petitioner does not meet or abide by those commitments then the approval shall not be extended under this section.

(6) Nothing in this section shall be construed or implemented in such a way as to modify a requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

SECTION 206. Except as otherwise provided, this act shall take effect on August 1, 2010.

Signed by his Excellency Governor Deval L. Patrick on August 5, 2010.

Massachusetts Session Laws

Sections 74 and 75 of Chapter 238 of the Acts of 2012

SECTION 74. Section 173 of said chapter 240 is hereby amended by striking out the definition of "Tolling period" and inserting in place thereof the following definition: -

"Tolling period", the period beginning August 15, 2008, and continuing through August 15, 2012.

SECTION 75. Subsection (b) of said section 173 of said chapter 240 is hereby amended by striking out, in line 2, the figure "2" and inserting in place thereof the following figure: - 4.

**THE PERMIT EXTENSION ACT
UPDATED SEPTEMBER 18, 2012**

FREQUENTLY ASKED QUESTIONS

This document provides answers to frequently asked questions about the permit extension act as it affects permits issued by state agencies. It is not intended to provide guidance with respect to permits issued by a municipality.

WHAT IS THE PERMIT EXTENSION ACT?

The Permit Extension Act was created by Section 173 of Chapter 240 of the Acts of 2010 and extended by Sections 74 and 75 of Chapter 238 of the Acts of 2012. The purpose of this act is to promote job growth and long-term economic recovery and the Permit Extension Act furthers this purpose by establishing an automatic four-year extension to certain permits and licenses concerning the use or development of real property. With limited exceptions, the Act automatically extends, for four years beyond its otherwise applicable expiration date, any permit or approval that was "in effect or existence" during the qualifying period beginning on August 15, 2008 and extending through August 15, 2012.

WHAT TYPES OF APPROVALS ARE INCLUDED IN THIS ACT?

The Act applies to regulatory approvals issued by local, regional or state entities that concern the use or development of real property. "Approval" is defined broadly to include any permit, certificate, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights, and any order, except for enforcement orders.

DOES THIS EXTENSION APPLY ONLY TO STATE-ISSUED PERMITS?

No, this extension applies to all qualifying permits issued by any municipal, regional, or state entity.

THE ACT REFERS TO A LIST OF STATUTES. DOES THE ACT COVER APPROVALS UNDER OTHER STATUTES?

Yes. While the definition of "Approval" includes a particular list of statutes, it is not an exclusive list of all statutes affected by this Act. As such, the Act applies to all regulatory approvals concerning the use or development of real property, except those expressly exempted.

ARE ANY TYPES OF APPROVALS EXEMPTED FROM THIS STATUTE?

Yes. The following approvals are expressly exempted and therefore are NOT covered by the Act:

- Permits or approvals issued by the Federal government, or by a state agency issued pursuant to federal law
- Permits issued under sections 20 to 23 of Chapter 40B
- Hunting, fishing and aquaculture approvals issued by the Division of Fisheries and Wildlife under Chapter 131
- Enforcement orders.

ARE PRE-DEVELOPMENT ACTIVITIES CONSIDERED APPROVALS?

No. Use or development of real property concerns buildings or structures, or site work specifically associated with the development of buildings or structures, rather than pre-development activities such as oil or hazardous material cleanup. Even though such actions may

THE PERMIT EXTENSION ACT
UPDATED SEPTEMBER 18, 2012

be deemed a precondition to making real property suitable for use or development, pre-development activities that are independently undertaken outside of the context of a larger development project are not covered by the Act.

DOES THIS STATUTE APPLY TO PROPERTY RIGHTS GRANTED TO THIRD PARTIES TO USE STATE OWNED PROPERTIES?

No. The Act does not apply to the property rights issued by the Commonwealth in its role as a landowner and as such does not apply to easements, leases, licenses for the use of property (except to the extent that a license may authorize the use or development of property, such as in the case of a license issued under Chapter 91 or a curb cut permit), and/or conservation or agricultural restrictions.

IS THE 4 YEAR EXTENSION AUTOMATIC?

Yes. The four year extension authorized by the Act is automatic, meaning it occurred by operation of law. Neither the permit holder nor the issuing agency needs to take action to implement the extension.

DOES A PERMIT OR APPROVAL EXTENDED BY THE ACT REQUIRE ANY FURTHER REVIEW?

No, unless the permit or approval by its terms called for such further review when in effect during the qualifying period. Permits or approvals issued prior to the qualifying period and in effect at any time during the qualifying period, and permits or approvals issued during the qualifying period have completed review and are valid for four additional years from the original date of expiration.

WHAT IS THE NEW EXPIRATION DATE?

The new expiration date is four years from the date that otherwise marked the end of the lawful term of the permit or approval. For example, a permit that expired on September 1, 2009 is now revived and will expire on September 1, 2013.

ARE ISSUING AGENCIES REQUIRED TO ISSUE WRITTEN NOTICES OF EXTENSION TO APPROVAL HOLDERS?

No. The Act does not require issuing agencies to provide written notice of extension and an approval holder does not need written notice of extension of its permit or approval. However, an issuing agency may post a general notice of the Act on its website and may issue a standard notice of extension eligibility to approval holders who request a document for financing or other purposes.

DOES THE ACT APPLY TO BUILDING PERMITS?

Yes. Any building permit issued or in effect between August 15, 2008 and August 15, 2012 has been extended by four years from the date on which the permit was otherwise set to expire.

DOES THE ACT APPLY TO MASSACHUSETTS ENVIRONMENTAL POLICY ACT (MEPA) DECISIONS, CERTIFICATES OR WAIVERS?

Yes. Certificates issued pursuant to MEPA are specifically listed in the definition of "Approval" included in the Act. Therefore, Certificates that were issued or were in effect between August 15, 2008 and August 15, 2012 will have four additional years before a "Lapse of Time" will have

THE PERMIT EXTENSION ACT
UPDATED SEPTEMBER 18, 2012

occurred triggering either a Notice of Project Change or a new Environmental Notification Form (See 301 CMR 11.10).

ASIDE FROM THE 4 YEAR EXTENSION, HAS THE PERMITTING OR CONSTRUCTION PROCESS OTHERWISE BEEN CHANGED BY THE ACT?

No.

WHAT IF I SUBMITTED AN APPLICATION FOR A PERMIT DURING THE QUALIFYING PERIOD, BUT IT WAS NOT ISSUED UNTIL AFTER THE PERIOD HAD PASSED?

The permit does not qualify for extension. The Act only extends permits that were issued or already in effect at any point (e.g., even for one day) during the qualifying period.

WHAT IF A PERMIT WAS ISSUED BY A BUILDING OFFICIAL DURING THE QUALIFYING PERIOD, BUT NEVER PICKED UP BY THE APPLICANT?

If the permit was issued and never revoked, it qualifies for the extension regardless of whether it was ever picked up.

WHAT IF I RECEIVED A PARTIAL BUILDING PERMIT DURING THE QUALIFYING PERIOD, BUT NOT A PERMIT FOR THE REST OF THE PROJECT?

Only the permit that was issued or was already in effect is eligible for the four year extension. For instance, if a foundation permit was issued during the qualifying period, but other permits for the remainder of the project were issued outside of the qualifying period, only the foundation permit is extended. No approvals or permits that were not either issued or already in effect during the qualifying period are eligible for automatic extension.

DOES THE ACT APPLY TO A PERMIT THAT EXPIRED DURING THE QUALIFYING PERIOD?

Yes, the Act revives and extends any permit or approval that was valid during the qualifying period of August 15, 2008 through August 15, 2012. For instance, a permit that expired on July 1, 2009 is now revived and set to expire on July 1, 2013.

DOES THE ACT APPLY TO A PERMIT OR APPROVAL THAT WAS NOT DUE TO EXPIRE UNTIL AFTER THE QUALIFYING PERIOD?

Yes. The Act provides an additional four years to the original "lawful term of the permit" or approval. If a permit or approval was due to expire on September 1, 2011, it will now automatically expire on September 1, 2015.

DOES THE ACT APPLY TO A PERMIT THAT HAD AN EXPIRATION DATE THAT FELL WITHIN THE QUALIFYING PERIOD BUT HAS BEEN ADMINISTRATIVELY CONTINUED PAST AUGUST 15, 2012, PURSUANT TO A TIMELY APPLICATION FOR RENEWAL?

Yes. The Act applies to any permit or approval valid during the qualifying period and extends the permit or approval four years in addition to the "lawful term of the approval."

DOES THE ACT EXTEND THE TERM OF A PERMIT THAT WAS REVOKED DURING THE QUALIFYING PERIOD?

No. The Act applies to permits or approvals that were "in effect or existence" during the qualifying period. Any permits or approvals that were revoked during the qualifying period were

THE PERMIT EXTENSION ACT
UPDATED SEPTEMBER 18, 2012

not in effect or existence for the purposes of this Act. The Act expressly preserves an issuing agency's authority to suspend or revoke an approval in accordance with the terms of approval itself, or the authorizing statute or regulations.

DOES THE ACT APPLY TO A PERMIT THAT EXPIRED PRIOR TO THE QUALIFYING PERIOD, BUT WHICH HAD BEEN EXTENDED BY THE ISSUING AGENCY?

Yes, provided the extension resulted in the permit being "in effect" during the qualifying period; if the permit application was pending but not granted during the qualifying period it was not "in effect or existence" for purposes of the Act. For example, a permit that was set to expire on January 31, 2007, but which was lawfully extended for three years by the issuing authority (until January 31, 2010), would now be set to expire on January 31, 2014.

IF MY PERMIT WAS EXTENDED BY THE AGENCY DURING THE QUALIFYING PERIOD, SUCH THAT I HAD TWO VALID PERMITS FOR THE SAME PROJECT, ARE BOTH EXTENDED?

While both permits may technically be extended, they would run concurrently, such that the four year extension on the second permit would be the controlling and relevant deadline. For example, if your permit were due to expire on August 15, 2009, and you applied for and received a one year extension until August 15, 2010, your new permit deadline would be August 15, 2014.

CAN AN AGENCY REVOKE OR SUSPEND A PERMIT OR APPROVAL TO AVOID THE 4 YEAR EXTENSION?

No. An issuing agency must have an independent reason authorized by the terms of the permit, the statute or the regulation to revoke or to suspend a permit.

DOES THE ACT REVIVE PERMITS THAT EXPIRED DURING THE QUALIFYING PERIOD WHERE A REQUEST FOR AN EXTENSION OR RENEWAL WAS ALREADY DENIED?

Yes. The Act only preserves certain rights of an agency to suspend or to revoke an approval. Even if an extension had been previously denied, the permit or approval is revived by the Act. However, a permitting authority retains its rights to revoke or modify a permit to the extent authorized permitted by the underlying permit, statutory or regulatory authority.

CAN THE ISSUING AGENCY CONDITION THE EXTENSION TO CORRECT PROBLEMS, ERRORS, AND/OR PROJECT CHANGES SINCE THE PERMIT EXPIRED?

No. The extension is automatic and no conditions can be placed on the extension. The Act automatically changes the expiration date of a qualifying approval. Any work that takes place under an extended permit or approval must conform to the existing performance standards. However, an issuing agency may modify the conditions of the extended permit or approval if the underlying statutory or regulatory authority would allow such modification.

CAN THE ISSUING AGENCY MODIFY A PERMIT OR APPROVAL TO CORRECT PROBLEMS, ERRORS, AND/OR PROJECT CHANGES SINCE THE PERMIT EXPIRED?

Yes. The Act preserves the issuing agency's authority to modify an approval if the underlying statutory or regulatory authority would allow a modification to correct problems, errors, or project changes. Any work that takes place under an extended permit or approval must conform to performance standards otherwise applicable to the permit as originally granted or previously extended.

THE PERMIT EXTENSION ACT
UPDATED SEPTEMBER 18, 2012

DOES THE ISSUING AGENCY'S AUTHORITY TO MODIFY A PERMIT INCLUDE REVISING A WETLAND RESOURCE DELINEATION?

Yes. The Act preserves the issuing agency's authority to modify an approval if the underlying statutory or regulatory authority would allow a modification to correct problems, errors, or project changes. Any work that takes place under an extended permit or approval must conform to performance standards otherwise applicable to the permit as originally granted or previously extended.

CAN A WETLAND RESOURCE DELINEATION WHICH HAS BEEN EXTENDED BY THE PERMIT EXTENSION ACT BE AMENDED?

Yes. Where the most recent governing wetland's approval (Determination of Applicability, Order of Resource Delineation or Order of Conditions) was extended by the PEA, a property owner or the owner's agent may file a request to amend the associated wetland delineation, provided that the request can only be submitted after the date the governing approval would have expired in the absence of the Permit Extension Act.

CAN THE ISSUING AGENCY TAKE ENFORCEMENT ACTION TO ADDRESS NONCOMPLIANCE?

Yes. The Act upholds the issuing agency's enforcement authority.

DOES THE ACT AFFECT MITIGATION THAT WAS REQUIRED AS A CONDITION OF MY PERMIT?

No. Any and all conditions that applied to the permit or approval extended by the Act continue to apply.

IS ANYTHING OTHER THAN THE EXPIRATION DATE OF MY PERMIT OR APPROVAL CHANGED BY THE ACT?

No. A permit or approval is subject to the same substantive terms that applied when it was issued by the agency, except that any interim deadlines established by the permit are extended for four years. Permits or approvals can be modified under the same terms that were originally contained in the permit or approval or that are authorized by the underlying statute or regulations.

IF WORK UNDER A PERMIT OR APPROVAL REQUIRES OTHER PERMITS, ARE THEY ALSO AUTOMATICALLY EXTENDED?

If such permits or approvals are covered by the Act and were issued or already in effect during the qualifying period, they would also be extended.

IF AN APPROVAL HOLDER IS IN VIOLATION, DOES THE ACT EXTEND THE PERMIT OR APPROVAL?

Yes, but the issuing agency can take appropriate enforcement action if a violation has occurred. The Act does not alter other substantive provisions of the permit or approval, or the authority of the issuing agency under which it was issued.

WHAT IF A PERMIT WAS ISSUED DURING THE QUALIFYING PERIOD BUT WAS SUBJECT TO AN ADMINISTRATIVE APPEAL?

A permit or approval that was pending adjudicatory appeal during the qualifying period is not extended because it is not a final permit or approval and as such is not "in effect or existence."

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However, if the administrative appeal that prevented the permit or approval from taking effect was resolved and a final permit was issued during the qualifying period, it is a permit in effect or existence and is entitled to the four year extension. If the administrative appeal is resolved and a final permit is issued after the qualifying period, the final permit is not entitled to the four year extension.

WHAT IF A PERMIT WAS ISSUED DURING THE QUALIFYING PERIOD BUT IS NOW PENDING JUDICIAL APPEAL?

As with any permit pending judicial appeal, it is subject to the court's ultimate decision. If a permit that would qualify for the extension is pending appeal, and the court upholds the permit, the permit will qualify for an extension. There is no need for an extension if the court invalidates the permit.

WHAT IF A PERMIT WAS ISSUED DURING THE QUALIFYING PERIOD BUT WAS APPEALED TO COURT AND THE COURT'S DECISION UPHOLDING THE PERMIT WAS NOT ISSUED UNTIL AFTER THE QUALIFYING PERIOD?

Because the permit was issued during the qualifying period, it was in effect or existence during the qualifying period and qualifies for an extension.

IS THERE ANY REASON WHY A PERMIT OR APPROVAL EXTENDED PURSUANT TO THE ACT WOULD NOT BE ELIGIBLE FOR FUTURE EXTENSIONS PURSUANT TO THE STATUTES AND REGULATIONS THAT APPLY TO THAT PERMIT OR APPROVAL?

No. Such permits would be subject to any substantive provision of the underlying statutes or regulations.

CAN AN APPROVAL HOLDER REFUSE AN EXTENSION?

No. If the Act applies to a permit or approval, it is automatically extended. However, an approval holder can surrender its approval under the same terms and conditions of that permit or approval that it could absent the Act.

WHAT EDITION OF THE STATE BUILDING CODE (780 CMR) IS A PROJECT PROCEEDING UNDER AN EXTENDED PERMIT SUBJECT TO?

A project should proceed in accordance with the edition of the State Building Code under which the permit was issued.

UNDERSTANDING THAT CHAPTER 40B PERMITS ARE EXEMPT FROM THIS ACT, ARE THE NON-40B PERMITS ASSOCIATED WITH A 40B PROJECT (SUCH AS WETLANDS PERMITS, ETC.) EXTENDED?

Yes. Only permits issued under sections 20 to 23 of Chapter 40B are not extended. All other permits associated with the project are extended.

ARE 40R PAYMENTS OR THE CLAWBACK OF ZONING INCENTIVE FUNDS EXTENDED?

No. The Act applies only to the use or development of real property and does not extend Chapter 40R incentive payments.