

Selectboard Statement

Ongoing Litigation

The Town of Brookline, Planning Board of the Town of Brookline, and Selectboard of the Town of Brookline were named as Defendants in a lawsuit filed in the United States District Court for the District of New Hampshire on September 21, 2021 by Plaintiffs Brookline Opportunities, LLC and Tamposi Brothers Holdings, LLC.

The Plaintiffs, who sought to develop workforce housing in Brookline, New Hampshire, claim municipal actions taken by the Town of Brookline, the Planning Board, and/or the Selectboard blocked Plaintiffs' plans to build a workforce housing development and therefore violated the Fair Housing Act. In particular, the Plaintiffs claim that the Town discriminated on the basis of familial status, race, color, and national origin by blocking Plaintiffs' efforts to build their proposed workforce housing development. The Plaintiffs allege that the Town took the following actions to block the Plaintiffs' proposed development: they (1) imposed a one-year moratorium on March 28, 2021; (2) adopted a Growth Management Ordinance in 2022; and (3) amended their workforce housing ordinance in 2022. The Plaintiffs seek compensatory damages, damages for loss of future income, lost opportunities and the loss of the developer fee. The Plaintiffs also seek injunctive relief allowing them to move forward with their workforce housing project and an award of attorneys' fees and costs pursuant to the Fair Housing Act.

The Town denies having violated the FHA. It contends its actions were based upon non-discriminatory reasons and/or legitimate governmental interests, including but not limited to providing adequate school services and the health, safety, and welfare of Town residents. The Town argues that the Town's adoption of the moratorium by public vote was consistent with

RSA 674:23, and that its adoption of the Growth Management Ordinance complied with all statutory requirements. The Town maintains that the project Plaintiffs proposed and sought to build could not, under the Town's ordinances in place at the time the project was proposed, be constructed in the location Plaintiffs sought to build it. It further maintains that Plaintiffs failed to proceed with submission of an application in support of their proposed project, and are therefore unable to demonstrate that the moratorium or any other action by the Town is the cause of any damages they may have suffered.

The case remains pending with the United States District Court in Concord, New Hampshire. The parties engaged in extensive discovery in the past year, including the exchange of documents, expert disclosures and more than 25 depositions. The discovery process is complete. Both sides recently filed summary judgment motions asking the Court to make certain rulings as a matter of law in advance of trial. In light of those filings, the trial, which was scheduled for the first two weeks in April 2023 before a jury, has been postponed pending rulings from the Court on summary judgment. A hearing on those motions is scheduled for April 17, 2023 at 2:00 pm. The outcome of those motions will determine whether trial is rescheduled later in 2023.