



City of Gardner, Massachusetts
Office of the City Council

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CALENDAR FOR THE MEETING

of

MONDAY, AUGUST 1, 2022

CITY COUNCIL CHAMBER

7:30 P.M.

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

**II. CALL OF THE ROLL OF COUNCILLORS**

**III. OPENING PRAYER**

**IV. PLEDGE OF ALLEGIANCE**

**V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

**VI. READING OF MINUTES OF PRIOR MEETING(S)**

**VII. PUBLIC HEARINGS**

**10740** – A Petition by National Grid and Verizon New England, Inc., Keyes Road – To relocate 1 Jointly Owned Pole on Keyes Road beginning at a point approximately 700 feet southeast of the centerline of the intersection of West Street. Relocate Pole #2 across the street to accommodate for bridge construction and upgrade to a 45 foot class 2. (*In the City Council and Referred to Public Service Committee 7/5/2022; Public Hearing 8/1/2022*)

**VIII. COMMUNICATIONS FROM THE MAYOR**

**ORDERS**

**10742** – An Order Transferring \$29,000.00 from Maintenance Crew Salary and Wages to Vehicle Fuel Expenses. (*Finance Committee*)

**10743** – An Order Transferring \$3,600.00 from Maintenance Crew Salary to Energy and Utilities Expenses. (*Finance Committee*)

### **ORDERS, continued**

**10744** – An Order Transferring \$7,000.00 from Maintenance Crew Salary to Street Lighting Expenses. (*Finance Committee*)

### **COMMUNICATIONS**

**10745** – A Measure Authorizing Acceptance of Donations and Gifts for Use by Gardner Fire Department. (*Finance Committee*)

**10746** – A Measure Authorizing Acceptance of Donations and Gifts for Use by Gardner Senior Center. (*Finance Committee*)

**10747** – A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings on Conant Street. (*Finance Committee*)

**10748** – Order of Taking for Land and Buildings by Eminent Domain at 94 Pleasant Street. (*Finance Committee*)

**10749** – A Notification from the Mayor Regarding “The VOTES Act” Chapter 92 of the Acts of 2022 Impact on Gardner. (*Finance Committee*)

**10750** – A Notification from the Mayor Regarding Fleet Status Update of the Gardner Fire Department. (*Finance Committee; Safety Committee*)

**10751** – A Notification from the Mayor Regarding Receipt of Medicaid Reimbursement Payment. (*Finance Committee*)

**10752** – A Notification from the Mayor Regarding the Transfer Station Revenue Trends. (*Finance Committee; Safety Committee*)

**10753** – A Notification from the Mayor Regarding FY2021 Free Cash Review. (*Finance Committee*)

**10754** – A Measure Authorizing Acceptance of Donations and Gifts for Use by Gardner Centennial Celebration. (*Finance Committee*)

**10755** – A Notification from the Mayor Regarding Air Quality Improvement at the Gardner Fire Department Headquarters. (*Safety Committee*)

**10756** – A Notification from the Mayor Regarding Station 1 Repair and Remediation Work. (*Safety Committee*)

**10757** – A Ruling from the Attorney General relative to an Open Meeting Law Complaint. (*Finance Committee*)

**10760** – A Measure Confirming the Police Officer Assignments to Polling Locations.

## **APPOINTMENTS**

- 10758** – A Measure Confirming the Mayor’s Appointments of Election Officers for 2022-2023. (*Appointments Committee*)
- 10761** – A Measure Confirming the Mayor’s Appointment of Nancy Binder to the position of Bandstand Committee Member, for term expiring July 25, 2025. (*Appointments Committee*)
- 10762** – A Measure Confirming the Mayor’s Appointment of Edward Vipond to the position of Bandstand Committee Member, for term expiring July 25, 2025. (*Appointments Committee*)
- 10763** – A Measure Confirming the Mayor’s Appointment of Donna Russo to the position of Bandstand Committee Member, for term expiring July 25, 2025. (*Appointments Committee*)
- 10764** – A Measure Confirming the Mayor’s Appointment of Anne Hurst to the position of Disability Commission Member, for term expiring July 25, 2025. (*Appointments Committee*)
- 10767** – A Measure Confirming the Mayor’s Appointment of Rocky to the position of Police K-9, as Member of the Gardner Police K-9 Unit, for a permanent term. (*Appointments Committee*)

## **IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**

- 10759** – A Measure Relative to the September 6, 2022, State Primary. (*Finance Committee; Appointments Committee*)
- 10765** – An Open Meeting Law Complaint filed by Gregory Deehan.
- 10766** – An Open Meeting Law Complaint filed by Gregory Deehan. (*Public Safety*)

## **X. REPORTS OF STANDING COMMITTEES**

### **APPOINTMENTS**

- 10735** – A Measure Confirming the Mayor’s Appointment of Lorin Walter to the position of permanent Police Sergeant. (*In the City Council and Referred to Appointments Committee 7/5/2022*)

### **APPOINTMENTS, continued**

**10736** – A Measure Confirming the Mayor’s Appointment of Paulette Burns to the position of Board of Assessors Member, for term expiring July 1, 2025. *(In the City Council and Referred to Appointments Committee 7/5/2022)*

### **FINANCE COMMITTEE**

**10737** – An Ordinance to Amend Code of the City of Gardner, Section 44-171, Entitled “Compensation in Lieu of Paid Holidays.” *(In the City Council and Referred to Finance Committee 7/5/2022)*

**10741** – A Measure to Elect a City Treasurer and City Collector of Taxes, effective August 19, 2022. *(In the City Council and Referred to Finance Committee 7/5/2022)*

**10768** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171, Section 68, Entitled “Compensation Schedule, Attachment A: Mayor, Attachment B: City Council, and Attachment D: School Committee.” *(Submitted by Councillor Judy Mack)*

### **PUBLIC SERVICE COMMITTEE**

**10740** – A Petition by National Grid and Verizon New England, Inc., Keyes Road – To relocate 1 Jointly Owned Pole on Keyes Road beginning at a point approximately 700 feet southeast of the centerline of the intersection of West Street. Relocate Pole #2 across the street to accommodate for bridge construction and upgrade to a 45 foot class 2. *(In the City Council and Referred to Public Service Committee 7/5/2022; Public Hearing 8/1/2022)*

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

## **XII. NEW BUSINESS**

## **XIII. CLOSING PRAYER**

## **XIV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.





**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
**CITY CLERK**

Room 121, City Hall  
Tel (978) 630-4058  
Fax (978) 630-2589

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**NOTICE TO ABUTTERS**

July 13, 2022

**TO ABUTTERS AND OTHER INTERESTED PARTIES:**

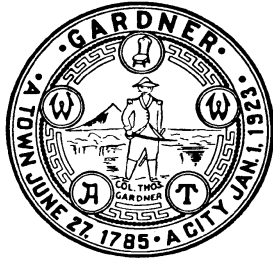
Pursuant to the provisions of M.G.L., c. 166, §22, you are hereby notified that a Public Hearing will be conducted on **MONDAY, AUGUST 1, 2022 at 7:30 o'clock P.M.** in the City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 95 Pleasant Street, Gardner, Massachusetts, upon the petition of Massachusetts Electric Company, d/b/a NATIONAL GRID and Verizon New England, Inc. for permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, under along and across the following public way:

**KEYES ROAD** – To relocate 1 Jointly Owned Pole on Keyes Road beginning at a point approximately 700 feet southeast of the centerline of the intersection of West Street. Relocate Pole #2 across the street to accommodate for bridge construction and upgrade to a 45-foot class 2.

A sketch of the proposed pole location is attached for your edification.

**CITY COUNCIL OF GARDNER**

By: **TITI SIRIPHAN**  
City Clerk



10740

**ENGINEERING DEPARTMENT**  
**CITY OF GARDNER**  
50 Manca Drive, Gardner MA 01440

Robert E. Oliva, City Engineer  
Telephone (978) 630-8195  
roliva@gardner-ma.gov

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**PROJECT REVIEW MEMORANDUM**

**To:** Public Service Committee

**Cc:** Dane Arnold, DPW Director  
Christine Harty, DPW Administrative Asst.  
Titi Siriphan, City Clerk

**From:** Robert Oliva – City Engineer

**Date:** July 20, 2022

**Project:** National Grid Pole Petition - City Council Item #10740

National Grid has submitted a pole petition to relocate two poles on Keyes Road. The following work is proposed:

- Pole #2 will be moved from its current location on the west side of the road to a new location on the east side of the road with a new guy, all within the City right of way.
- Pole #3 will be moved from the City right of way to be located on private property at 26 Keyes Road. National Grid has conveyed to me that the owner of 26 Keyes Road has agreed to an easement with them, and the easement is in the works.

This work is necessary to accommodate the construction of the proposed Keyes Road culvert replacement. I have reviewed the petition application, inspected the proposed locations, and have no comment on the petition at this time.

**nationalgrid**

RECEIVED

2022 JUN 27 AM 9:52

CITY CLERK'S OFFICE  
GARDNER, MA

June 23, 2022

City of Gardner

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID and VERIZON, covering joint NATIONAL GRID-VERIZON pole location(s)

If you have any questions regarding this permit please contact:

Please notify National Grid's Vincent LoGuidice of the hearing date / time.

If this petition meets with your approval, please return an executed copy to each of the above named Companies.

National Grid Contact: Vincent LoGuidice; 1101 Turnpike Street; North Andover, MA 01845. Phone 978-725-1392.

Very truly yours,

*Pat Cody*

Patrick Cody  
Supervisor, Distribution Design

Enclosures

Questions contact – Will Fontaine 978-725-1392

RECEIVED

**PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS**

2022 JUN 27 AM 9:53

North Andover, Massachusetts

CITY CLERK'S OFFICE  
GARDNER, MA

To the City Council  
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Keyes Rd - National Grid to relocate 1 JO Pole on Keyes Rd beginning at a point approximately 700 feet southeast of the centerline of the intersection of West St. Relocate Pole # 2 across the street to accommodate for bridge construction and upgrade to a 45 foot class 2.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Keyes Rd - Gardner - Massachusetts.

**No. 30562003** May 23, 2022

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a National Grid

BY Det Cody  
Engineering Department

VERIZON NEW ENGLAND, INC.

BY \_\_\_\_\_  
Manager / Right of Way

**ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS**

To the City Council - Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law,  
IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 23rd day of May, 2022.

All construction under this order shall be in accordance with the following conditions:  
Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Keyes Rd - Gardner - Massachusetts..

**No. 30562003** Dated May 24, 2022. Filed with this order

There may be attached to said poles by Massachusetts Electric Company d/b/a National Grid and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

Keyes Rd - National Grid to relocate 1 JO Pole on Keyes Rd beginning at a point approximately 700 feet southeast of the centerline of the intersection of West St. Relocate Pole # 2 across the street to accommodate for bridge construction and upgrade to a 45 foot class 2.

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the  
of the City/Town of \_\_\_\_\_, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Massachusetts City/Town Clerk.  
20\_\_.

Received and entered in the records of location orders of the City/Town of \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_

Attest:  
City/Town Clerk

I hereby certify that on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, M  
 at \_\_\_\_\_ a public hearing was held on the petition of  
 Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and  
 that we mailed at least seven days before said hearing a written notice of the time and place of said  
 hearing to each of the owners of real estate (as determined by the last preceding assessment for  
 taxation) along the ways or parts of ways upon which the Company is permitted to erect  
 poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

.....  
 .....  
 .....  
 .....

Board or Council of Town or City, Massachusetts

# CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of  
 hearing with notice adopted by the \_\_\_\_\_ of the City of \_\_\_\_\_  
 Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and recorded with the  
 records of location orders of the said City, Book \_\_\_\_\_, Page \_\_\_\_\_. This certified copy  
 is made under the provisions of Chapter 166 of General Laws and any additions thereto or  
 amendments thereof.

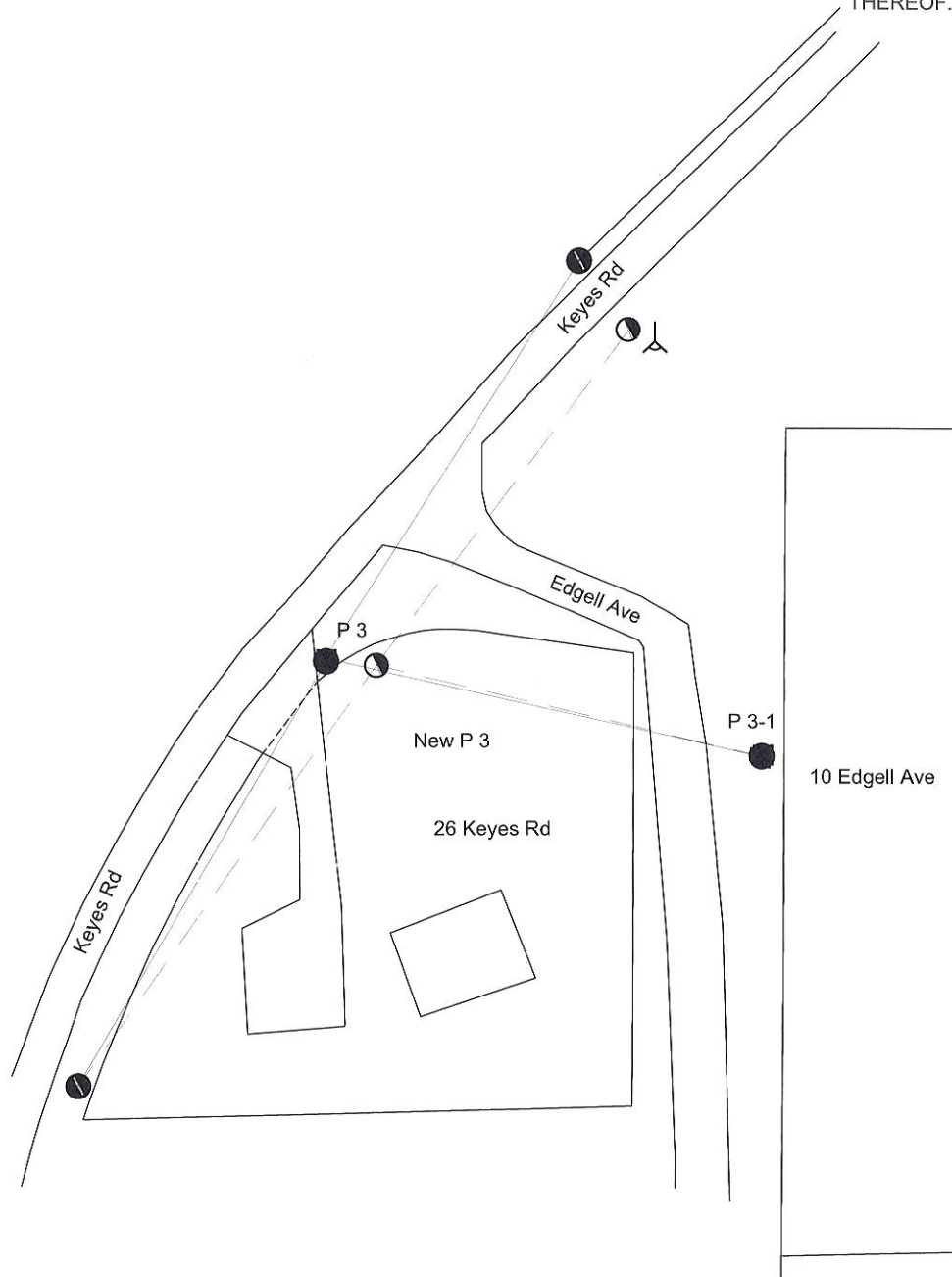
Attest:

City/Town Clerk

DO NOT USE THIS SPACE  
TOWN USE ONLY



EXHIBIT 'A' NOT TO SCALE  
THE EXACT LOCATION OF  
SAID FACILITIES TO BE  
ESTABLISHED BY AND UPON  
THE INSTALLATION AND  
ERECTION OF THE FACILITIES  
THEREOF.



## LEGEND



J/O POLE



PROPOSED POLE



ANCHOR/GUY

----- Proposed OH Wire

——— OH Wire

## EASEMENT

Date: 5/19/22

Designer: Will Fontaine

W/R: 30562003

26 Keyes RD

GARDNER, MA

SKETCH TO ACCOMPANY EASEMENT:  
Moving Poles 2&3 for roadwork

**nationalgrid**

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: FY2022 Appropriation Transfer Request – DPW Fuel Account

Dear Madam President and Councilors,

As the City Auditor's Department has begun the process of closing out the 2022 Fiscal Year, they have begun the process of ensuring that all bills received at the end of the fiscal year are adequately accounted for.

The Department of Public Works ("DPW") received a bill for the final payment of the fiscal year which put the department's fuel account into deficit by \$29,000.

Due to vacancies in the DPW during the previous fiscal year, there is adequate funding in the FY2022 salary appropriation to cover this expenditure.

The General Laws require that the City Council vote to transfer monies from salary appropriations to expenditure appropriations.

Respectfully Submitted,

A handwritten signature in blue ink, reading "Michael J. Nicholson". The signature is fluid and cursive, with the first name "Michael" and last name "Nicholson" clearly legible.

Michael J. Nicholson  
Mayor, City of Gardner



AN ORDER TRANSFERRING APPROPRIATIONS FROM MAINTENANCE  
CREW SALARY AND WAGES TO VEHICLE FUEL EXPENSES.

ORDERED:

That there be and is hereby a transfer appropriating the sum of Twenty-Nine  
Thousand Dollars and 0/100 (\$29,000.00) from Maintenance Crew Salary and Wages to  
Vehicle Fuel Expenses.

**CITY OF GARDNER**  
**Department of Public Works**



Highway  
Water  
Sewer  
Forestry  
Parks/Playgrounds  
Cemeteries

Dane E. Arnold, Director  
50 Manca Drive  
Gardner, MA 01440-2687  
Telephone (978) 630-8195  
darnold@gardner-ma.gov

Mayor Michael J. Nicholson  
City Hall  
95 Pleasant Street  
Gardner, MA 01440

July 15, 2022

Dear Mayor Nicholson:

The Department of Public Works has had 4-6 vacancies consistently throughout Fiscal Year 2022. Because of these vacancies, we have a large amount of funds remaining in the Maintenance Crew Salary and Wages line item. I am requesting the City to transfer from a Salary Account to the Operating Budget to offset deficits in the Vehicle Fuel and Energy and Utilities line items. This action requires City Council approval.

The Department of Public Works is requesting a transfer of **\$29,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Vehicle Fuel** line item (14421-52243).

The Department of Public Works is requesting a transfer of **\$3,600** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Energy and Utilities** line item (14421-52110).

The Department of Public Works is requesting a transfer of **\$7,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Street Lighting** line item (14421-52120).

If you have any questions on any of these requests, please do not hesitate to contact my office.

Sincerely

Dane E. Arnold, Director  
Department of Public Works

Pc: Public Service Committee  
John Richard, City Auditor

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: FY2022 Appropriation Transfer Request – DPW Energy and Utilities Account

Dear Madam President and Councilors,

As the City Auditor's Department has begun the process of closing out the 2022 Fiscal Year, they have begun the process of ensuring that all bills received at the end of the fiscal year are adequately accounted for.

The Department of Public Works ("DPW") received a bill for the final payment of the fiscal year which put the department's energy and utilities account into deficit by \$3,600.00.

Due to vacancies in the DPW during the previous fiscal year, there is adequate funding in the FY2022 salary appropriation to cover this expenditure.

The General Laws require that the City Council vote to transfer monies from salary appropriations to expenditure appropriations.

Respectfully Submitted,

A handwritten signature in blue ink, reading "Michael J. Nicholson". The signature is fluid and cursive, with the first name "Michael" and last name "Nicholson" clearly legible.

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER TRANSFERRING APPROPRIATIONS FROM MAINTENANCE  
CREW SALARY AND WAGES TO ENERGY AND UTILITIES EXPENSES.

ORDERED:

That there be and is hereby a transfer appropriating the sum of Three Thousand  
Six Hundred Dollars and 0/100 (\$3,600.00) from Maintenance Crew Salary and Wages to  
Energy and Utilities Expenses.

**CITY OF GARDNER**  
**Department of Public Works**



Highway  
Water  
Sewer  
Forestry  
Parks/Playgrounds  
Cemeteries

Dane E. Arnold, Director  
50 Manca Drive  
Gardner, MA 01440-2687  
Telephone (978) 630-8195  
darnold@gardner-ma.gov

Mayor Michael J. Nicholson  
City Hall  
95 Pleasant Street  
Gardner, MA 01440

July 15, 2022

Dear Mayor Nicholson:

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The Department of Public Works is requesting a transfer of **\$29,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Vehicle Fuel** line item (14421-52243).

The Department of Public Works is requesting a transfer of **\$3,600** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Energy and Utilities** line item (14421-52110).

The Department of Public Works is requesting a transfer of **\$7,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Street Lighting** line item (14421-52120).

If you have any questions on any of these requests, please do not hesitate to contact my office.

Sincerely

Dane E. Arnold, Director  
Department of Public Works

Pc: Public Service Committee  
John Richard, City Auditor

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: FY2022 Appropriation Transfer Request – DPW Street Lighting Account

Dear Madam President and Councilors,

As the City Auditor's Department has begun the process of closing out the 2022 Fiscal Year, they have begun the process of ensuring that all bills received at the end of the fiscal year are adequately accounted for.

The Department of Public Works ("DPW") received a bill for the final payment of the fiscal year which put the department's street lights account into deficit by \$7,000.00.

Due to vacancies in the DPW during the previous fiscal year, there is adequate funding in the FY2022 salary appropriation to cover this expenditure.

The General Laws require that the City Council vote to transfer monies from salary appropriations to expenditure appropriations.

Respectfully Submitted,

A handwritten signature in blue ink, reading "Michael J. Nicholson". The signature is stylized with a large initial "M" and a cursive "Nicholson".

Michael J. Nicholson  
Mayor, City of Gardner

AN ORDER TRANSFERRING APPROPRIATIONS FROM MAINTENANCE  
CREW SALARY AND WAGES TO STREET LIGHTING EXPENSES.

ORDERED:

That there be and is hereby a transfer appropriating the sum of Seven Thousand  
Dollars and 0/100 (\$7,000.00) from Maintenance Crew Salary and Wages to Street  
Lighting Expenses.



**CITY OF GARDNER**  
**Department of Public Works**



Highway  
Water  
Sewer  
Forestry  
Parks/Playgrounds  
Cemeteries

Dane E. Arnold, Director  
50 Manca Drive  
Gardner, MA 01440-2687  
Telephone (978) 630-8195  
darnold@gardner-ma.gov

Mayor Michael J. Nicholson  
City Hall  
95 Pleasant Street  
Gardner, MA 01440

July 15, 2022

Dear Mayor Nicholson:

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The Department of Public Works is requesting a transfer of **\$29,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Vehicle Fuel** line item (14421-52243).

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The Department of Public Works is requesting a transfer of **\$7,000** from the **Maintenance Crew Salary and Wages** line item in the Department of Public Works to the **Street Lighting** line item (14421-52120).

If you have any questions on any of these requests, please do not hesitate to contact my office.

Sincerely

Dane E. Arnold, Director  
Department of Public Works

Pc: Public Service Committee  
John Richard, City Auditor





City of Gardner - *Executive Department*  
Mayor Michael J. Nicholson

RECEIVED

2022 JUL 13 AM 11:17  
CITY CLERK'S OFFICE  
GARDNER, MA

July 12, 2022

Hon. Elizabeth J. Kazinskas, City Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Acceptance of Donations – Gardner Fire Department

Dear Madam President and Councilors,

Planet Fitness of Gardner is currently undergoing renovations and updating the devices they have at their facility.

As they are receiving new devices, they have notified the Fire Department that they would like to donate a treadmill, elliptical trainer, and stationary exercise bicycle to the gym at the Fire Department Headquarters.

This is the second year in a row Planet Fitness has donated equipment to the fitness centers of our public safety department headquarters, having donated treadmills to the Police Department last year.

The General Laws of the Commonwealth require that this donation be accepted by vote of the City Council.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**ACCEPTANCE OF DONATIONS AND GIFTS**  
**FIRE DEPARTMENT**

***VOTED:*** That the City of Gardner is authorized to accept certain donations and gifts for use by the Fire Department, said acceptance in accordance with the provisions of Chapter 44, Section 53A½ of the General Laws.



## CITY OF GARDNER

**FIRE DEPARTMENT**  
70 CITY HALL AVENUE  
GARDNER, MA 01440-2671

**OFFICE OF FIRE CHIEF**  
**GREGORY F. LAGOY**

**(978) 632-1616 Ext. 5**  
**FAX (978) 630-4028**

July 12, 2022

Dear Mayor Nicholson,

I am writing to let you know of a recent donation received by the Gardner Fire Department. Planet Fitness, of 74 Victoria Street is in the process of replacing/upgrading fitness equipment at their facility, and has donated several used pieces of equipment, as follows:

- 1 – Life Fitness treadmill, used.
- 1 – Life Fitness elliptical trainer, used.
- 1 – Life Fitness/Life Cycle stationary exercise bicycle, used.

This equipment has been added to the Fire Department's gymnasium. I would like to express my appreciation to Planet Fitness for their generosity and support of the City's Fire Department.

Respectfully,

Gregory F. Lagoy  
Chief



**City of Gardner - *Executive Department***  
**Mayor Michael J. Nicholson**

RECEIVED  
2022 JUL 13 AM 11:17  
CITY CLERK'S OFFICE  
GARDNER, MA

July 12, 2022

Hon. Elizabeth J. Kazinskas, City Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Acceptance of Donations – Gardner Senior Center

Dear Madam President and Councilors,

Attached, please find a recent report of donation made to the Gardner Senior Center.

As required by the General Laws, these donations must be accepted by vote of the City Council.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**ACCEPTANCE OF DONATIONS AND GIFTS**  
**SENIOR CENTER**

***VOTED:*** That the City of Gardner is authorized to accept certain donations and gifts for use by the Senior Center, said acceptance in accordance with the provisions of Chapter 44, Section 53A½ of the General Laws.

## CITY OF GARDNER

MASSACHUSETTS 01440

## COUNCIL ON AGING

Charles P. McKean Building  
294 Pleasant Street



T: (978) 630-4067  
F: (978) 632-5965

July 1, 2022

Mayor Michael J. Nicholson  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Dear Mayor Nicholson,

The Gardner Council on Aging has been very fortunate to have a significant amount of support from our community. From volunteer work to donations of durable medical supplies, our senior community, local businesses, and community organizations continue to demonstrate extraordinary generosity.

The Council on Aging is asking you and the members of the Gardner City Council to accept the following donations received by the Council with a value in excess of \$500.

|                                                        |          |
|--------------------------------------------------------|----------|
| <b>The Knowlton Foundation</b>                         | \$4,500  |
| <b>The Gardner Lion's Club</b>                         | \$750    |
| <b>The Rotary Club of the Greater Gardner Area</b>     | \$750    |
| <b>The Central Massachusetts Agency on Aging Grant</b> | \$10,000 |
| <b>Gardner Rehabilitation and Nursing Center</b>       | \$600    |
| <b>Ryan Patrick Jones Foundation</b>                   | \$1050   |

**Donations of Items and Materials**

|                                                  |                      |        |
|--------------------------------------------------|----------------------|--------|
| <b>Growing Places</b>                            | 6 Hydroponic towers  | \$7200 |
| <b>Gardner Rehabilitation and Nursing Center</b> | medical bag/supplies | \$500  |
| <b>Sterillite Corporation</b>                    | Bins and baskets     | \$950  |
| <b>Community Health Connections</b>              | Face Masks           | \$500  |

The Gardner Council on Aging extends its sincere appreciation to your office and to the members of the City Council for your continued support. If you have any questions or need any additional information, please contact me directly at (978) 630-4067, or by email to [mellis@gardner-ma.gov](mailto:mellis@gardner-ma.gov).

Sincerely,

Michael F. Ellis  
Director

cc: Ronald Darmetka, Chair, Council on Aging  
Terri Hillman, Treasurer, Council on Aging  
Nate Boudreau, Chair, City Council Welfare Committee

# City of Gardner, *Executive Department*

RECEIVED



Michael J. Nicholson, Mayor

July 14, 2022

2022 JUL 14 PM 12:12

CITY CLERK'S OFFICE  
GARDNER, MA

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St.  
Gardner, MA 01440

RE: Declaration of Surplus – Conant Street

Dear Madam President and Councilors,

In its regular meeting on June 6<sup>th</sup>, the Council voted to declare surplus for the purpose of disposal, in accordance with prevailing General Laws, a small portion of city-owned land located on Conant Street, further identified on the City of Gardner Assessor's Map as R17-2-14.

At the time of that vote, the property record card reflected an appraised value of \$22,800. However, upon further review, the parcel in question does not constitute a buildable lot. As such, the Assessor's Office has reduced the assessment of the property. Consequently, we are asking that the minimum selling price be reduced to \$15,000.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL OF  
LAND AND BUILDINGS AT CONANT STREET**

***VOTED:*** To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at Conant Street, further identified on the City of Gardner Assessor's Map as R17-2-14, to establish as a minimum amount of \$15,000 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the mayor shall consider proper in accordance with this Vote.









**City of Gardner - *Executive Department***

**Mayor Michael J. Nicholson**

RECEIVED

2022 JUL 16 AM 7:58

CITY CLERK'S OFFICE  
GARDNER, MA

July 5, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Eminent Domain Taking of 94 Pleasant St

Dear Madam President and Councilors,

The property located at 94 Pleasant Street has not paid real estate taxes to the City since 1991.

The City first took the property to tax title and land court in 1996 at the direction of Mayor Charles Manca. However, due to delays in Land Court due to the property owner finding utilizing different delay tactics, the cases are still open with no resolution.

The property currently owes the City \$398,695.63 in back taxes and interest.

Article 10, of Part 1 of the Constitution of the Commonwealth of Massachusetts requires that a property owner be compensated for fair market value of a property taken by eminent domain, and that the eminent domain taken be done for a public purpose. Section 44A, of Chapter 79 of the General Laws further explains that in situations where a property owes taxes to the municipality taking the property, the amount of back taxes can be deducted from the fair market value price of the property that the government entity owes the property owner. This was further affirmed by the Courts since that statute was adopted.

A full eminent domain appraisal by a licensed appraiser was conducted on the property and shows the fair market value of the property to be \$0.00.

After more than three decades of legal dealings with this property, out of a fiduciary responsibility to the other taxpayers in this City, and in line with the recommendations of the City's Downtown Urban Renewal Plan, I am requesting the City Council approve the eminent domain taking of this property so that the City can work to improve the area and get the property back on the tax rolls.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC: Finance Committee



## THE COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

## CITY OF GARDNER, MASSACHUSETTS

## ORDER OF TAKING

WHEREAS, the City of Gardner, a city organized and incorporated under the laws of Massachusetts, with a usual place of business located at 95 Pleasant Street, Gardner, MA is authorized to take land by eminent domain for any municipal purpose pursuant to Section 36, of the City of Gardner Charter as amended to November 8, 1989 and M.G.L. c. 79, as amended and Chapter 121B; and

WHEREAS, the City of Gardner has established an urban renewal plan identifying certain properties in the City of Gardner to be acquired for demolition and establishment of public park and/or open space; and

WHEREAS, the City of Gardner has voted and appropriated monies to be used to acquire property for such public purpose; and

WHEREAS, Michael Nicholson has approved the acquisition of land for said public purpose and recommended to the City Council an order of taking; and

WHEREAS sufficient funds have been appropriated into account 11199-55210 to compensate the property owners for the property rights taken hereby; and

NOW THEREFORE, BE IT ORDERED THAT:

Acting pursuant to the powers set forth in M.G.L. c. 79, as amended, and Chapter 121B, as amended, and of any and every power and authority available to the City of Gardner, granted or implied, the City of Gardner hereby takes for itself in fee simple by eminent domain, for the purposes purpose of establishing public park and/or open space. The property taken comprises 5,438 square feet more or less of land or .0869 acres and is more particularly described on Exhibit A annexed hereto.

The taking is made in fee simple, and, except as provided herein, is made together with any and all easements and rights appurtenant to the property, including trees, buildings and other structures standing upon or affixed thereto, air rights, subsurface rights and including the interests of the supposed owners, if any, in all private ways and public streets, highways or in the land lying in the bed of any street or highway, public or private within or adjacent to the Property.

The City Council hereby awards damages sustained by persons in their property by reasons of this taking as follows:

| <u>OWNER</u>                       | <u>PROPERTY ADDRESS</u>                                                                 | <u>AWARD</u> |
|------------------------------------|-----------------------------------------------------------------------------------------|--------------|
| Ry-Co International, Ltd.          | c/o Ara Eresian, Jr., Registered Agent<br>83 Whitney St.<br>Northborough, MA 01532-1429 | \$0          |
| Eldorado Canyon<br>Properties, LLC | c/o Melanie C. Eresian, Registered Agent<br>2 Westwood Rd.<br>Shrewsbury, MA 01545-1827 | \$0          |

3. The City Council does direct and authorize the Mayor to do all things and to execute all documents necessary for the prompt payment of the amount of damages awarded in the Order of Taking so that the same shall be payable within sixty (60) days after the rights to damages become vested in the persons entitled to damages. The Mayor is further requested to direct the City Solicitor for and on behalf of the City Council to give notice of this taking and pertinent information to every person entitled thereto in accordance with the provisions of General Laws Chapter 79, Sections 7B, 7C, 7F, 77G, 8A, and 8B.

In City Council

August \_\_\_\_, 2022

ORDERED AND ADOPTED BY A YEA AND NAY VOTE OF \_\_\_\_ YEAS AND \_\_\_\_ NAYS.

\_\_\_\_\_  
Titi Siriphan, City Clerk  
City of Gardner

**EXHIBIT A**

A certain parcel of land, with the buildings and other improvements thereon, situated on the easterly side of Pleasant Street, in Gardner, Worcester County, Massachusetts, bounded and described as follows:

COMMENCING at the northwesterly corner thereof at the southwesterly corner of land now or formerly of Katherine Glasheen; thence

EASTERLY at an included angle of  $98^{\circ} 34'$ , by said Glasheen land, 67.6 feet to a corner; thence

SOUTHERLY at an included angle of  $88^{\circ} 58'$ , by land now or formerly of Amedeo Olivari, et als, 58.85 feet to a corner; thence

WESTERLY at an included angle of  $82^{\circ} 28'$ , by a line which is approximately 14 feet from the southerly side of the house located on these premises, 74.6 feet to the easterly line of Pleasant Street; thence

NORHERLY at an included angle of  $90^{\circ}$ , by the easterly line of Pleasant Street, 48.2 feet to the place of beginning.

The above described premises are shown on a plan entitled "Compiled Plan of Land to be Conveyed to Robert W. Waxlax et ux, Gardner, Mass., Jan. 8, 1983, Michael S. Szoc, Surveyor," recorded in Worcester South District Registry of Deeds, Plan Book 376, Plan 112.

# Gould Title Company, Inc.

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*Real Estate Title Services*

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90 Front Street, Ste C202

Worcester, MA 01608

Tel: (508) 754-1871

Fax: (508) 754-7079

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June 22, 2022

John M. Flick, Esq.  
Flick Law Group, P.C.  
144 Central Street  
Gardner, MA 01440

Re: 92-94 Pleasant Street, Gardner  
Our File No. 12424

Dear Attorney Flick,

You have asked us to perform a title examination on 92-94 Pleasant Street, Gardner ("the Pleasant Street property") and we have conducted our research which has led to a great deal of uncertainty as to the ownership of said premises which is discussed below.

Our search began with a deed dated October 13, 1961 and proceeded without issue until 1990. Lawrence Petricca and Leonard Petricca, Trustees of L & L Realty Trust ("L & L") became the owners of the premises in 1985 pursuant to a deed recorded in Book 8699, Page 277. A mortgage to Winchendon Savings Bank was recorded in Book 11031, Page 127 ("the Mortgage") and foreclosure proceedings were commenced shortly thereafter. Leonard Petricca resigned as a trustee of L & L in 1988. In 1990, Lawrence Petricca, as remaining trustee of L & L, attempted to convey title to 94 Pleasant Street but the deed was invalid as it did not name any trustees in the grantee clause nor did it make reference to a recorded trust (see Title Standard 45). Therefore, title remained in L & L subject to the Mortgage. A subsequent conveyance in Book 19336, Page 170 to RA Realty Trust is also deemed invalid.

There was a foreclosure deed recorded in Book 63736, Page 252, which on its cover page only appears to affect 35-39 Graham Street, Gardner, a non-locus property ("the Graham Street property"). However, the foreclosure notice attached to said foreclosure deed indicates that there was also to be a foreclosure of the Pleasant Street property. The foreclosure auctions supposedly took place in 1995 but the foreclosure deed was not recorded and presumed misplaced or lost and another was produced and recorded in 2020. We believe that this recorded foreclosure deed only intended to convey the Graham Street property. It is likely that there was another misplaced or lost foreclosure deed for the Pleasant Street property that was never recorded. The Mortgage which was the subject of these foreclosures would now be expired by statute if no foreclosure sale was actually made on this property.

There is evidence of record, that the assets of L & L were sold by the Bankruptcy Trustee in Bankruptcy Case #9:08 bk-16204FMD to Legal Resolve, LLC and then to Ry-Co

Page 2

International, Ltd. ("Ry-Co"). Ry-Co then apparently conveyed assets to Eldorado Canyon Properties, LLC but it is not clear if it was all assets under the Bill of Sale which included the L & L assets or if it only included assets of other trusts. The aforesaid information is found in an Affidavit recorded in Book 63736, Page 259.

It is our belief that the Pleasant Street property is now owned of record by either Ry-Co International, Ltd. (which has been involuntarily dissolved according to the Massachusetts Corporations Division records) or Eldorado Canyon Properties, LLC as successors in interest of the assets of L & L Realty Trust. Attached are copies of documents referred to herein for your reference. Once you have reviewed this, please let me know if you would like to discuss further.

Very truly yours,

A handwritten signature in cursive script, reading "Nicole S. Trani".

Nicole S. Trani

Enclosures



07/05/2022 11:06  
jdymekGARDNER, MA  
Real Estate Tax StatementP 1  
txtaxstm

PARCEL: M22-00010-00015

LOCATION: 94 PLEASANT ST

## OWNER:

RA REALTY TRUST  
C/O ARSENAULT RENE TRUSTEE  
378 KELLEY ST  
MANCHESTER NH 03012

## STATUS:

SQUARE FEET 3,787  
LAND VALUATION 57,100  
BUILDING VALUATION 227,700  
EXEMPTIONS 0

USA

TAXABLE VALUATION 284,800  
INTEREST PER DIEM 52.35

## LEGAL DESCRIPTION:

DEED DATE: 11/10/1997 BOOK/PAGE: 193360170

INTEREST DATE: 07/05/2022

| YEAR | TYPE       | BILL | BILLED   | PRIN DUE | INT DUE | TOTAL DUE |
|------|------------|------|----------|----------|---------|-----------|
| INST | CHARGE     |      |          |          |         |           |
| 2023 | RE-R       | 5640 |          |          |         |           |
| 1    | REAL       |      | 1,356.70 | 1,356.70 | .00     | 1,356.70  |
| 2    | REAL       |      | 1,356.70 | 1,356.70 | .00     | 1,356.70  |
|      |            |      | 2,713.40 | 2,713.40 | .00     | 2,713.40  |
| 2022 | RE-R       | 5670 |          |          |         |           |
| 1    | REAL       |      | 894.56   | 894.56   | 115.63  | 1,010.19  |
| 2    | REAL       |      | 894.56   | 894.56   | 84.41   | 978.97    |
| 3    | REAL       |      | 1,021.14 | 1,021.14 | 60.32   | 1,081.46  |
|      | SEWER LIEN |      | 80.00    | 80.00    | 4.73    | 84.73     |
|      | SE LIEN IN |      | 16.06    | 16.06    | .95     | 17.01     |
|      | WATER LIEN |      | 275.80   | 275.80   | 16.29   | 292.09    |
|      | WA LIEN IN |      | 35.17    | 35.17    | 2.08    | 37.25     |
|      |            |      | 1,428.17 | 1,428.17 | 84.37   | 1,512.54  |
| 4    | REAL       |      | 1,021.14 | 1,021.14 | 25.07   | 1,046.21  |
|      | DEMAND     |      | 30.00    | 30.00    | .00     | 30.00     |
|      |            |      | 1,051.14 | 1,051.14 | 25.07   | 1,076.21  |
|      |            |      | 4,268.43 | 4,268.43 | 309.48  | 4,577.91  |
| 2021 | LIEN       | 73   |          |          |         |           |
| 1    | REAL       |      | 3,490.97 | 3,490.97 | 483.58  | 3,974.55  |
|      | SEWER LIEN |      | 80.00    | 80.00    | 11.08   | 91.08     |
|      | SEWER LIEN |      | 16.28    | 16.28    | 2.26    | 18.54     |
|      | WATER LIEN |      | 164.70   | 164.70   | 22.81   | 187.51    |
|      | WA LIEN IN |      | 33.27    | 33.27    | 4.61    | 37.88     |
|      | DEMAND     |      | 30.00    | 30.00    | .00     | 30.00     |
|      | INT TAKE   |      | 355.80   | 355.80   | 49.29   | 405.09    |
|      |            |      | 4,171.02 | 4,171.02 | 573.63  | 4,744.65  |

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jdymekGARDNER, MA  
Real Estate Tax StatementP 2  
txtaxstm

| YEAR | TYPE       | BILL     | BILLED   | PRIN DUE | INT DUE  | TOTAL DUE |
|------|------------|----------|----------|----------|----------|-----------|
| INST | CHARGE     |          |          |          |          |           |
|      |            |          | 4,171.02 | 4,171.02 | 573.63   | 4,744.65  |
| 2020 | LIEN       | 68       |          |          |          |           |
| 1    | REAL       |          | 3,369.62 | 3,369.62 | 1,022.16 | 4,391.78  |
|      | SEWER LIEN |          | 80.00    | 80.00    | 24.27    | 104.27    |
|      | SEWER LIEN |          | 16.27    | 16.27    | 4.94     | 21.21     |
|      | WATER LIEN |          | 207.80   | 207.80   | 63.04    | 270.84    |
|      | WA LIEN IN |          | 32.10    | 32.10    | 9.74     | 41.84     |
|      | DEMAND     |          | 30.00    | 30.00    | .00      | 30.00     |
|      | INT TAKE   |          | 319.76   | 319.76   | 97.00    | 416.76    |
|      |            |          | 4,055.55 | 4,055.55 | 1,221.15 | 5,276.70  |
|      |            |          | 4,055.55 | 4,055.55 | 1,221.15 | 5,276.70  |
| 2019 | LIEN       | 20190068 |          |          |          |           |
| 1    | REAL       |          | 3,155.94 | 3,155.94 | 1,473.36 | 4,629.30  |
|      | SEWER LIEN |          | 1,504.96 | 1,504.96 | 702.60   | 2,207.56  |
|      | SEWER LIEN |          | 304.62   | 304.62   | 142.21   | 446.83    |
|      | WATER LIEN |          | 1,670.08 | 1,670.08 | 779.68   | 2,449.76  |
|      | WA LIEN IN |          | 329.23   | 329.23   | 153.70   | 482.93    |
|      | DEMAND     |          | 30.00    | 30.00    | .00      | 30.00     |
|      | INT TAKE   |          | 541.70   | 541.70   | 252.89   | 794.59    |
|      |            |          | 7,536.53 | 7,536.53 | 3,504.44 | 11,040.97 |
|      |            |          | 7,536.53 | 7,536.53 | 3,504.44 | 11,040.97 |
| 2018 | LIEN       | 361      |          |          |          |           |
| 1    | REAL       |          | 2,750.64 | 2,750.64 | 1,719.43 | 4,470.07  |
|      | DEMAND     |          | 30.00    | 30.00    | .00      | 30.00     |
|      | INT TAKE   |          | 247.61   | 247.61   | 154.78   | 402.39    |
|      |            |          | 3,028.25 | 3,028.25 | 1,874.21 | 4,902.46  |
|      |            |          | 3,028.25 | 3,028.25 | 1,874.21 | 4,902.46  |
| 2017 | LIEN       | 1        |          |          |          |           |
| 1    | REAL       |          | 2,921.36 | 2,921.36 | 2,274.36 | 5,195.72  |
|      |            |          | 2,921.36 | 2,921.36 | 2,274.36 | 5,195.72  |
| 2016 | LIEN       | 64       |          |          |          |           |
| 1    | REAL       |          | 2,935.91 | 2,935.91 | 2,754.15 | 5,690.06  |
|      |            |          | 2,935.91 | 2,935.91 | 2,754.15 | 5,690.06  |

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Real Estate Tax StatementP 3  
txtaxstm

| YEAR<br>INST | TYPE<br>CHARGE | BILL | BILLED   | PRIN DUE | INT DUE   | TOTAL DUE |
|--------------|----------------|------|----------|----------|-----------|-----------|
| 2015<br>1    | LIEN<br>REAL   | 89   | 3,343.37 | 3,343.37 | 3,672.79  | 7,016.16  |
|              |                |      | 3,343.37 | 3,343.37 | 3,672.79  | 7,016.16  |
| 2014<br>1    | LIEN<br>REAL   | 103  | 6,685.36 | 6,685.36 | 8,399.08  | 15,084.44 |
|              |                |      | 6,685.36 | 6,685.36 | 8,399.08  | 15,084.44 |
| 2013<br>1    | LIEN<br>REAL   | 73   | 4,647.87 | 4,647.87 | 6,582.97  | 11,230.84 |
|              |                |      | 4,647.87 | 4,647.87 | 6,582.97  | 11,230.84 |
| 2012<br>1    | LIEN<br>REAL   | 52   | 3,028.13 | 3,028.13 | 4,773.37  | 7,801.50  |
|              |                |      | 3,028.13 | 3,028.13 | 4,773.37  | 7,801.50  |
| 2011<br>1    | LIEN<br>REAL   | 46   | 7,616.94 | 7,616.94 | 13,228.97 | 20,845.91 |
|              |                |      | 7,616.94 | 7,616.94 | 13,228.97 | 20,845.91 |
| 2010<br>1    | LIEN<br>REAL   | 34   | 3,181.53 | 3,181.53 | 6,033.28  | 9,214.81  |
|              |                |      | 3,181.53 | 3,181.53 | 6,033.28  | 9,214.81  |
| 2009<br>1    | LIEN<br>REAL   | 29   | 3,314.76 | 3,314.76 | 6,817.75  | 10,132.51 |
|              |                |      | 3,314.76 | 3,314.76 | 6,817.75  | 10,132.51 |
| 2008<br>1    | LIEN<br>REAL   | 24   | 2,981.01 | 2,981.01 | 6,721.95  | 9,702.96  |
|              |                |      | 2,981.01 | 2,981.01 | 6,721.95  | 9,702.96  |
| 2007<br>1    | LIEN<br>REAL   | 18   | 4,216.32 | 4,216.32 | 9,960.31  | 14,176.63 |
|              |                |      | 4,216.32 | 4,216.32 | 9,960.31  | 14,176.63 |

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Real Estate Tax StatementP 4  
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| YEAR<br>INST | TYPE<br>CHARGE | BILL | BILLED   | PRIN DUE | INT DUE   | TOTAL DUE |
|--------------|----------------|------|----------|----------|-----------|-----------|
| 2006         | LIEN           | 9    |          |          |           |           |
| 1            | REAL           |      | 2,499.26 | 2,499.26 | 6,308.32  | 8,807.58  |
|              |                |      | 2,499.26 | 2,499.26 | 6,308.32  | 8,807.58  |
| 2005         | LIEN           | 7    |          |          |           |           |
| 1            | REAL           |      | 3,411.99 | 3,411.99 | 9,321.08  | 12,733.07 |
|              |                |      | 3,411.99 | 3,411.99 | 9,321.08  | 12,733.07 |
| 2004         | LIEN           | 6    |          |          |           |           |
| 1            | REAL           |      | 3,099.42 | 3,099.42 | 8,730.76  | 11,830.18 |
|              |                |      | 3,099.42 | 3,099.42 | 8,730.76  | 11,830.18 |
| 2003         | LIEN           | 6    |          |          |           |           |
| 1            | REAL           |      | 2,885.46 | 2,885.46 | 8,789.58  | 11,675.04 |
|              |                |      | 2,885.46 | 2,885.46 | 8,789.58  | 11,675.04 |
| 2002         | LIEN           | 8    |          |          |           |           |
| 1            | REAL           |      | 2,550.47 | 2,550.47 | 8,223.07  | 10,773.54 |
|              |                |      | 2,550.47 | 2,550.47 | 8,223.07  | 10,773.54 |
| 2001         | LIEN           | 6    |          |          |           |           |
| 1            | REAL           |      | 2,984.37 | 2,984.37 | 9,966.08  | 12,950.45 |
|              |                |      | 2,984.37 | 2,984.37 | 9,966.08  | 12,950.45 |
| 2000         | LIEN           | 6    |          |          |           |           |
| 1            | REAL           |      | 3,073.98 | 3,073.98 | 10,677.67 | 13,751.65 |
|              |                |      | 3,073.98 | 3,073.98 | 10,677.67 | 13,751.65 |
| 1999         | LIEN           | 5    |          |          |           |           |
| 1            | REAL           |      | 3,093.58 | 3,093.58 | 11,337.01 | 14,430.59 |
|              |                |      | 3,093.58 | 3,093.58 | 11,337.01 | 14,430.59 |
| 1998         | LIEN           | 4    |          |          |           |           |
| 1            | REAL           |      | 3,162.12 | 3,162.12 | 12,081.66 | 15,243.78 |
|              |                |      | 3,162.12 | 3,162.12 | 12,081.66 | 15,243.78 |

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Real Estate Tax StatementP 5  
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| YEAR<br>INST | TYPE<br>CHARGE | BILL | BILLED     | PRIN DUE   | INT DUE    | TOTAL DUE  |
|--------------|----------------|------|------------|------------|------------|------------|
| 1997         | LIEN           | 4    |            |            |            |            |
| 1            | REAL           |      | 2,818.01   | 2,818.01   | 11,325.26  | 14,143.27  |
|              |                |      | 2,818.01   | 2,818.01   | 11,325.26  | 14,143.27  |
| 1996         | LIEN           | 4    |            |            |            |            |
| 1            | REAL           |      | 4,479.68   | 4,479.68   | 18,555.12  | 23,034.80  |
|              |                |      | 4,479.68   | 4,479.68   | 18,555.12  | 23,034.80  |
| 1995         | LIEN           | 4    |            |            |            |            |
| 1            | REAL           |      | 4,126.10   | 4,126.10   | 17,739.90  | 21,866.00  |
|              |                |      | 4,126.10   | 4,126.10   | 17,739.90  | 21,866.00  |
| 1994         | LIEN           | 3    |            |            |            |            |
| 1            | REAL           |      | 3,363.35   | 3,363.35   | 14,966.21  | 18,329.56  |
|              |                |      | 3,363.35   | 3,363.35   | 14,966.21  | 18,329.56  |
| 1993         | LIEN           | 3    |            |            |            |            |
| 1            | REAL           |      | 3,723.67   | 3,723.67   | 17,183.31  | 20,906.98  |
|              |                |      | 3,723.67   | 3,723.67   | 17,183.31  | 20,906.98  |
| 1992         | LIEN           | 3    |            |            |            |            |
| 1            | REAL           |      | 3,393.06   | 3,393.06   | 15,937.30  | 19,330.36  |
|              |                |      | 3,393.06   | 3,393.06   | 15,937.30  | 19,330.36  |
| 1991         | LIEN           | 4    |            |            |            |            |
| 1            | REAL           |      | 3,427.95   | 3,427.95   | 16,113.20  | 19,541.15  |
|              |                |      | 3,427.95   | 3,427.95   | 16,113.20  | 19,541.15  |
| GRAND TOTALS |                |      | 122,738.21 | 122,738.21 | 275,957.42 | 398,695.63 |

**Part I** ADMINISTRATION OF THE GOVERNMENT**Title XIII** EMINENT DOMAIN AND BETTERMENTS**Chapter 79** EMINENT DOMAIN**Section** TAX LIENS ON REALTY TAKEN**44A**

Section 44A. If real estate taken in whole or in part by eminent domain was at the time of said taking subject to any lien for taxes, assessments or other charges, which is extinguished by such taking, and if the collector of taxes of the town in which such real estate is located gives written notice of a claim of the amount covered by such lien to the body politic or corporate, on behalf of which such taking was made, prior to the payment of any award of damages for such taking or to the entry of judgment therefor, said collector shall be entitled to be paid such amount before any payment of damages for such taking is made to any other party; and any amount so payable on account of such taxes, assessments or other charges shall be deducted from the amount of such damages otherwise payable.

2010 WL 5348726

Only the Westlaw citation is currently available.

Superior Court of Massachusetts,  
Worcester County.<sup>1</sup> Warren H. Richardson, Shirley B. Weedon & Lois McIntosh.David C. RICHARDSON & others <sup>1</sup>

v.

The BOARD OF SELECTMEN  
OF BLACKSTONE & another. <sup>2</sup><sup>2</sup> The Town of Blackstone.

No. 05–1952.

I

Dec. 20, 2010.

**MEMORANDUM OF DECISION AND ORDER ON  
MOTION FOR OFFSET OF DAMAGE AWARD**

JOHN T. LU, Justice.

**I. INTRODUCTION**

\*1 Following a non-jury trial, the plaintiffs, heirs of the former landowners (Heirs), established a collective one half interest in a fifteen-acre parcel of land, which on December 9, 2003, the Town of Blackstone (Town) took by eminent domain. As compensation for the taking, the court awarded the Heirs half of the fair value of the property or \$124,000. The Town now move pursuant to G.L. c. 79, § 44, <sup>3</sup> to offset the amount of the award for unpaid real estate taxes on the property.

<sup>3</sup> General Laws c. 79, § 44A provides,

If real estate taken in whole or in part by eminent domain was at the time of said taking subject to any lien for taxes, assessments or other charges, which is extinguished by such taking, and if the collector of taxes of the town in which such real estate is located gives written notice of a claim of the amount covered by such lien to the body politic or corporate, on behalf of which such taking was made, prior to the payment of

any award of damages for such taking or to the entry of judgment therefor, said collector shall be entitled to be paid such amount before any payment of damages for such taking is made to any other party; and any amount so payable on account of such taxes, assessments or other charges shall be deducted from the amount of such damages otherwise payable.

Where the court is not aware of any authority directly on point, the court determines that the Heirs are responsible for the entire unpaid real estate tax bill, not just that portion attributable to their half of the value of the land, and the court determines that the Heirs are likewise responsible for interest on the unpaid taxes.

**II. DISCUSSION**

From 1984 until the taking, the Town assessed real estate taxes on the property to “owners unknown” in accordance with G.L. c. 59, § 11. At the time of the taking, the Town held a tax lien on the property in the principal amount of outstanding taxes, \$51,238.66, plus \$75,875.83 in statutory interest. <sup>4</sup> The Heirs contest the amount owed on two grounds. First, they argue that half of the unpaid taxes should be credited against the half of the taking award that belongs to the heirs of James Paine. <sup>5</sup> Second, they argue that the offset should be limited to the principal amount only and should not include accrued interest.

<sup>4</sup> The computation of the outstanding taxes plus interest is set forth in an affidavit of the town treasurer.

<sup>5</sup> The Heirs state that half of the taking award has been adjudicated as belonging to the heirs of James Paine. Nothing in this decision determines that this is or is not the correct.

As to their first argument, the Heirs do not dispute that the Town has authority to collect one hundred percent of the outstanding taxes from any one of several owners where property is held in common. See G.L. c. 60, § 56; *Curtiss v. Inhabitants of Sheffield*, 213 Mass. 239, 245, 100 N.E. 365 (1913).

They also acknowledge that there is a right of contribution against co-owners in the event the full tax liability is offset against their award. See *Fiske v. Quint*, 274 Mass. 169, 173–



174, 174 N.E. 196 (1931); *Ratte v. Ratte*, 260 Mass. 165, 168, 156 N.E. 870 (1927). The Heirs argue, however, that it would be inequitable to require them to pursue a contribution claim where the Town can offset half of the tax liability from the remaining portion of the taking award, which the Heirs contend will escheat to the Commonwealth pursuant to G.L. c. 200A if it goes unclaimed.

The Heirs rely on *Eldredge v. Selectmen of Brewster*, 18 Mass.App.Ct. 502, 507, 468 N.E.2d 286 (1984) (“The taking authority is bound to part with the award ... either to a party proving entitlement to the award ... or to the Commonwealth under G.L. c. 200A.”). Although *Eldredge* supports the proposition that the Town must account for the unpaid portion of the taking award, it does not address the possibility of apportioning tax liability under G.L. c. 79, § 44A, as the Heirs propose. In the absence of some authority that directly supports the Heirs' position, the court concludes that the Town may offset the full amount of the tax liability against the Heirs' award, leaving the Heirs with a right of contribution. This court is not entitled to dispense with the requirement that, as the Heirs suggest, they amend their complaint or pursue a separate action to recover the value of funds held by the state treasurer on behalf of the heirs of James Paine.<sup>6</sup> The Heirs' argument has some merit, but in the absence of some authority for the plaintiff's position the court is unwilling to adopt it.

<sup>6</sup> It is entirely possible that the Town still holds the funds.

\*2 The Heirs' second argument, that accrued interest should be excluded from the tax liability, also lacks support. The Heirs contend that pursuant to G.L. c. 59, § 77, the Town should issue a “corrected” tax bill now that the actual owner has been determined. Section 77, however, applies only where an assessment “is invalid by reason of error or irregularity,” and in this case, the assessments were valid. The Board of Assessors could not determine the owner of the property through the exercise of reasonable diligence and the Department of Revenue authorized the Town to assess the

property to owners unknown. See G.L. c. 59, § 11 (para.3); *Hardy v. Jaeckle*, 371 Mass. 573, 580, 358 N.E.2d 769 (1976) (summarizing statutory requirements for the assessment of real estate taxes to owners unknown). Given the validity of the assessment, the Town is entitled to collect the amount of its unpaid lien, including accrued interest, pursuant to G.L. c. 79, § 44A and G.L. c. 60, § 93. Section 44A provides that prior to the payment of a taking award, the collector of taxes is entitled to be paid the amount of “any lien for taxes, assessments or other charges, which is extinguished by such taking.” The court construes the term “other charges” as used in the statute to include charges for interest. General Laws c. 60, § 93 parallels G.L. c. 79, § 44A, in that it provides a statutory setoff procedure. See *Decota v. Stoughton*, 23 Mass.App.Ct. 618, 619–621, 504 N.E.2d 672 (1987) (remedy provided under G.L. c. 60, § 93 is cumulative of other tax collection remedies). Section 93 requires a municipality to “withhold payment of any money payable to any person from whom there are then due taxes ... to an amount not to exceed the total of the unpaid taxes, assessments, rates and other charges, with interest and costs .”

Nothing in the facts of this case suggests to the court that it should adopt the Heirs' position, which would amount to a discount on the Heirs' real estate taxes.

### III. ORDER:

The defendants' motion for offset of the plaintiffs' damage award for unpaid real estate taxes (paper # 39) is **ALLOWED**. The defendants are entitled to offset the plaintiffs' award by the amount of unpaid taxes, interest and charges, totaling \$127,114.49, as set forth in the affidavit of the Treasurer for the Town of Blackstone.

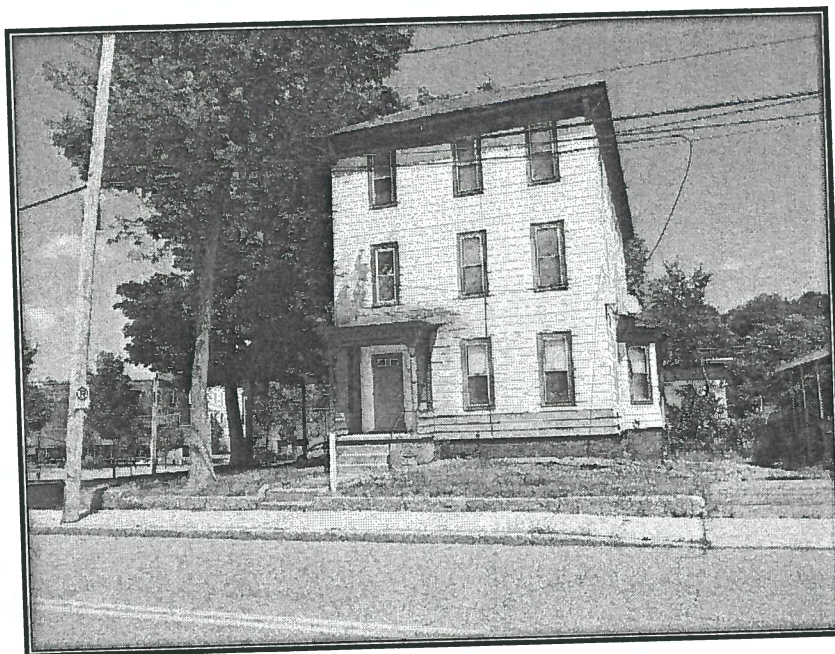
### All Citations

Not Reported in N.E.2d, 2010 WL 5348726



# Appraisal Report

94 Pleasant Street  
Gardner, Massachusetts



Owned By  
R A Realty Trust

Value as of  
June 9, 2022

**Prepared For:**

Mr. Trevor M. Beauregard  
Director of Community Development and Planning  
City of Gardner  
115 Pleasant Street  
Gardner, MA 01440

**Prepared By:**

Joel A. Buthray, MAI  
O'Hara-Buthray Associates, Inc.  
1 West Boylston Street, Suite 306  
Worcester, MA 01605

O'Hara-Buthray Associates, Inc.  
1 West Boylston Street, Suite 306  
Worcester, MA 01605

Ph: (508) 757-9381  
Fax: (508) 752-1544

June 30, 2022

Mr. Trevor M. Beauregard,  
Director of Community Development and Planning  
City of Gardner  
115 Pleasant Street  
Gardner, MA 01440

Dear Mr. Beauregard:

An Appraisal Report of the property at 94 Pleasant Street, Gardner, Massachusetts, owned by R A Realty Trust has been completed at your request.

The subject is a 3,787+/- square foot (SF) site, zoned Commercial (C1). The site is improved with a 3,573+/-SF, three story, wood framed rooming house. Based on an exterior inspection, the rooming house is vacant and appears to be in poor condition. The highest and best use of the subject is to demolish and remove the rooming house for assemblage, parking or future development. The rooming house does not meet the parking requirement and has been vacant for over two-years, therefore, is no longer grand-fathered for this use. The subject has been appraised as a vacant commercial lot, factoring in a demolition and removal expense of the building. The estimated demolition and removal cost exceeds the estimated value of the lot, therefore, the subject is of no value.

The subject is not leased, therefore, the property rights appraised are the fee simple estate.

The Appraisal Report has been prepared for the City of Gardner, the client and intended user. The purpose of the Appraisal Report is to estimate the market value of the subject. The intended use of this Appraisal Report is for eminent domain purposes.

The analysis and conclusion within the attached report are based on field research, interviews with market participants and publicly available data collected by the appraiser.

June 30, 2022  
City of Gardner

### **COVID-19**

The global outbreak of a “novel coronavirus” known as COVID-19 was officially declared a pandemic by the World Health Organization (WHO). It is currently unknown what direct, or indirect, effect, if any, this event may have on the national economy, the local economy or the market in which the subject property is located. The reader is cautioned, and reminded that the conclusions presented in this appraisal report apply only as of the effective date(s) indicated. The appraiser makes no representation as to the effect on the subject property of this event, or any event, subsequent to the effective date of the appraisal.

### **Extraordinary Assumptions & Hypothetical Conditions**

*The value conclusions are subject to the following extraordinary assumptions that may affect the assignment results. An extraordinary assumption is an assignment-specific assumption as of the effective-date regarding uncertain information used in the analysis, which, if found to be false, could alter the appraiser's opinions or conclusions.*

*There are no extraordinary assumptions used in this analysis.*

*The value conclusions are based on the following hypothetical conditions that may affect the assignment results. A hypothetical condition is a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*

*There are no hypothetical conditions used in this report.*

The accompanying Appraisal Report has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice. Included is an analysis of the real estate, all pertinent data, valuation methodology, supporting relevant exhibits and Addendum to the attached report.

---

June 30, 2022  
City of Gardner

As of June 9, 2022, the estimated market value of the subject is:

---

**Zero Dollars**  
**\$0**

This firm disclaims the validity of appraisal reports which lack original signatures on the letter of transmittal, on the Certification, and after the reconciliation of value estimates.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joel Buthray".

Joel A. Buthray, MAI  
Certified General  
Real Estate Appraiser  
Commonwealth of MA #929

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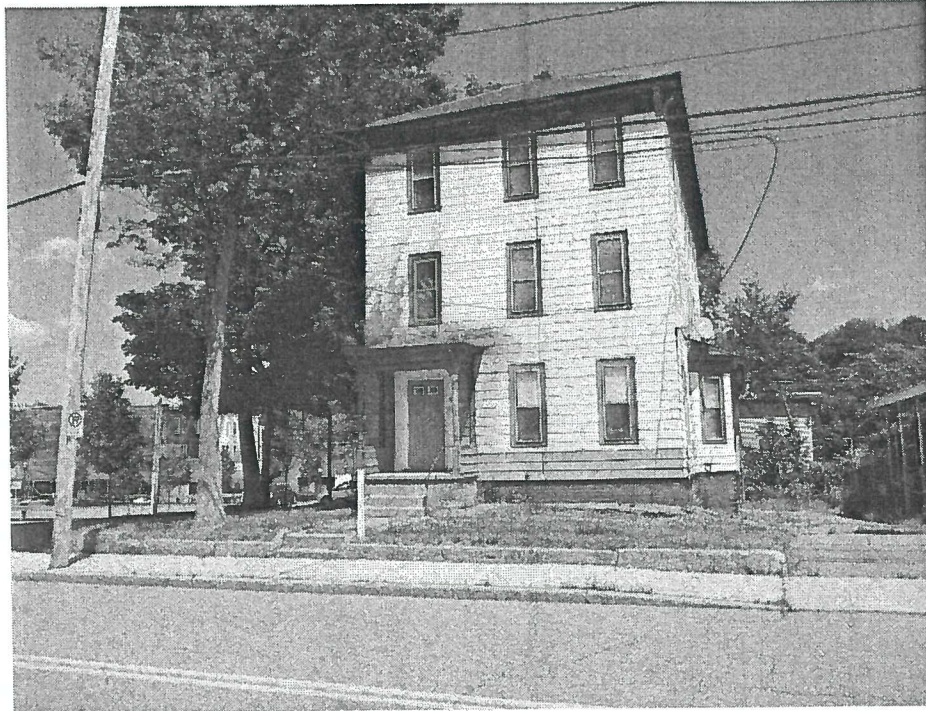
**Executive Summary**

|                                  |                                                                                                                                                                                                        |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Intended User and Client         | City of Gardner                                                                                                                                                                                        |
| Purpose of The Appraisal Report  | Estimate the market value of the subject                                                                                                                                                               |
| Intended Use of Appraisal Report | Eminent domain purposes                                                                                                                                                                                |
| Property Owner                   | R A Realty Trust                                                                                                                                                                                       |
| Property Classification          | Rooming house                                                                                                                                                                                          |
| Property Location                | 94 Pleasant Street<br>Gardner, MA                                                                                                                                                                      |
| Property Rights Appraised        | Fee simple estate                                                                                                                                                                                      |
| Date of Inspection               | June 9, 2022                                                                                                                                                                                           |
| Date of Valuation                | June 9, 2022                                                                                                                                                                                           |
| Date of Report                   | June 30, 2022                                                                                                                                                                                          |
| Zone Classification              | Commercial (C1)                                                                                                                                                                                        |
| Assessment Data                  | <b><u>Fiscal Year 2022</u></b><br><b><u>Map 22, Block 10, Lot 15</u></b><br>Land               \$ 43,200<br>Building <u>\$162,900</u><br>Total              \$206,100<br>Taxes             \$ 3,831.40 |
| Size of Parcel                   | 3,787+/-SF                                                                                                                                                                                             |
| Property Improvements            | 3,573+/-SF, three story, wood framed rooming house                                                                                                                                                     |

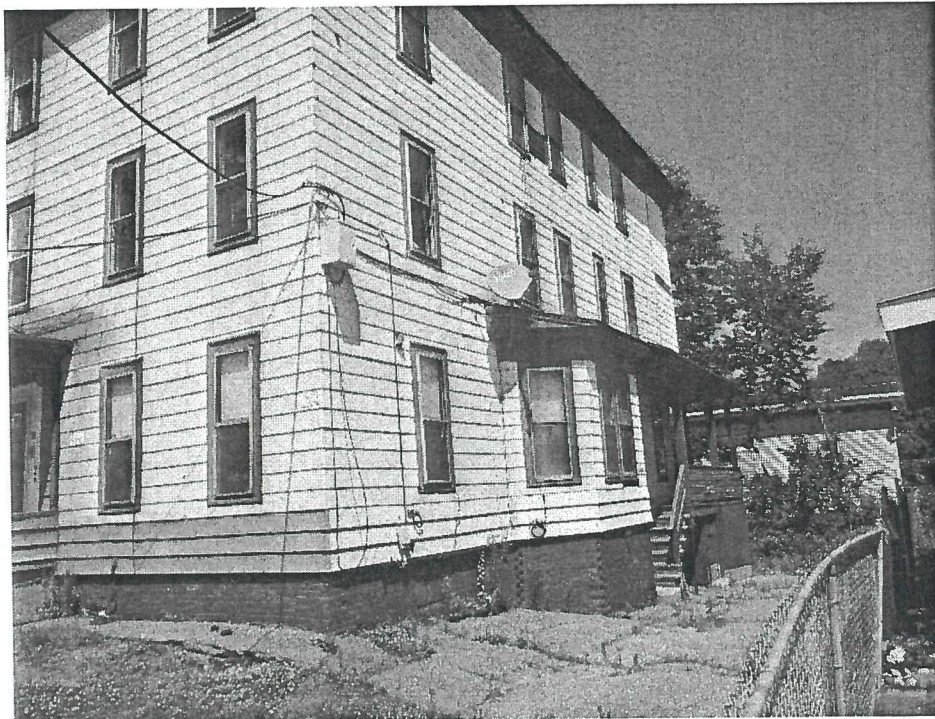
|                                                                                                                                                           |                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Highest and Best Use</b><br>If Vacant<br><br>As Improved                                                                                               | Assemblage or commercial development<br><br>Demolition and removal of the improvements for assemblage of the site, or commercial development, or parking-use |
| Marketing & Exposure Time                                                                                                                                 | 3 months                                                                                                                                                     |
| <b>Valuation Analysis</b><br>Site Value<br>Cost Approach<br>Sales Comparison Approach<br>Income Capitalization approach<br><b>Final Estimate of Value</b> | \$0<br>Not applicable<br>See site value<br>Not developed<br>\$0                                                                                              |



**Subject Photographs**

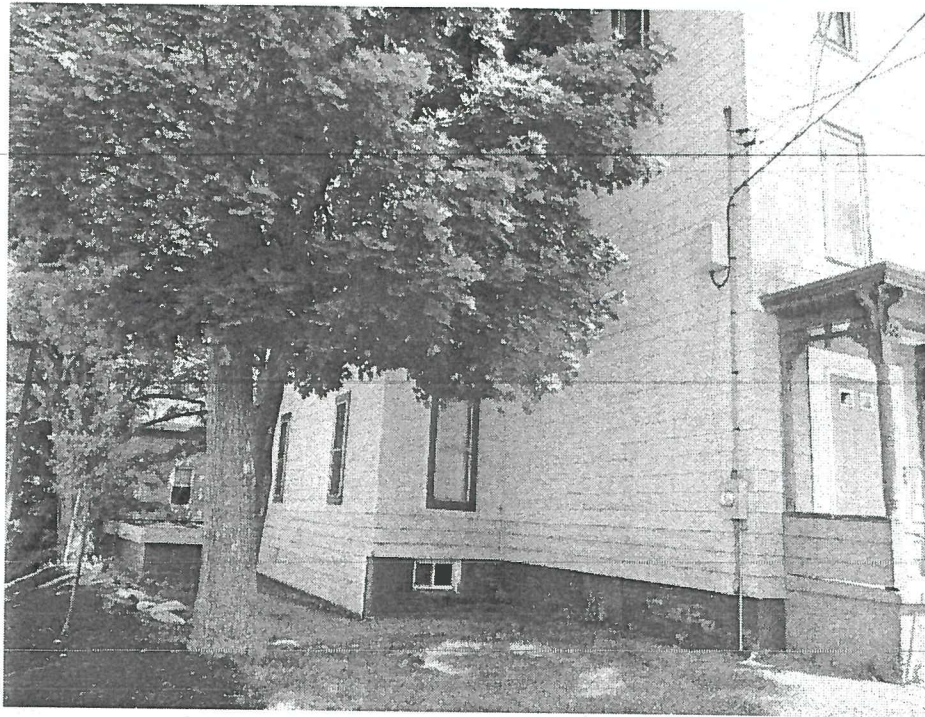


**Front of the Building**

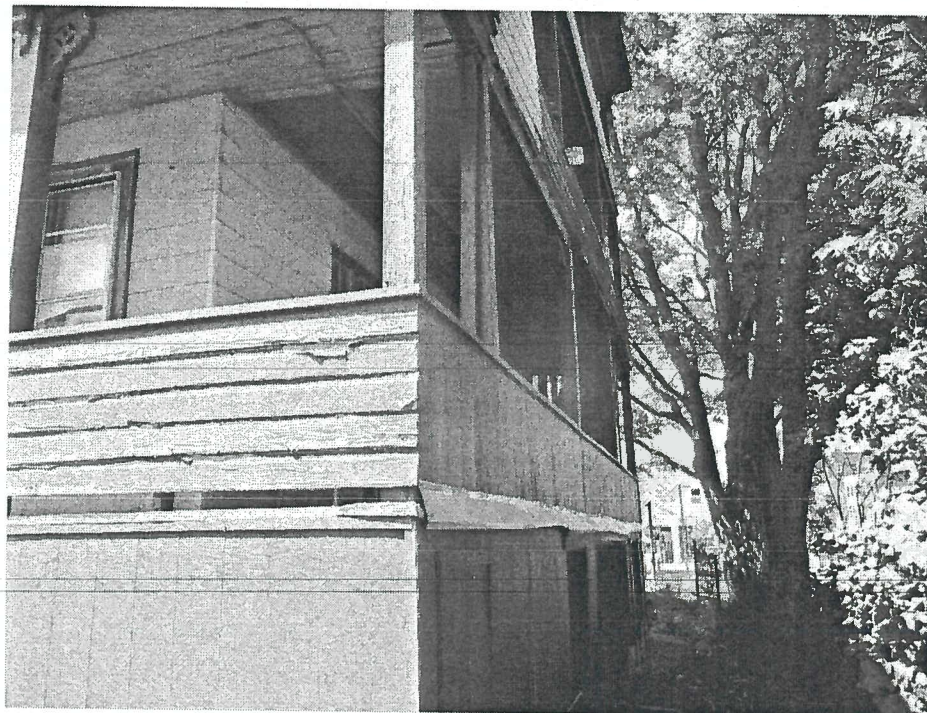


**South Side of the Building**



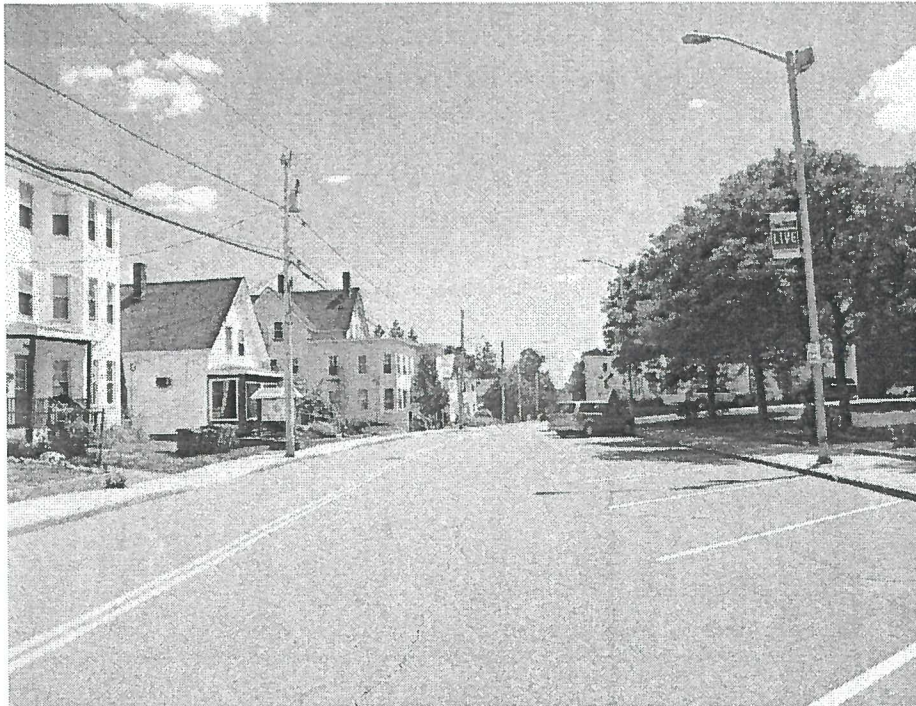


North Side of the Building



Rear of the Building





Facing South on Pleasant Street



Facing North on Pleasant Street

---

### **Identification of the Real Estate**

The subject rooming house property at 94 Pleasant Street, Gardner fronts the east side of Pleasant Street, just south of the intersection of Pleasant Street and City Hall Avenue. The site is identified in assessor records as Map 22, Block 10, Lot 15.

---

### **History**

**November 10, 1997:** R A Realty trust acquired the subject from Roger Leblanc, as Trustee of 94 Pleasant Trust for \$10.00, recorded in the Worcester District Registry of Deeds (WDRD) in Book 19336, Page 170.

A copy of the deed is included in the addendum. The prior sale of the property exceeds 3-years.

### **Personal Property**

There is no personal property included in the value of the real estate.

### **Intended User and Client of Appraisal Report**

The intended user and client of the Appraisal Report is the City of Gardner.

### **Purpose of Appraisal Report**

The purpose of the Appraisal Report is to estimate the value of the subject.

### **Intended Use of Appraisal Report**

The intended use of this Appraisal Report is for eminent domain purposes.

### **Property Rights Appraised**

The subject is not leased, therefore, the property rights appraised are the fee simple estate.

**Fee simple estate** is defined as: *"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by governmental powers of taxation, eminent domain, police power, and escheat"*. [The Dictionary of Real Estate Appraisal, 7th ed. (Appraisal Institute, 2022), 73].

### **Effective Date of Value**

---

The appraiser inspected the property on June 9, 2022, the effective date of valuation.

### **Effective Date of the Appraisal Report**

The effective date of the Appraisal Report is June 30, 2022.



### **Definition of Market Value**

Market value is defined by the federal financial institutions' regulatory agencies as: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. *Buyer and seller are typically motivated;*
2. *Both parties are well informed or well advised, and acting in what they consider their own best interests;*
3. *A reasonable time is allowed for exposure in the open market;*
4. *Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
5. *The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

Source: 12 CFR Section 34.42 (f)

### **Appraisal Development and Reporting Process**

This Appraisal Report format is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report.

### **Scope of Work**

The preparation of this appraisal consisted of:

Joel A. Buthray, MAI of O'Hara-Buthray Associates, Inc. inspected the property from the exterior only on June 9, 2022. Additional steps taken to complete this assignment included the following.

- Photographs of the subject exterior were taken.
- A tour through the neighborhood and the general area of the city to note predominant characteristics such as land use, condition of properties, neighborhood influences, vacancy, etc.
- Research at the Gardner Assessor records to review the Assessor field card for assessment/tax data and for information about the property.
- The most recent zoning bylaws were reviewed. Site data and soil characteristics were researched in resources such as the applicable floodplain insurance rate map; the Web Soil Survey, published by the United States Department of Agriculture soil maps and descriptions and the DEP Transition List of Confirmed Disposal Sites and Locations to be Investigated.

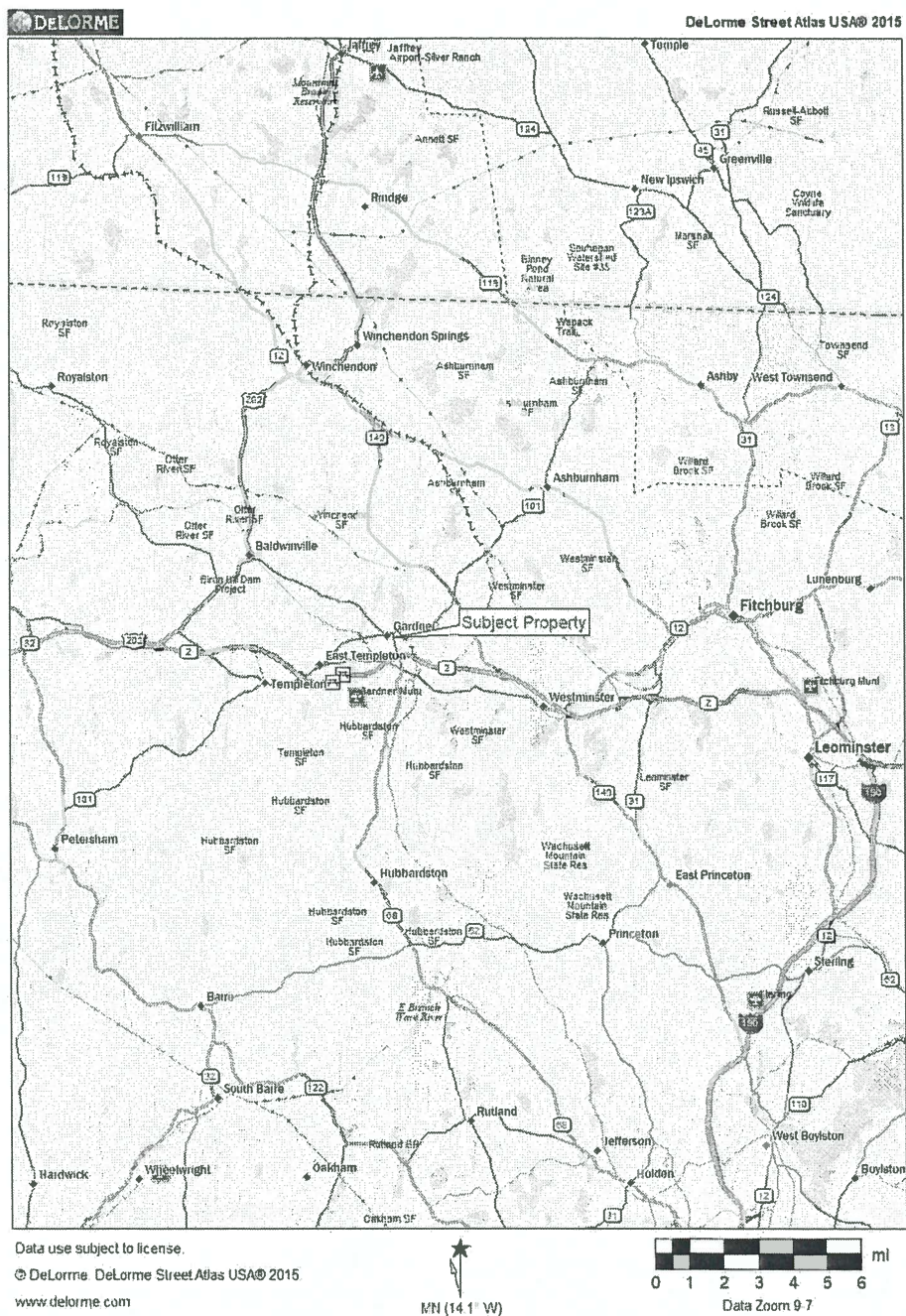
- Area demographics such as population trends, unemployment statistics, etc. were researched in publications such as Employment and Unemployment Statistics published by the Massachusetts Department of Employment and Training.
- Pertinent area information was researched from in-house resources and news articles: Telegram & Gazette, Worcester Business Journal, The Wall Street Journal, Bankers and Tradesmen, CoStar Comps data and an in-house data base.
- Market area research included contacting brokers, property owners, etc. for the purpose of obtaining and verifying comparable sales, etc.; and updating information on the latest events affecting the city or the neighborhood. This also included contacting local financial institutions to obtain current lending policies.
- Also researched at the Registry of Deeds were recorded deeds for a 3-year sales history of the subject and sales used for comparison purposes.
- The value of the lot was developed by the sales comparison approach based on a comparison to five comparables. The cost of demolition and removal of the improvements has been deducted from the estimated site value.

Please note this appraisal process did not include:

- The cost approach was not developed because the improvements are considered to be of no contributory value.
- The sales comparison approach was not developed for the property as improved because the improvements are considered to be of no contributory value. The site value was developed by the sales comparison approach.
- The income capitalization approach was not developed for the property as improved because the improvements are considered to be of no contributory value. The site value was not developed by the income capitalization approach because small commercial lots are not typically leased in this market area.

All properties considered for comparative purposes were visited and photographed.

# Area Map





### **Area Description**

The city of Gardner is located in north central Massachusetts in North Worcester County, bordered by the towns of Winchendon and Ashburnham on the north, Templeton on the west, Westminster on the east, and Hubbardston on the south. Gardner is approximately 28 miles northwest of Worcester, 59 miles northwest of Boston, and 61 miles northeast of Springfield.

Gardner is easily accessible via Route 2, which provides a link to Interstates 190, 495, and 91. Other main roads within the city are Routes 2A, 68, 101, and 140.

Following are the most recent unemployment rates (May 2022) for the Nation, Massachusetts, Worcester County and Gardner reported by the Massachusetts Department of Employment and Training.

| <u>United States</u> | <u>Massachusetts</u> | <u>Worcester County</u> | <u>Gardner</u> |
|----------------------|----------------------|-------------------------|----------------|
| 4.0%                 | 4.8%                 | 5.2%                    | 4.2%           |

Prior to the Coronavirus, the unemployment rates throughout the country including Gardner were very low. Since the pandemic impacted the United States, the rates initially escalated substantially. Many businesses have closed or downsized throughout the country, resulting in higher unemployment rates. Favorably, the unemployment rates have declined substantially once again. The most recent reported rate in Gardner is 4.2%, which is at a favorable level. It is difficult to determine how long the Coronavirus will impact the country. Favorably, vaccinations are taking place, however, variants have developed creating additional challenges.

Following is the census data for Gardner in 2000, 2010 and 2020 as reported in U.S. Census data.

| <u>City</u> | <u>2000</u> | <u>2010</u> | <u>% Change</u> | <u>2020</u> | <u>% Change</u> |
|-------------|-------------|-------------|-----------------|-------------|-----------------|
| Gardner     | 20,770      | 20,228      | -2.7%           | 21,287      | +5.2%           |

The population in Gardner has not changed significantly over the past couple of decades. There was a decline from 2000 to 2010 of 2.7%, however, population increased moderately from 2010 to 2020 by 5.2%. There is minimal new residential development taking place in the city. Population increases are favorable for the local housing market and businesses.

The following is a comparison of the median household income for 2019 (most recent available) in Gardner, Worcester County and Massachusetts.



| <u>Location</u>  | <u>Median Income 2019</u> |
|------------------|---------------------------|
| Gardner          | \$49,679                  |
| Worcester County | \$74,679                  |
| Massachusetts    | \$81,215                  |

Source: U.S. Census data

As indicated by the figures presented, Gardner's median household incomes for 2019 were considerably lower than those in Worcester County, and Massachusetts, which negatively impacts on property values in the city.

New commercial, industrial and residential development in Gardner has been relatively stagnant over the past several years. There is proposed revitalization of the downtown Main Street area of Gardner including the development of a new 56-unit apartment complex, an event center and parking area.

The Timpany Crossroads at the corner of Timpany Boulevard and West Broadway Street is comprised of a new 3 building commercial development with a free-standing Pub 99 in place, a Starbucks, an Edward Jones and a skin care tenanted space is being built out. There are other spaces under agreement for lease. At 529 Timpany Boulevard, a 20,000+/-SF medical building is being constructed for owner occupancy by Community Health Connections.

### **Economic Influences**

A factor influencing investment in real estate is current lending criteria. Financing is available, but underwriting criteria are more exacting. The prime rate increased steadily to as high as 9.5% on May 17, 2000. With the slowdown in the economy, the prime rate was reduced numerous times to the low rate of 4.00% as of June 27, 2003. The rate increased numerous times to 8.25% as of June 26, 2006 in an attempt to slow inflation. The prime rate was later reduced numerous times to 3.25% on December 16, 2008 in an attempt to stimulate the economy once again. The prime rate remained fixed until it increased to 3.5% on December 17, 2015, followed by eight increases reaching 5.50% on December 20, 2018.

The feds then cut the prime rate to 5.25% on August 1, 2019, to 5.0% on September 19, 2019, to 4.75% on October 30, 2019 and bigger cuts to 4.25% on March 4, 2020 and again to 3.25% on March 16, 2020 due to economic growth slowing and the negative impact on the economy and general health concerns from the Coronavirus. The prime rate later increased to 3.50% on March 16, 2022 in an attempt to slow the increase in inflation. An additional increase to 4.0% took place on May 5, 2022, followed by a more significant increase to 4.75% on June 16, 2022. Additional interest rate increases are anticipated soon which could adversely impact aspects of the economy and the value of real estate.

Prior to the Coronavirus, some of the major factors that had previously negatively impacted on consumer confidence levels and the economy in the country included high fuel and food prices, weak job growth and manufacturing figures, stagnant retail sales, and the weak state of several European countries. Oil and gas prices had dropped substantially in the past partly due to an oversupply and also as a result of the virus. Prices have escalated once again. There previously had been job growth, however, income levels were typically lower than in prior stronger economic times. Due to the difficulty of being able to fill job needs at many businesses, income requirements for many jobs have increased. Retail sales had been very weak and several retail stores have closed or gone bankrupt as many have not been able to compete with on-line company Amazon, etc. Retail properties continue to struggle, however, are gradually making progress once again. Office demand has weakened as many companies are opting to have employees work from home and are downsizing their spaces. Several office buildings have been converted to apartments. The industrial market is very strong with demand typically exceeding the supply of buildings available.

The stock market has had significant volatility with major upward and downward fluctuations. A lot of the volatility is attributed to so called "trade wars" with China, weaker retail figures, a result of the negative impact of the virus, high inflation levels, supply chain shortages, rising fuel costs, rising interest rates, the war in Ukraine, the difficulty filling employment needs and difficulty meeting trucking, shipping and production needs, etc. Favorably, vaccinations have taken place and the infection rates declined substantially, however, variants have developed therefore the virus has continued.

The consumer confidence index, a good indicator of the current state of the economy has been fluctuating up and down over the past few years. In January of 2022, the rate dipped to 111.1 followed by another decrease to 105.7 in February of 2022. The rate turned around in March of 2022 with an increase to 107.6, followed by an additional increase to 108.6 in April of 2022. The rate dipped to 103.2 in May of 2022, followed by a further decrease to 98.7 in June of 2022.

Consumer confidence fell for a second consecutive month in June," said **Lynn Franco, Senior Director of Economic Indicators at The Conference Board**. "While the Present Situation Index was relatively unchanged, the Expectations Index continued its recent downward trajectory—falling to its lowest point in nearly a decade. Consumers' grimmer outlook was driven by increasing concerns about inflation, in particular rising gas and food prices. Expectations have now fallen well below a reading of 80, suggesting weaker growth in the second half of 2022 as well as growing risk of recession by yearend."

"Purchasing intentions for cars, homes, and major appliances held relatively steady—but intentions have cooled since the start of the year and this trend is likely to continue as the Fed aggressively raises interest rates to tame inflation. Meanwhile, vacation plans softened further as rising prices took their toll. Looking ahead over the next six months, consumer spending and economic growth are likely to continue facing strong headwinds from further inflation and rate hikes."

### Market Analysis

The highest and best use of the subject is either for assemblage, a commercial development lot, or parking following demolition and removal of the building, the focus of this market analysis.

Sales of small commercial sites like the subject have not been extensive in the market area over the past several years. This is partly due to the Coronavirus, also due to the very high costs of development and more recently due to the high interest rates. The feasibility of new commercial development in Gardner is questionable at the present time.

To provide some assessment of the demand for commercial land in Gardner, a review of the vacancy rate of existing commercial space in the city was reviewed. According to CoStar Comps data (see addendum), there is approximately 1,700,000+/-SF of retail and office space in Gardner and only 69,100+/-SF (4.1%) is vacant, a low amount. The commercial market has strengthened once again following a difficult period during the Coronavirus. Given the low vacancy rates, the demand for new commercial development will likely increase.

Based on Comparable land sales data, small sites are selling at a range of approximately \$3.55/SF to \$15.50/SF.

In summary, Gardner has recently experienced moderate population increases, which combined with declining unemployment rates favorably impacts the local economy and real estate market. The below average income levels in Gardner are a negative. The low vacancy rates have created demand for commercial land in the market area. The very high costs of new construction and rising interest rates have been a challenge to the financial feasibility of new commercial construction.





### **Neighborhood Description**

The subject rooming house, in what appears to be poor condition, fronts the west side of Pleasant, a short distance south of the intersection of Pleasant Street and City Hall Avenue.

Pleasant Street is a moderately travelled secondary road. The neighborhood is a mix of uses. The property is directly across the street from the City Hall. Other improvements along Pleasant Street include single-families, multi-families and apartments, retail buildings, a restaurant, a post office, banks, and mixed-use properties.

Pleasant Street intersects with Main Street, a short distance to the north. In close proximity to the subject along Main Street is some modern commercial development including a newer Cumberland Farms gas station/convenience store, a newer police station, a nearby newer retail strip center anchored by Rite Aid and Advanced Auto Parts and a CVS property. Also within this neighborhood is a Hannaford's supermarket. At 354 Main Street is a modern investor grade multi-tenanted office building.

Off of nearby Main Street includes a mixture of older and modern properties including office and mixed-use properties, banks and credit unions, gas stations, restaurants, a large apartment and assisted living facility on Pine Street and a newer library at the corner of West Lynde Street and Derby Drive, other apartment properties, the large multi-tenanted former Simplex Complex, etc.

Approximately 1 to 2 miles to the north is the Heywood Memorial Hospital, the Mount Wachusett Community College, the Gardner Municipal golf course and a district court house. There are several industrial parks and older industrial mill buildings nearby.

There have been a couple of recent sales of commercial properties on Pleasant Street including 313 Pleasant Street, comprised of a 1,464+/-SF retail building on an 1,812+/-SF lot sold May 18, 2022 for \$60,000 (\$40.98/SF). The property at 331-337 Pleasant Street, comprised of a 2,249+/-SF retail building on a 4,455+/-SF lot sold February 25, 2022 for \$85,000 (\$37.79/SF). These two sales are an indication that values are low in the neighborhood.

The condition of properties in the neighborhood ranges from poor to good. Vacancy rates for the properties in good condition is minimal; the vacancy levels are higher for the properties in below average condition.

Utilities available to the neighborhood include public electricity, water, sewer and gas. Local and regional access is good as the property is just off Route 68 and is in close proximity to Routes 2, 101 and 140.

Of importance, the subject is within the Urban Renewal Area (URA) section of the city comprised of 337 parcels and 151+/-AC. The neighborhood is comprised of several blighted properties, contaminated properties, vacant sites and underutilized or vacant parcels.

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According to the URA report "This evaluates data from a variety of sources to support its recommendation that the Project Area meets the eligibility standards defined in M.G.L. Chapter 121B for consideration as a decadent area, and that it is improbable that the area would be redeveloped per the ordinary operations of private enterprise. The data evaluated include parcel ownership, land and building assessments, parcels size and condition. The finding that the URA is decadent is based upon all properties within the URA, not only the properties slated for acquisition. The following statements synthesize the findings based on the assembled data.

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1. The loss of the manufacturing economic base in the URA has resulted in substantial detriment to local economic and business conditions, with current commercial vacancy rates, currently estimated to range from 20 to 30 percent.
2. Residual contamination and small-scale hazardous waste sites mean that redevelopment projects require site assessment, and developers are often unwilling to accept the uncertainty associated with potential cleanup efforts.
3. Predominantly small and irregularly shaped lot sizes with diverse ownership limits the ability of businesses to develop or expand in the URA and thwarts land assemblage.
4. Over 50 acres in the URA are undeveloped, vacant and underutilized.
5. With 88 percent of the structures predating World War II, there are significant structural maintenance requirements which exceed the financial capabilities of owners to reinvest.
6. Approximately 38 percent of the properties with buildings in the URA were found to be in moderate or severe disrepair.
7. In certain areas, pedestrian access has been inhibited due to limited interconnections and the perception that vacant, underutilized areas are unsafe.

"While previous planning activities have provided an important framework, the ongoing national economic crisis has taken a toll on the City's ability to implement the full range of recommendations. The City has concluded that the ordinary operations of private enterprise, without public investment and designation as an urban renewal area, will not be sufficient to stimulate sufficient activity. The purpose of this URP is to set forth a series of City initiatives intended to stimulate private investment to restore vitality within the URA and overall improve the quality-of-life experience for those who live, work and visit Gardner."

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In summary, the property is located in a mixed area of residential, industrial and commercial development with convenient local and regional access. Proposed improvements to the neighborhood should have a positive impact on local values.



### **Marketing and Exposure Time**

The marketing and exposure times are estimated at three months, assuming the lot is marketed at or near the estimated value and it is free and unencumbered.

### **Zoning Data**

The subject is zoned Commercial (C1).

### **Dimensional Requirements**

The following are the dimensional requirements.

| <b><u>Item</u></b>        | <b><u>Requirement</u></b> |
|---------------------------|---------------------------|
| Minimum Lot Area          | 10,000 SF                 |
| Minimum Frontage          | 80 FT                     |
| Minimum Front Yard        | 10 FT                     |
| Minimum Side Yard         | 10 FT                     |
| Minimum Rear Yard         | 20 FT                     |
| Maximum Height (stories)  | 5                         |
| Maximum Height (feet)     | 60                        |
| Maximum Building Coverage | 30%                       |

The subject does not meet the lot size, frontage and maximum building coverage requirements. It does not appear to meet the side and rear yard requirements as well.

According to Mr. Roland Jean of the Gardner Building Department, the subject land is legally-non-conforming and the lot could be re-developed on the existing foundation if destroyed.

### **Permitted Uses**

The C1 zone allows a diverse number of commercial uses by right including retail and office, banks, restaurants, etc. Apartments require a special permit. The improvements existed prior to current zoning, therefore, were previously exempt from the special permit requirements. The subject exempt status no longer exists for two reasons. First the subject was vacant for over two years, therefore, the subject is no longer exempt from the special permit requirement. Secondly, the subject does not meet the parking space requirement for a rooming house. This leaves the options of the subject to be bought for assemblage by an abutter, or the building razed and a one-story building constructed on the existing foundation, or the site could be purchased for parking use.



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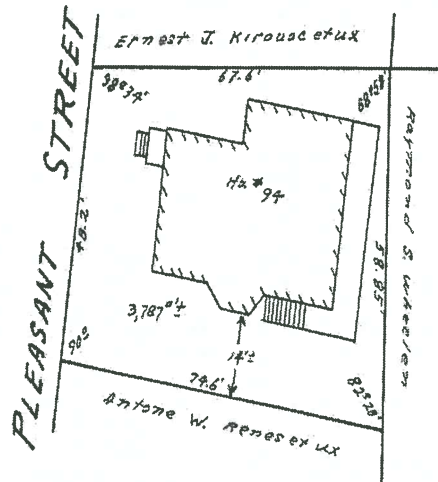
**Tax and Assessment Data**

The subject is assessed and taxed as follows:

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| <b><u>Fiscal Year 2022</u></b>         |                  |
|----------------------------------------|------------------|
| <b><u>Map 22, Block 10, Lot 15</u></b> |                  |
| Land                                   | \$ 43,200        |
| Building                               | <u>\$162,900</u> |
| Total                                  | \$206,100        |
| Taxes                                  | \$ 3,831.40      |

Compared to the estimated value, the assessment appears high. The building appears to be of no value and is assessed at \$162,900.

Site PlanCITY OF GARDNER  
PLANNING BOARDApproval of Plan under the Sub-  
division Control Law is NOT

Required. DATE: Jan. 10, 1973

By: David N. Kirouac  
CITY MAP ACT. AGENTCOMPILED PLAN OF LAND  
to be Conveyed to**ROBERT W. WAXLAX et ux**  
GARDNER, MASS.

Scale: 1 inch = 20 ft. - Jan. 8, 1973

Michael S. Szoc  
SurveyorWORCESTER DISTRICT REGISTRY  
OF DEEDS-WORCESTER, MAPLAN BOOK 376 PLAN 112Received JAN 24 19733 h 32 m P MSheet 1 of 1

ATTEST:

  
Register
1/10/73  
Michael S. Szoc

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## **Site Analysis**

### **Size and Configuration**

The site is 3,787+/-SF according to the site plan. There is 48.20+/- feet of frontage (FF) along Pleasant Street. The depth of the lot ranges from 167.6+/- feet (FT) to 74.6+/-FT. The parcel is nearly square shaped which is favorable. The small size of the lot negatively impacts the functional utility of the site.

### **Environmental**

The subject has not been listed as a confirmed disposal site in the Transition List of Confirmed Disposal Sites and Locations to be Investigated by the Department of Environmental Protection (DEP). The estimated value is based on the assumption that the subject is free of contamination and conforms to all local, state and federal environmental regulations.

### **Topography**

The terrain of the site is gently sloping and at street grade. There is an estimated 3+/-FT difference between the low and high elevations. The terrain is favorable.

### **Floodplain**

According to Flood Insurance Rate Map (FIRM) #250305 0008 B, dated July 2, 1981, the subject is not in a flood prone area.

### **Easements/Restrictions**

There are no known easements or restrictions impacting the property.

### **Utilities**

Utilities servicing the property consists of public electricity, sewer and water. The heat is reportedly oil in the property record card. Public gas is available to the property.

### **Site Improvements**

On the date of inspection, the site improvements include an asphalt paved driveway, chain link fencing, a sidewalk, stairs, grass and trees.

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### **Depreciation and Obsolescence**

Two forms of depreciation or obsolescence may impact site improvements: physical deterioration, curable or incurable and functional obsolescence, curable and incurable.

Evidence of physical depreciation includes cracked and faded asphalt pavement and sidewalks, the landscaping is in poor condition.

Functional obsolescence results from a defect in design, structure, and material, which reduces utility and affects value. There is no evidence of functional obsolescence impacting the subject.

### **Building Analysis**

The subject is improved with a 122+/- year old, 3,573+/-SF rooming house that appears to be in generally poor condition, based on an exterior inspection. The improvements are considered to be of no contributory value. A cost to demolish and remove the improvements will be factored into the valuation to follow.

### **Highest and Best Use Analysis**

Highest and best use is defined as:

*"1. The reasonably probable use of property that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.*

*2. The use of an asset that maximizes its potential and that is possible, legally permissible, and financially feasible. The highest and best use may be for continuation of an asset's existing use or for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid. (IVS)*

*3. [The] highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonable near future." [Uniform Appraisal Standards for Federal Land Acquisitions] [The Dictionary of Real Estate Appraisal, 7th ed. (Appraisal Institute, 2022), 88]*

Applying the four criteria to determine the highest and best use:

#### **As if Vacant**

**Legally permitted:** The site is zoned Commercial (C1). The subject does not meet the lot area and frontage requirement, however, it is a grandfathered lot. The C1 zone allows a diverse number of commercial uses by right including retail and office, banks, restaurants, etc. Apartments require a special permit.

Development of the lot with one of the uses allowed by zoning on the existing foundation foot print would be permitted assuming parking requirements are met. The subject would not be able to meet the dimensional requirements.

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**Physically possible:** The property has legal frontage, all utilities are available, the terrain is favorable, and there are no known adverse easements. The small size of the lot negatively impacts the functional utility of the site.

Based on development in the neighborhood, and on the subject site, development appears physically possible.

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**Financially feasible:** The property is on a modestly travelled main route in a mixed area of primarily commercial and residential development. Local and regional access is good. There has been extensive newer commercial development that has taken place in the neighborhood over the past approximately 10-15+/- years.

The economy and real estate market has stabilized. Favorably, the commercial market has strengthened, evidenced by the low vacancy rates. Given the zoning and neighborhood improvements, there appears to be no other use of the site that would result in a higher return than development with a build to suit or owner-occupied commercial use allowed by zoning, however, new commercial development has been negatively impacted by high construction costs and to some extent by the current uncertainties of the future impact of the Coronavirus, and the sharp increases in interest rates. It does not appear to be financially feasible to construct a commercial building at the present time in Gardner. The subject most likely interim use would be for assemblage by an abutter or use as a parking lot.

**Maximally productive:** The highest and best use of the site as if vacant and unimproved would be for future commercial development when it is financially feasible.

#### **As Improved**

**Legally permitted:** The subject does not meet the lot size, frontage and maximum building coverage requirements, and it does not appear that the improvements meet the side and rear yard setback requirements. Multi-family dwellings require a special permit in this zone.

According to Mr. Roland Jean of the Gardner Building Department, the subject was previously legally non-conforming from the dimensional requirements and the rooming house was exempt from the special permit requirements because the building was constructed prior to current zoning, however, the subject rooming house is no longer exempt because the building was vacant for over two years and the subject does not appear to meet the parking requirements. The options for the property is to demolish and remove the building and the property can either be bought for assemblage, used for parking or a building could be constructed on the existing foundation as long as the subject meets the permitted use and parking requirements.

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**Physically possible:** The property has legal frontage, all utilities are available, the terrain is favorable, and there are no known adverse easements. The small size of the lot negatively impacts the functional utility of the site.



Based on development in the neighborhood, and on the subject site, development appears physically possible.

**Financially feasible:** The property is on a moderately travelled main route in a mixed area of primarily commercial and residential development. Local and regional access is good. There has been extensive newer commercial development that has taken place in the neighborhood over the past approximately 10-15+/- years.

The economy and real estate market has stabilized. Favorably, the commercial market has strengthened, evidenced by the low vacancy rates. Given the zoning and neighborhood improvements, there appears to be no other use of the subject that would result in a higher return than demolition and removal of the existing building and use of the lot for assemblage, as parking, or construction of a building on the existing foundation that conforms to permitted use and parking requirements.

**Maximally productive:** The highest and best use of the site as improved would be to demolish and remove the existing building and use of the lot for assemblage, as parking, or construction of a building on the existing foundation that conforms to permitted use and parking requirements.

### **Valuation Analysis**

A well supported estimate of value utilizes a valuation process based on consideration of all pertinent general and specific data. This process reflects three distinct methods for analyzing the data mathematically: cost approach, sales comparison approach, and income capitalization approach.

If applicable to the estimation of value, all three methods, or approaches, may be utilized. Use of one or more approaches, or the application of greater significance of one or another, is dependent on the type of subject property and other critical factors.

The cost approach is "*A set of procedures through which a value indication is derived for the fee simple estate by estimating the cost new as of the effective date of the appraisal to construct a reproduction of (or replacement for) the existing structure, including an entrepreneurial incentive; deducting depreciation from the total cost; and adding the estimated land value. The contributory value of any site improvements that have not already been considered in the total cost can be added on a depreciated-cost basis. Adjustments may then be made to the indicated value of the fee simple estate in the subject property to reflect the value of the property interest being appraised*". [*The Dictionary of Real Estate Appraisal*, 7<sup>th</sup> ed. (Appraisal Institute, 2022), 43]

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*The sales comparison approach is "The process of deriving a value indication for the subject property by comparing sales of similar properties to the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as though vacant when an adequate supply of comparable sales is available."* [The Dictionary of Real Estate Appraisal, 7th ed. (Appraisal Institute, 2022), 170]

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The income capitalization approach is *"Specific appraisal techniques applied to develop a value indication for a property based on its earning capability and calculated by the capitalization of property income."* [The Dictionary of Real Estate Appraisal, 7th ed. (Appraisal Institute, 2022), 94]

### **Site Value**

The sales comparison approach was used to estimate the value of the subject as a vacant lot. Research conducted in Gardner and the market area for sales of comparable small commercial sites revealed limited data comprised of a 2019 sale in Sterling, a 2021 sale in Athol, a 2021 sale in Clinton, a 2021 sale in Sterling, and a 2021 sale in Fitchburg.

Following are the data summaries of the five properties considered most comparable, an adjustment grid and a narrative explanation of the adjustments made to each in comparison to the subject. The unit of comparison is price/SF.



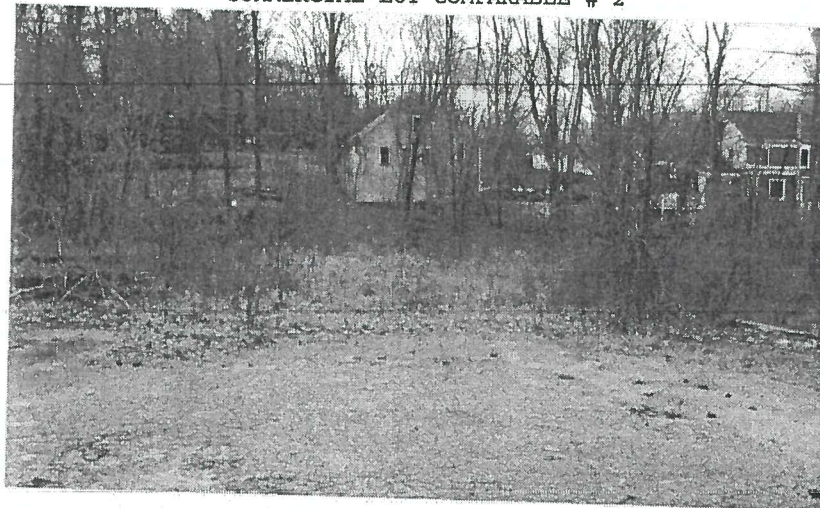
Land Comparables

## COMMERCIAL LOT COMPARABLE # 1



ADDRESS TOWN STERLING STATE MASSACHUSETTS  
 STREET LOT 10 WORCESTER ROAD (ROUTE 12)  
 TYPE OF PROPERTY COMMERCIAL LAND  
 STATE CLASS CODE 390 ZONING COMMERCIAL  
 GRANTOR SMS REALTY, LLC GRANTEE MAX13 CONSTRUCTION, INC.  
 SALE DATE 12/30/19 BOOK 61678 PAGE 12 REGISTRY WRD  
 SALE PRICE \$80,000.00 VERIFIED BROKER (JB) 12/21  
 MORTGAGE 1ST \$72,000 SELLER 2ND NONE NOTED  
 ASSESSMENT LAND \$ -- TOTAL \$ -- TAXES \$ --  
 UTILITIES WATER PUBLIC SEWER PRIVATE GAS NONE ELECTRIC PUBLIC  
 LAND AREA +/-SF 22,026 +/-AC 0.506 +/-FF 125.00  
 TOPOGRAPHY GENTLY SLOPING EASEMENTS NONE NOTED  
 PRICE/ACRE \$158,102.77 PRICE/SF \$3.63 PRICE/FF \$640.00  
 REMARKS SITE BOUGHT BY AN ABUTTER FOR EXPANSION.

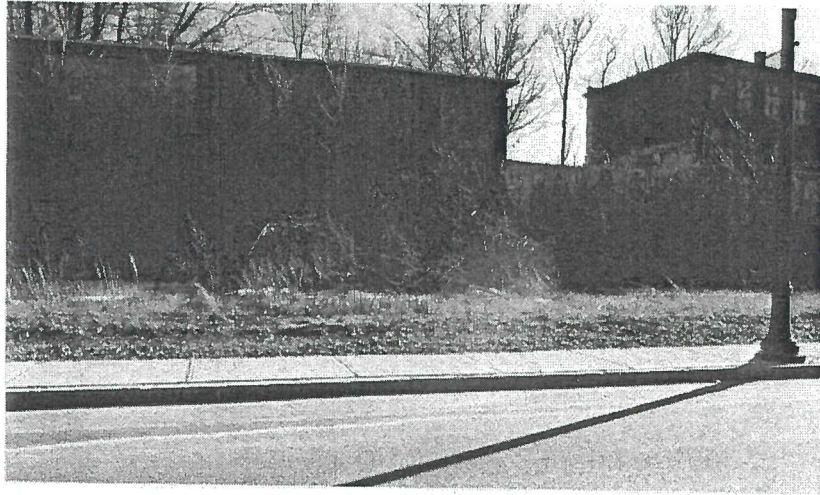
## COMMERCIAL LOT COMPARABLE # 2



ADDRESS TOWN ATHOL STATE MASSACHUSETTS  
 STREET 1709 MAIN STREET (ROUTE 2A)  
 TYPE OF PROPERTY COMMERCIAL LOT  
 STATE CLASS CODE 390 ZONING GENERAL  
 GRANTOR GARY GIARLE GRANTEE \*  
 SALE DATE 05/06/21 BOOK 65103 PAGE 384 REGISTRY WDRD  
 SALE PRICE \$100,000.00 VERIFIED BROKER (JB) 12/21  
 MORTGAGE 1ST NONE NOTED 2ND NONE NOTED  
 ASSESSMENT LAND \$ 44,200 TOTAL \$ 44,200 TAXES \$ 780.57  
 UTILITIES WATER PUBLIC SEWER PUBLIC GAS NONE ELECTRIC PUBLIC  
 LAND AREA +/-SF 28,200 +/-AC 0.647 +/-FF 185.85  
 TOPOGRAPHY GENTLY SLOPING EASEMENTS NONE NOTED  
 PRICE/ACRE \$154,559.51 PRICE/SF \$3.55 PRICE/FF \$538.07  
 REMARKS SITE BOUGHT FOR PROPOSED DEVELOPMENT WITH A MARIJUANA RETAIL STORE.

\* CADETTE AND NADREAU LANCASTER REALTY, LLC

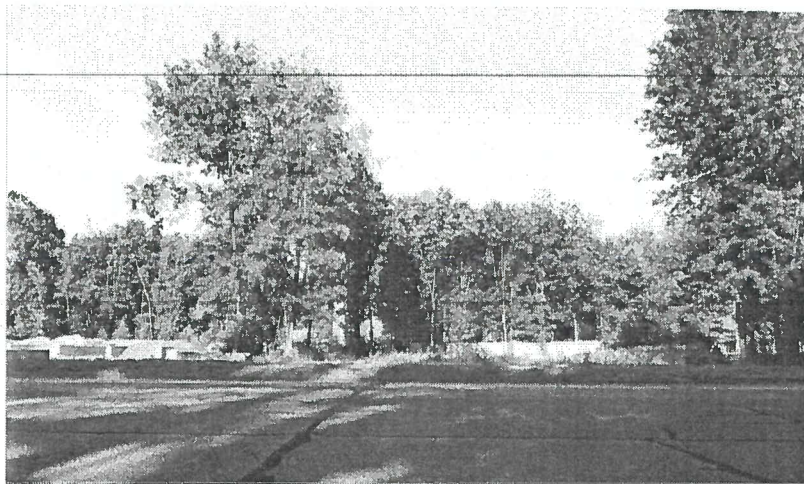
## COMMERCIAL LOT COMPARABLE # 3



|                                                                                                                             |                              |                               |
|-----------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------------------|
| ADDRESS                                                                                                                     | TOWN CLINTON                 | STATE MASSACHUSETTS           |
|                                                                                                                             | STREET 13-15 WATER STREET    |                               |
| TYPE OF PROPERTY COMMERCIAL LOT                                                                                             |                              |                               |
| STATE CLASS CODE 390                                                                                                        | ZONING BUSINESS RETAIL       |                               |
| GRANTOR PHILIP AND MARY FORDE                                                                                               | GRANTEE FARIA REALTY TRUST   |                               |
| SALE DATE 07/29/21                                                                                                          | BOOK 65725                   | PAGE 172      REGISTRY WDRD   |
| SALE PRICE \$75,000.00                                                                                                      | VERIFIED GRANTEE (JB) 3/22   |                               |
| MORTGAGE                                                                                                                    | 1ST NONE NOTED               | 2ND NONE NOTED                |
| ASSESSMENT LAND \$ 53,900                                                                                                   | TOTAL \$ 53,900              | TAXES \$ 803.65               |
| UTILITIES                                                                                                                   | WATER PUBLIC    SEWER PUBLIC | GAS PUBLIC    ELECTRIC PUBLIC |
| LAND AREA +/-SF 4,831                                                                                                       | +/-AC 0.111                  | +/-FF 118.83                  |
| TOPOGRAPHY LEVEL                                                                                                            | EASEMENTS RIGHT-OF-WAY       |                               |
| PRICE/ACRE \$675,675.68                                                                                                     | PRICE/SF \$15.52             | PRICE/FF \$631.15             |
| REMARKS SALE OF A 4,831 SF VERY NARROW COMMERCIAL LOT. THE BUYER IS<br>SEEKING APPROVALS TO DEVELOP APARTMENTS ON THE SITE. |                              |                               |



## COMMERCIAL LOT COMPARABLE # 4



ADDRESS TOWN STERLING STATE MASSACHUSETTS  
 STREET LOT 11 WORCESTER ROAD (ROUTE 12)  
 TYPE OF PROPERTY COMMERCIAL LAND  
 STATE CLASS CODE 390 ZONING COMMERCIAL  
 GRANTOR SHOLAN HOMES, INC. GRANTEE MAX 13 CONSTRUCTION, INC.  
 SALE DATE 11/12/21 BOOK 66250 PAGE 313 REGISTRY WDRD  
 SALE PRICE \$115,000.00 VERIFIED BROKER (JB) 12/21  
 MORTGAGE 1ST \$153,750 PRIVATE 2ND NONE NOTED  
 ASSESSMENT LAND \$ -- TOTAL \$ -- TAXES \$ --  
 UTILITIES WATER PUBLIC SEWER PRIVATE GAS NONE ELECTRIC PUBLIC  
 LAND AREA +/-SF 21,918 +/-AC 0.503 +/-FF 125.00  
 TOPOGRAPHY GENTLY SLOPING EASEMENTS NONE NOTED  
 PRICE/ACRE \$228,628.23 PRICE/SF \$5.25 PRICE/FF \$920.00  
 REMARKS SITE BOUGHT BY AN ABUTTER FOR EXPANSION.

## COMMERCIAL LOT COMPARABLE # 5



ADDRESS TOWN FITCHBURG STATE MASSACHUSETTS  
 STREET 845 WATER STREET (ROUTE 12)  
 TYPE OF PROPERTY COMMERCIAL LAND  
 STATE CLASS CODE 390 ZONING NB  
 GRANTOR LUNENBURG SAIGON BISTRO, LLC GRANTEE \*  
 SALE DATE 12/21/21 BOOK 10216 PAGE 235 REGISTRY NWDRD  
 SALE PRICE \$87,000.00 VERIFIED BROKER (JB) 12/21  
 MORTGAGE 1ST \$341,000.00 2ND NONE NOTED  
 ASSESSMENT LAND \$ 110,000 TOTAL \$ 110,000 TAXES \$ 2,093.30  
 UTILITIES WATER PUBLIC SEWER PUBLIC GAS PUBLIC ELECTRIC PUBLIC  
 LAND AREA +/-SF 19,086 +/-AC 0.438 +/-FF 259.13  
 TOPOGRAPHY GENTLY SLOPING EASEMENTS GAS, ELECTRIC AND R.O.W.  
 PRICE/ACRE \$198,630.14 PRICE/SF \$4.56 PRICE/FF \$347.32  
 REMARKS SALE OF A VACANT COMMERCIAL SITE PROPOSED FOR FUTURE COMMERCIAL  
 DEVELOPMENT.

\* CLEARWATER REAL ESTATE INVESTMENT LLC

**Adjustment Grid**

| Market Data Adjustment Analysis<br>94 Pleasant Street, Gardner, MA<br>Land Sale Comparables |                                   |                                       |            |                               |            |                                   |            |                                       |            |                                   |            |
|---------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------------|------------|-------------------------------|------------|-----------------------------------|------------|---------------------------------------|------------|-----------------------------------|------------|
| Address                                                                                     | Subject                           | Comparable #1                         |            | Comparable #2                 |            | Comparable #3                     |            | Comparable #4                         |            | Comparable #5                     |            |
|                                                                                             | 94 Pleasant Street<br>Gardner, MA | Lot 10 Worcester Road<br>Sterling, MA |            | 1709 Main Street<br>Athol, MA |            | 13-15 Water Street<br>Clinton, MA |            | Lot 11 Worcester Road<br>Sterling, MA |            | 845 Water Street<br>Fitchburg, MA |            |
|                                                                                             |                                   | Description                           | Adjustment | Description                   | Adjustment | Description                       | Adjustment | Description                           | Adjustment | Description                       | Adjustment |
| Price                                                                                       | N/A                               | \$80,000                              |            | \$100,000                     |            | \$75,000                          |            | \$115,000                             |            | \$87,000                          |            |
| Price/SF                                                                                    | N/A                               | \$3.63                                |            | \$3.55                        |            | \$15.52                           |            | \$5.25                                |            | \$4.56                            |            |
| Conditions of Sale                                                                          | Market                            | Market                                | --         | Market                        | --         | Market                            | --         | Market                                | --         | Market                            | --         |
| Date of Sale (Time)                                                                         | N/A                               | 12/30/2019                            | 10%        | 5/6/2021                      | 0%         | 7/29/2021                         | 0%         | 11/12/2021                            | 0%         | 12/21/2021                        | 0%         |
| % Net Adjustment                                                                            | N/A                               |                                       | 10%        |                               | 0%         |                                   | 0%         |                                       | 0%         |                                   | 0%         |
| Adjusted Price/SF                                                                           | N/A                               |                                       | \$3.99     |                               | \$3.55     |                                   | \$15.52    |                                       | \$5.25     |                                   | \$4.56     |
| Location                                                                                    | Fair/Average                      | Good                                  | -15%       | Fair                          | 5%         | Fair                              | 5%         | Good                                  | -15%       | Average                           |            |
| Land Area +/-SF                                                                             | 3,787                             | 22,026                                | 20%        | 28,200                        | 25%        | 4,831                             |            | 21,918                                | 20%        | 19,086                            | 20%        |
| Utilities                                                                                   | E,W,S,G                           | E,W                                   | 10%        | E,W,S                         |            | E,W,S,G                           |            | E,W                                   | 10%        | E,W,S,G                           |            |
| Frontage                                                                                    | 48.2                              | 125                                   | -5%        | 185.85                        | -10%       | 118.83                            | -5%        | 125                                   | -5%        | 259.13                            | -15%       |
| Topography                                                                                  | Gently Sloping                    | Gently Slope.                         |            | Gently Slope.                 |            | Level                             |            | Gently Slope.                         |            | Gently Slope.                     |            |
| Functional Utility                                                                          | Fair                              | Average                               | -10%       | Average                       | -10%       | Fair                              |            | Average                               | -10%       | Average                           | -10%       |
| % Net Adjustment                                                                            | N/A                               |                                       | 0%         |                               | 10%        |                                   | 0%         |                                       | 0%         |                                   | -5%        |
| Adjusted Price/SF                                                                           | N/A                               |                                       | \$3.99     |                               | \$3.91     |                                   | \$15.52    |                                       | \$5.25     |                                   | \$4.33     |

**Comparable #1: Lot 10 Worcester Road, Sterling, MA**

December 30, 2019 sale of a 22,026+/-SF commercial lot for \$80,000 (\$3.63/SF). The site was purchased by an abutter for assemblage.

Upward adjustment:

**Date of Sale:** The comparable sold December 30, 2019. Commercial land has increased in value since the date of sale due to improvement in the real estate market.

**Land Area:** The comparable is 22,026+/-SF; the subject is 3,787+/-SF. Larger sites tend to sell for a lower price/SF due to fewer potential buyers.

**Utilities:** The comparable does not have access to public sewer. Public sewer is available to the subject. Commercial land with the availability of public sewer tends to sell for a higher price/SF due to lower development and maintenance costs.

Downward adjustment:

**Location:** Commercial land in Sterling would tend to sell for a higher price/SF than Gardner due to superior demographics.

**Frontage:** The comparable has 125.00+/-FF; the subject has 48.2+/-FF. Commercial land with greater frontage tends to sell for a higher price/SF due to greater visibility and functional utility.

**Functional Utility:** The comparable is not adversely impacted by the small size of the subject.

The overall net adjustment is upward.

**Comparable #2: 1709 Main Street (Route 2A), Athol, MA**

May 6, 2021 sale of a 28,200+/-SF commercial lot for \$100,000 (\$3.55/SF). The site was purchased for proposed development with a marijuana retail store.

Upward adjustment:

**Location:** Commercial land in Athol would tend to sell for a lower price/SF than Gardner due to inferior demographics.

**Land Area:** The comparable is 28,200+/-SF; the subject is 3,787+/-SF.



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Downward adjustment:

**Frontage:** The comparable has 185.85+/-FF; the subject has 48.2+/-FF.

**Functional Utility:** The comparable is not adversely impacted by the small size of the subject.

---

The overall net adjustment is upward.

**Comparable #3: 13-15 Water Street, Clinton, MA**

July 29, 2021 sale of a 4,831+/-SF narrow commercial lot for \$75,000 (\$15.52/SF). The site was purchased by an abutter who is seeking approvals for development of apartments on site.

Upward adjustment:

**Location:** The comparable is in a less desirable commercial location in comparison to the subject.

Downward adjustment:

**Frontage:** The comparable has 118.83+/-FF; the subject has 48.2+/-FF.

The overall net adjustment is zero percent.

**Comparable #4: Lot 10 Worcester Road, Sterling, MA**

November 12, 2021 sale of a 21,918+/-SF commercial lot for \$115,000 (\$5.25/SF). The site was purchased by an abutter for assemblage.

Upward adjustment:

**Land Area:** The comparable is 21,918+/-SF; the subject is 3,787+/-SF.

**Utilities:** The comparable does not have access to public sewer. Public sewer is available to the subject.

Downward adjustment:

**Location:** Commercial land in Sterling would tend to sell for a higher price/SF than Gardner due to superior demographics.

---

**Frontage:** The comparable has 125.00+/-FF; the subject has 48.2+/-FF.

**Functional Utility:** The comparable is not adversely impacted by the small lot size of the subject.

The overall net adjustment is upward.

**Comparable #5: 845 Water Street (Route 12), Fitchburg, MA**

December 21, 2021 sale of a 19,086+/-SF commercial lot for \$87,000 (\$4.56/SF). The site was purchased for future commercial development.

Upward adjustment:

**Land Area:** The comparable is 19,086+/-SF; the subject is 3,787+/-SF.

Downward adjustment:

**Frontage:** The comparable has 259.13+/-FF; the subject has 48.2+/-FF.

**Functional Utility:** The comparable is not adversely impacted by the small lot size of the subject.

The overall net adjustment is downward.

After adjustments the comparables range from an adjusted \$3.99/SF to \$15.52/SF. The median adjusted figure is \$4.33/SF and the mean adjusted figure is \$6.60/SF. After all factors are considered, the estimated market value of the subject is \$5.45/SF. The value is calculated as follows.

| <u>Price/SF</u> | <u>x</u> | <u>Size</u> | <u>=</u> | <u>Value</u> |
|-----------------|----------|-------------|----------|--------------|
| \$5.45          | x        | 3,787+/-SF  | =        | \$20,639     |
|                 |          | Rounded     |          | \$20,000     |

To be deducted from this value is an estimated cost to demolish and remove the existing building. Based on costs obtained for other properties, this expense is estimated at \$40,000. Deducting this figure would result in a negative value of -\$20,000 (\$20,000 - \$40,000 = -\$20,000), rounded to \$0.

As of June 9, 2022, the estimated market value of the subject by the sales comparison approach is:

**Zero Dollars**  
**\$0**

**Estimate of Value by the Cost Approach**

The cost approach was not developed due to the poor condition of the building and the degree of depreciation.

---

**Estimate of Value by the Sales Comparison Approach**

The sales comparison approach was not developed for the property as improved because the improvements are considered to be of no contributory value. The site value was developed by the sales comparison approach within the site value section.

---

**Estimate of Value by the Income Capitalization Approach**

The income capitalization approach was not developed for the property as improved because the improvements are considered to be of no contributory value. The site value was not developed by the income capitalization approach because small commercial lots are not typically leased in this market area.

**Reconciliation of Value Indications into Final Estimate**

The estimated site value of the subject by the sales comparison approach based on a comparison to five sales is \$0.

The other approaches to value were not applicable.

As of June 9, 2022, the final estimated market value is:

**Zero Dollars  
\$0**



Joel A. Buthray, MAI  
Certified General  
Real Estate Appraiser  
Commonwealth of MA #929

**Certification**

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. I have performed no services as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
5. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
9. I have made a personal inspection of the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the person signing this certification.
11. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of the Professional Appraisal Practice of the Appraisal Institute.
12. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

---

13. The property was inspected by the undersigned on 06/9/2022.

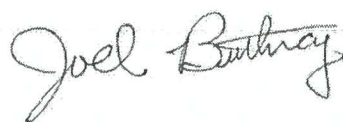


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Joel A. Buthray, MAI

Certified General Real Estate Appraiser  
Commonwealth of Massachusetts #929

14. As of the date of this report, I, Joel A. Buthray, MAI have completed the requirements of the continuing education program of the Appraisal Institute.



Joel A. Buthray, MAI

Certified General Real Estate Appraiser  
Commonwealth of Massachusetts #929



### **Assumptions and Limiting Conditions**

The estimate of value and/or opinions is subject to the assumptions and limiting conditions stated herein.

A. This appraisal is being prepared at the request of the City of Gardner, the client and intended user to estimate the market value for eminent domain purposes. Its use for any other purpose is invalid without prior approval and written authorization of O'Hara-Buthray Associates, Inc.

The use of this appraisal report, opinions, analyses, or valuation conclusions is restricted to the function specified above and for the client to whom addressed. Release to a third party for whatever purpose is prohibited and unauthorized. Unauthorized use of the report releases O'Hara-Buthray Associates, Inc. of liability to the client and/or a third party.

B. This report may not be reproduced, or used in any manner except for the purpose cited in this document. This specifically prohibits the extraction of any information whole, or in part, from the report.

C. Discussions regarding this appraisal report or estimates of value are restricted to valid representatives of the client. Authorization from said client to discuss the appraisal with a third party must be in writing and will be retained on file.

D. This report is subject to the standards of the Appraisal Institute and may be reviewed by its duly authorized representatives.

E. Analyses, opinions, and conclusions are based on the assumption that:

1. The property is under legal ownership and marketable.
2. Information supplied by the owner or a representative is accurate.
3. Data used in the report have been obtained from sources considered reliable.
4. Dimensions of buildings or sites are rounded field measurements or those obtained from municipal records or other identified resources.
5. Identified mechanical equipment is in working condition.
6. Buildings on the site are structurally sound, and unaffected by dry rot or insect infestation, which can only be determined by qualified technicians.
7. Identified on-site water systems are in working condition. The quality, quantity, or functioning of a water system can only be determined by a qualified technician.

8. Identified on-site sewerage systems are in working condition. The type and functioning of a system can only be determined by a qualified technician.

9. Testing and identification of discernible or unapparent hazards must be done by qualified technicians. The cost of remediation of environmentally hazardous substances or materials (such as, but not limited to, lead paint, asbestos, formaldehyde foam, radon, oil, toxic waste, or radioactivity, etc.) has to be deducted from the final value estimated in this report.

10. Prospective valuations are based on satisfactory completion, repair, or renovation according to plans and specifications submitted for the appraisal.

11. I (We) have not made a specific compliance survey and analysis of this property to determine whether it is in conformity with the various detailed requirements of the Americans with Disabilities Act (ADA). A compliance survey of the property, together with a detailed analysis of the requirements of the ADA, may reveal that the property is not in compliance with one or more of the requirements of the Act. This could have a negative effect on the value of the property. Since I (we) have no direct evidence relating to this issue, non-compliance with ADA requirements has not been considered in estimating the value of the property.

12. Unless otherwise specified, the subject property conforms to all federal, state, and municipal codes and requirements, and environmental regulations.

#### F. Market data

1. Sale prices of comparable properties are verified with grantors and/or grantees, attorneys, brokers, loan officers and deeds.
2. Lease data are verified with lessors and/or lessees or their representatives, brokers, or other sources deemed reliable.
3. O'Hara-Buthray Associates, Inc. does not conduct field measurements of comparable sale or rental properties. Sizes are verified with brokers, grantors and/or grantees, assessor records, lessors, or lessees.

#### G. Valuation

1. This appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan. (USPAP Standard 1)

### **Statement of Non-Standard Conditions or Assumptions**

This Appraisal Report is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report. It presents discussions of the data, reasoning, and analyses used in the appraisal process to develop the appraiser's opinion of value.

The depth of discussion contained in this report is specific to the need of the City of Gardner, the client and intended user to estimate the market value for eminent domain purposes. The appraiser is not responsible for unauthorized use of this report.

### **Extraordinary Assumptions & Hypothetical Conditions**

*The value conclusions are subject to the following extraordinary assumptions that may affect the assignment results. An extraordinary assumption is an assignment-specific assumption as of the effective-date regarding uncertain information used in the analysis, which, if found to be false, could alter the appraiser's opinions or conclusions.*

*There are no extraordinary assumptions used in this analysis.*

*The value conclusions are based on the following hypothetical conditions that may affect the assignment results. A hypothetical condition is a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*

*There are no hypothetical conditions used in this report.*

---

## Addendum

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Deed

R A REALTY TRUST  
C/O RENE ARSWAULT  
378 KELLEYS ST.  
MANCHESTER, NH 03102

124665 *JSU*

MANCHESTER, ROGER LEBLANC, as Trustee of 94 PLEASANT TRUST, not of Record, Depot Street, P. O. Box 425 Rumney, New Hampshire 03266 for consideration paid, and in full consideration of \$10.00 grant to R A REALTY TRUST of 378 Kelley Street, Manchester, New Hampshire 03012 with quitclaim covenants UNDER D/T Recorded here with as ILMT-# 124635 (Description and encumbrances, if any)

A certain parcel of land, with the buildings and other improvements thereon, situated on the easterly side of Pleasant Street, in Gardner, Worcester County, Massachusetts, bounded and described as follows

Commencing at the northwesterly corner thereof at the southwesterly corner of land now or formerly of Katherine Glasheen; thence

EASTERLY at an included angle of 98°34', by said Glasheen land, 67.6 feet to a corner; thence

SOUTHERLY at an included angle of 88°58', by land now or formerly of Amedeo Olivari et als, 58.85 feet to a corner; thence

WESTERLY at an included angle of 82°28', by a line which is approximately 14 feet from the southerly side of the house located on these premises, 74.6 feet to the easterly line of Pleasant Street; thence

NORTHERLY at an included angle of 90, by the easterly line of Pleasant Street, 48.2 feet to the place of beginning.

The above described premises are shown on a plan entitled, "Complied Plan of Land to be Conveyed to Robert W. Waxlax et ux, Gardner, Mass., Jan. 8, 1973, Michael S. Szoc, Surveyor," recorded in Worcester District Registry of Deeds, Plan Book 376, Plan 112.

Hereby conveying the same premises conveyed to us by deed of Robert W. Waxlax and Dorina Waxlax, dated April 23, 1985, recorded in said Registry, Book 8699, Pages 277 & 278.

This conveyance is made subject to the existing mortgages.

Witness *[Signature]* hand and seal this 2nd day of Feb 1997  
Roger LeBlanc, Trustee

COMMONWEALTH OF MASSACHUSETTS

WORCESTER . SS.

February 2, 1997

Then personally appeared the above named Roger LeBlanc and acknowledged the foregoing instrument to be his free act and deed, before me,

My Commission expires 8/2/97

*[Signature]*  
Notary Public  
DE Nilo Tacci

ATTEST: WORC. Anthony J. Vigliotti, Register

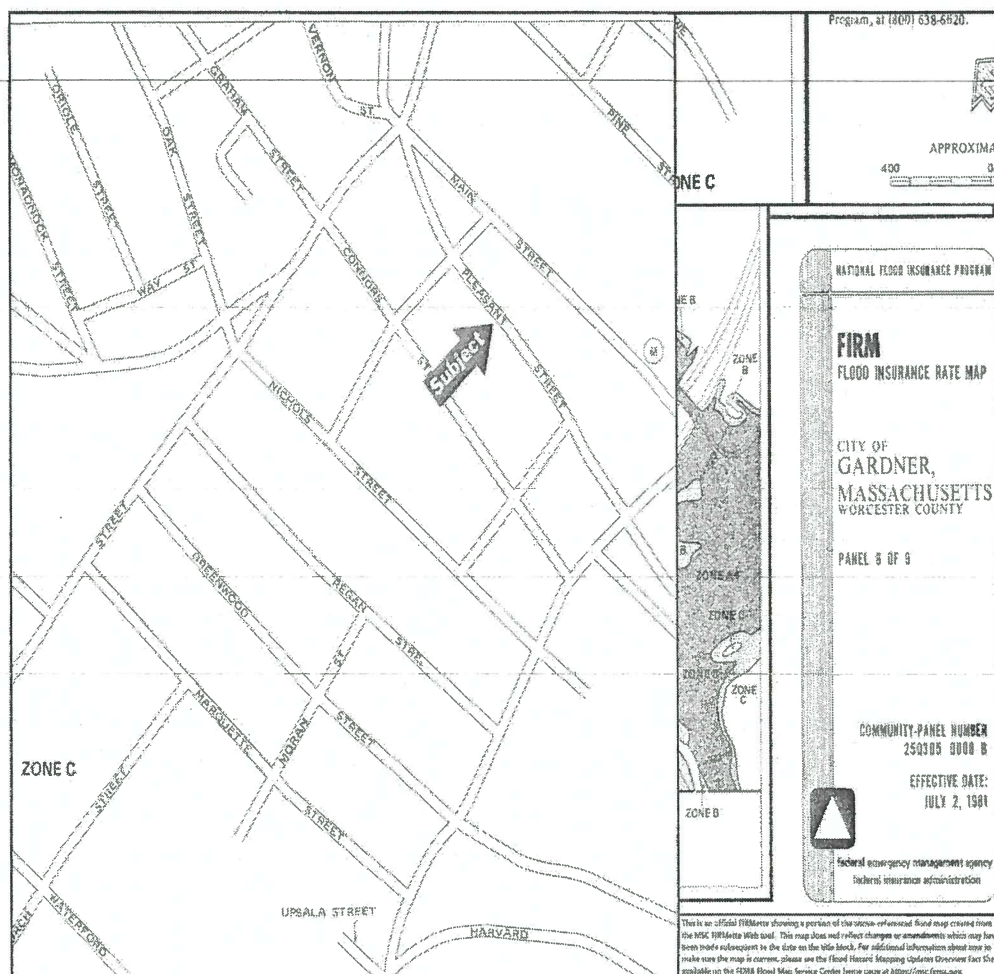
PROPERTY: 94 PLEASANT STREET GARDNER, MA. 01440

INSTRUMENT # 124635

97 NOV 10 PM 3:45



# **Flood Insurance Rate Map**



**Property Record Card****94 PLEASANT ST**

Location 94 PLEASANT ST

Mblu M22/ 10/ 15/ /

Acct#

Owner RA REALTY TRUST

PBN

Assessment \$206,100

Appraisal \$206,100

PID 2956

Building Count 1

**Current Value**

| Appraisal      |              |          |           |
|----------------|--------------|----------|-----------|
| Valuation Year | Improvements | Land     | Total     |
| 2022           | \$162,900    | \$43,200 | \$206,100 |
| Assessment     |              |          |           |
| Valuation Year | Improvements | Land     | Total     |
| 2022           | \$162,900    | \$43,200 | \$206,100 |

**Owner of Record**

Owner RA REALTY TRUST  
 Co-Owner C/O ARSENAULT RENE TRUSTEE  
 Address 378 KELLEY ST  
 MANCHESTER, NH 03012

Sale Price \$10,000  
 Certificate  
 Book & Page 19336/0170  
 Sale Date 11/10/1997  
 Instrument 1B

**Ownership History**

| Ownership History                    |            |             |             |            |            |
|--------------------------------------|------------|-------------|-------------|------------|------------|
| Owner                                | Sale Price | Certificate | Book & Page | Instrument | Sale Date  |
| RA REALTY TRUST                      | \$10,000   |             | 19336/0170  | 1B         | 11/10/1997 |
| NINETY FOUR PLEASANT TRUST           | \$10       |             | 12828/0222  | 1B         | 00/08/1990 |
| PETRICCA LAWRENCE & LEONARD TRUSTEES | \$115,000  |             | 8889/0277   | 00         | 05/10/1985 |
| WAXLAX ROBERT W                      | \$0        |             | 05304/0470  |            |            |

**Building Information**

Building 1 : Section 1

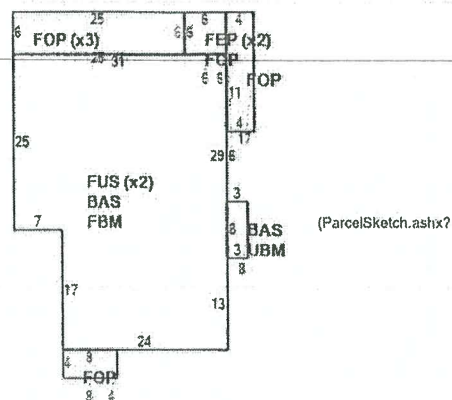
**Year Built:** 1900  
**Living Area:** 3,573  
**Replacement Cost:** \$397,226  
**Building Percent Good:** 41  
**Replacement Cost**  
**Less Depreciation:** \$162,900

| Building Attributes |                      |
|---------------------|----------------------|
| Field               | Description          |
| Style:              | 4 to 8 Fam/ Board Hs |
| Model:              | Multi-Family         |
| Grade:              | Average              |
| Stories:            | 3 Stories            |
| Occupancy:          | 4                    |
| Exterior Wall 1     | Asbest Shingle       |
| Exterior Wall 2     |                      |
| Roof Structure:     | Gable/Hip            |
| Roof Cover:         | Slate                |
| Interior Wall 1     | Plastered            |
| Interior Wall 2     |                      |
| Interior Flr 1      | Hardwood             |
| Interior Flr 2      | Carpel               |
| Heat Fuel:          | Oil                  |
| Heat Type:          | Hot Water            |
| AC Type:            | None                 |
| Total Bedrooms:     | 5 Bedrooms           |
| Total Bthrms:       | 4                    |
| Total Half Baths:   | 0                    |
| Total Xtra Fixtrs:  |                      |
| Total Rooms:        | 24 Rooms             |
| Bath Style:         | Old Style            |
| Kitchen Style:      | Old Style            |
| Num Kitchens:       | 01                   |
| Cndtn:              |                      |
| Num Park:           |                      |
| Fireplaces:         |                      |
| Fndln Cndln:        |                      |
| Basement:           |                      |

#### Building Photo

 Building Photo  
 (https://images.vgsi.com/photos/GardnerMAPPhotos/default.jpg)

#### Building Layout



pid=2956&bid=3036)

| Building Sub-Areas (sq ft) |                           |            | Legend      |
|----------------------------|---------------------------|------------|-------------|
| Code                       | Description               | Gross Area | Living Area |
| FUS                        | Upper Story, Finished     | 2,366      | 2,366       |
| BAS                        | First Floor               | 1,207      | 1,207       |
| FBM                        | Basement, Finished        | 1,183      | 0           |
| FEP                        | Porch, Enclosed, Finished | 72         | 0           |
| FOP                        | Porch, Open, Finished     | 588        | 0           |
| UBM                        | Basement, Unfinished      | 24         | 0           |
|                            |                           | 5,438      | 3,573       |

#### Extra Features

| Extra Features             | Legend |
|----------------------------|--------|
| No Data for Extra Features |        |

**Land****Land Use**

**Use Code** 1210  
**Description** Board Hse  
**Zone** R1  
**Neighborhood**  
**Alt Land Appr** No  
**Category**

**Land Line Valuation**

**Size (Sqr Feet)** 3787  
**Frontage** 0  
**Depth** 0  
**Assessed Value** \$43,200  
**Appraised Value** \$43,200

**Outbuildings**

| Outbuildings             | Legend |
|--------------------------|--------|
| No Data for Outbuildings |        |

**Valuation History**

| Appraisal      |              |          |           |
|----------------|--------------|----------|-----------|
| Valuation Year | Improvements | Land     | Total     |
| 2021           | \$136,600    | \$37,600 | \$174,200 |
| 2020           | \$133,100    | \$37,600 | \$170,700 |
| 2019           | \$119,100    | \$37,600 | \$156,700 |

| Assessment     |              |          |           |
|----------------|--------------|----------|-----------|
| Valuation Year | Improvements | Land     | Total     |
| 2021           | \$136,600    | \$37,600 | \$174,200 |
| 2020           | \$133,100    | \$37,600 | \$170,700 |
| 2019           | \$119,100    | \$37,600 | \$156,700 |

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**Appraisal License**

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COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF OCCUPATIONAL LICENSURE  
BOARD OF  
REAL ESTATE APPRAISERS  
ISSUES THE FOLLOWING LICENSE CERT  
GEN. REAL ESTATE APPRAISER

JOEL A BUTHRAY  
403 STERLING RD  
JEFFERSON, MA 01522-1329

929 05/03/2024 251458  
LICENSE NUMBER EXPIRATION DATE SERIAL NUMBER

*Joel A. Buthray*  
LICENSEE SIGNATURE



## Qualifications

### *Joel Buthray, MAI*

**EMPLOYMENT:** O'HARA-BUTHRAY ASSOCIATES, INC.  
*Partner*  
*Actively involved in appraising, consulting and reviewing appraisal reports*  
 Worcester, Massachusetts  
 September 1995 to date

PATRICK MCMAHON ASSOCIATES, INC.  
*Associate Real Estate Appraiser*  
 Worcester, Massachusetts  
 November, 1986 to August, 1995

GUARANTY BANK AND TRUST  
*Collections/Credit Analyst*  
 Worcester, Massachusetts  
 April 13, 1983 to November 7, 1986

HOUSEHOLD FINANCE COMPANY  
*Assistant Manager*  
 Worcester, Massachusetts  
 December, 1981 to April 10, 1983

**EDUCATION:** WORCESTER STATE COLLEGE  
 Worcester, Massachusetts  
*Bachelor of Science*  
*Major in Economics, Minor in Philosophy*

#### CONTINUING EDUCATION COURSES

- Introduction to Commercial Appraisal Review 4/22
- Appraisal of Industrial and Flex Buildings 4/22
- Appraisal of Fast Food Facilities 4/22
- National USPAP Update Course 4/22
- Uniform Appraisal Standards for Federal Land Acquisitions 4/20
- National USPAP Update Course 4/20
- The Basics of Expert Witness for Commercial Appraiser 4/20
- Basic Hotel Appraising – Limited Service Hotels 3/18
- Advanced Hotel Appraising – Full Service Hotels 3/18
- Appraising Automobile Dealerships 3/18
- Appraising Small Apartment Properties 3/18
- Appraisal of Fast Food Facilities 3/18
- Appraisal of Single Tenant Distribution Centers 3/18
- Appraisal of Self-Storage Facilities 3/18
- 2018-2019 7-Hour National USPAP Update Course 3/18
- Appraisal of Assisted Living Facilities 2/18
- Appraisal of Land Subject to Ground Leases 2/18

- Online Business Practices and Ethics 12/17
- ~~Appraisal of Owner-Occupied Commercial Properties, 4/16~~
- Appraisal of Land Subject to Ground Lease, 4/16
- Appraisal of Industrial Incubators, 4/16
- 2014-2015 National USPAP Update Course, 7/15
- Online Analyzing Operating Expenses, 12/12
- Online Advanced Internet Search Strategies, 12/12
- USPAP (7 hr) Outside Provider, 12/12
- The Cost Approach, 11/12
- Appraising & Analyzing Industrial & Flex Buildings, 11/12
- Site Analysis and Valuation, 10/12

|                                       |                                                                                                                                                                                                                                 |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PROFESSIONAL MEMBERSHIPS:</b>      | Appraisal Institute, MAI #11326                                                                                                                                                                                                 |
| <b>APPRAISAL EXPERIENCE:</b>          | Appraisals and/or feasibility studies of diverse properties for governmental agencies, financial institutions, insurance companies, industrial corporations, attorneys, developers, relocation agencies and individual clients. |
| <b>TYPES OF PROPERTIES APPRAISED:</b> | Commercial, industrial, unimproved land, churches, apartments, shopping centers, car dealerships, motels, condominium developments, subdivisions, etc.                                                                          |
| <b>COURT TESTIMONY:</b>               | Bankruptcies, divorces and abatements                                                                                                                                                                                           |
| <b>MEDIATION WORK:</b>                | City of Worcester and Providence and Worcester Railroad                                                                                                                                                                         |
| <b>PAST AREAS OF ASSIGNMENT:</b>      | Massachusetts, Connecticut, and Rhode Island                                                                                                                                                                                    |
| <b>CERTIFICATION:</b>                 | Certified General Real Estate Appraiser<br>Commonwealth of Massachusetts #929 Expires 5/3/2024                                                                                                                                  |
| <b>RECERTIFICATION:</b>               | As of this date, I have completed the requirements of the continuing education program of the Appraisal Institute.                                                                                                              |



**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED

2022 JUL 15 AM 9:19

CITY CLERK'S OFFICE  
 GARDNER, MA

June 27, 2022

Hon. Elizabeth J. Kazinskas, Council President  
 And City Councilors  
 95 Pleasant Street  
 Gardner, MA 01440

RE: Notification of Chapter 92 of the Acts of 2022 Impact on Gardner

Dear Madam President and Councilors,

I am writing to inform you all that on Wednesday, June 22, 2022, Governor Baker signed the VOTES Act into law as Chapter 92 of the Acts of 2022.

This new statute adds new procedures required by municipalities for State and Federal Elections and makes permanent many of the procedures that were expanded into elections as a result of the COVID-19 Pandemic.


Please note however, that these changes only apply to State and Federal Elections. Municipalities have the opportunity to adopt these changes for municipal elections through local option adoptions done by vote of the City Council. This is because the General Laws of the Commonwealth prohibit the legislature from imposing unfunded mandates on municipalities. Whereas the Commonwealth already reimburses Cities and Towns for the costs associated with State and Federal Elections, if they were to impose this on municipalities, the Commonwealth would have to reimburse the City for all costs associated with this.

At a minimum, this would require the City to implement the following:

- Move the deadline to register to vote from 5pm on the 20<sup>th</sup> day before an election to the 10<sup>th</sup> day before an election.
- Makes Early Voting By Mail permanent for all state and federal elections
- Makes the application to vote by mail consistent with the application for Absentee Voting
- Changes the deadline to apply for an early voting by mail ballot from four (4) calendar days before the election to five (5) business days before an election.
- Allows early voting ballots sent by mail to be counted toward the election results if they are received up to three (3) days after Election Day so long as the ballots were postmarked either on or before Election Day.
- Requires the City to offer early voting in person for a minimum of two weeks prior to Election Day, of which a minimum of six (6) hours must be during the weekend.

Additional information provided by the Secretary of the Commonwealth's Office has been attached here for your information. The City Clerk's Office is working with the Administration to review the procedures that now need to be implemented for elections in Gardner. Whereas this is important to all of our constituents, I wanted to be sure to inform you all of these changes.

Respectfully,

  
 Michael J. Nicholson  
 Mayor, City of Gardner

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor

RECEIVED

2022 JUL 18 PM 3:33

CITY CLERK'S OFFICE  
GARDNER, MA



## COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
GARDNER

CITY OF

I assign the following to the Police Officers as election poll details, as designated, and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

  
Michael J. Nicholson, Mayor

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan, City Clerk

### Early voting @ City Hall-8/27/22

SPAIN-----City Hall Auditorium/0900-1700

### Primary Polling Assignments-9/6/22

LAWRENCE-----WITH CITY CLERK/0430  
NEUFELL-----WARD 1/ELK'S/0700-1500  
SIAW-----WARD 1/ELK'S/1500-2000  
GUERREIRO-----WARD 2/LIBRARY/0700-1500  
DORVAL-----WARD 2/LIBRARY/1500-2000  
LAWRENCE-----WARD 3/CITY HALL AUDITORIUM/0700-2000  
SGT. ST. PIERRE-----WARD 4/POLICE DEPARTMENT/0700-1500  
SPAIN-----WARD 4/POLICE DEPARTMENT/1500-2000  
DET. STARZYNSKI-----WARD 5/PACC/0700-2000



**Titi Siriphan**

---

**From:** Tassinari, Michelle (SEC) <michelle.tassinari@state.ma.us>  
**Sent:** Thursday, June 23, 2022 12:58 PM  
**To:** All Clerks  
**Subject:** [EXTERNAL] VOTES Act is signed!  
**Attachments:** Election Advisory 22-01 Election Law Changes.pdf

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Good Afternoon-

As you may be aware, yesterday Governor Baker signed chapter 92 of the Acts of 2022, which you may know as the VOTES Act. This new law changes some existing laws and makes permanent many of the procedures used in 2020. As such, we are pleased to present you with our first Election Advisory for 2022.

Here's a high-level overview of the new law:

- Changes the voter registration deadline to 5pm on the 10<sup>th</sup> day before any election;
- Makes early voting by mail permanent for all presidential primaries, state primaries and state elections;
- Makes early voting by mail consistent with absentee voting (family members can apply and return ballots);
- Changes deadline to apply for vote by mail ballot from 4 days to 5 business days;
- Allows mail-in ballots postmarked on or before the biennial state election and received within 3 days to be counted;
- Requires early voting in person for presidential primaries, state primaries and state elections;
- Allows for advance removal and advance deposit of early and absentee ballots.

There are a couple of timing issues that you won't enjoy (but they weren't our idea so don't blame us!). The first issue is that the voter registration deadline for any Tuesday election will always be on a Saturday. While some of you may have accepted section 110A of chapter 41 of the General Laws, for the state primary and state election this year, you will have to remain open on the Saturday deadline for voter registration. Since it falls in the early voting period, you'll have to be open for early voting in person anyway. The second issue is the deadline for returning ballots by mail for the November 8<sup>th</sup> election. Under the new law, ballots that are postmarked on or before election day can be received up to three days after to still be counted. The problem this year is that the 3<sup>rd</sup> day after the election is Veteran's Day, so you are closed as is the post office. Under the provisions of section 2 of chapter 50 of the General Laws, the deadline date moves to the next day, which would be Saturday, November 12<sup>th</sup>, which would require coordination with the post office to get mail delivery on that Saturday and delay your ability to process those ballots. We are looking at possible solutions to this date for this year and will let you know once we have any additional information.

You'll notice some additional parts of the advisory that will require us to follow up with you—the online application portal and accessible vote by mail. Once we have something useful to pass along, we will let you know.

Other parts of the law that won't affect the upcoming election are regarding jail-based voting and automatic voter registration. Those don't take effect until next year, so more to come after November 2022...

And, finally, expect an email soon with some upcoming training dates. Like we did in 2020, we will be offering more detailed trainings via Zoom, which will include entering EV applications and UOCAVA voters.

Let the good times roll!

Michelle K. Tassinari



General Counsel  
Director, Elections Division  
Office of the Secretary of the Commonwealth  
One Ashburton Place, Room 1705  
Boston, MA 02108  
617-727-2828



## **The Commonwealth of Massachusetts**

William Francis Galvin, Secretary of the Commonwealth  
Elections Division

### **Election Advisory #22-01**

Changes to State Election Laws

June 23, 2022

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The purpose of this Advisory is to familiarize local election officials with changes to state election laws that will impact the 2022 State Primaries and State Election, as well as upcoming local elections.

This Advisory includes a first-glance summary of changes that will directly affect how you, as a local election official, will carry out your duties. Additional information and specifics will be provided in the coming weeks and months, as different aspects of the new law go into effect and as new regulations are promulgated.

#### **The VOTES Act**

On June 22, 2022, an election reform law titled "The VOTES Act" was signed into law. Among other things, the VOTES Act makes several of the temporary changes from the pandemic permanent, so many of these policies and procedures will be familiar to those of you administering elections in 2020. The new law also makes the absentee voting process and early voting by mail processes consistent.

#### **Voter Registration Deadlines**

Beginning July 22, 2022, the voter registration deadline for all elections and town meetings will be 10 calendar days before the date of the meeting or election.

Local election officials will still be required to hold in-person registration sessions on the last day to register to vote, which for any Tuesday election will now be a Saturday, but the registration session will end at 5 p.m. instead of 8 p.m.

For cities and towns with more than 1,500 voters, the registration session must be held from 9 a.m. until 5 p.m. For towns with fewer than 1,500 voters, the registration session must be held from 9 a.m. until 11 a.m. and from 3 p.m. until 5 p.m.

### **Poll Worker Appointments**

Effectively immediately, there is additional flexibility for the appointment of poll workers.

If, six weeks before an election, it is determined that there are not enough election officers appointed, the appointing authority (board of selectmen, city council, board of election commissioners) may appoint poll workers without regard to political party affiliation, voter registration status, residence, or inclusion on a list from a local party committee.

If, three weeks before an election, there are still not enough poll workers appointed, the clerk will be able to fill vacancies by appointing any competent person, without regard to party, residence, or a list from a local party committee.

Further, you now have the option to eliminate the use of a check-out table if you choose to do so. If you do not use a check-out table, however, you must still have a poll worker stationed at the ballot box.

If poll workers are appointed without regard to party affiliation, the inspectors at the check-in table (and check-out, if used) cannot be of the same political party. If poll workers are appointed from lists from the parties, the inspectors must be of different political parties.

### **Police Officer Assignments**

Effective immediately, the law regarding assignment of police officers at polling places is amended to require the board of selectmen, town council, or city council to assign police officers and constables to polling places. Previously, this was the responsibility of the chief of police.

Since this change is taking effect before the primaries, you will need to communicate with your selectmen or council to make sure they detail officers at a summer meeting before September.

### **Vote by Mail**

Effective immediately, early voting by mail must be available for all state elections, state primaries, and presidential primaries.

Early voting by mail is also required for all local elections and preliminaries, unless the city or town opts out. In order to opt out of Vote by Mail for a local election, the selectmen, city council, or town council must hold a public hearing and public roll call vote to NOT allow Vote by Mail no later than 45 days before the date of the election. Cities and towns cannot opt out of Vote by Mail for a local election if the election is happening on the same day as a state election, state primary, or presidential primary.

### **Applications**

As in 2020, the Elections Division will be mailing Vote by Mail applications at least 45 days before every regular state primary, state election, and presidential primary. The applications will be sent to everyone registered to vote by the 60<sup>th</sup> day before the election who has not

already applied for a ballot. The applications will be pre-addressed to the local election office and postage pre-paid.

Unlike previous years, family members are now allowed to request an early Vote by Mail ballot on a voter's behalf, as they currently can with absentee ballots. Similarly, family members are now permitted to return an early Vote by Mail ballot for the voter as well.

Applications to Vote by Mail must be posted every city and town website, as well as on the Secretary of the Commonwealth's website.

Any form of written communication requesting a ballot is sufficient. Applications may be signed electronically, as long as the signature is written in substantially the same manner as a hand-written signature.

Effective immediately, you are required to include Vote by Mail applications with all acknowledgement notices sent to any new voter or anyone who has changed their address. Note that unlike 2020, these applications must be sent all year round, and not only to voters who register or move after the statewide application mailing has been sent.

#### **Online Portals**

The Elections Division will also be required to establish an online ballot request portal for voters to use to request their ballots online. The law states that a wet signature cannot be required for this portal. Additional information on the portal will be provided after the Secretary's Information Technology Division is able to examine the requirements in the law.

A portal for UOCAVA voters to request their ballots and submit ballots electronically will also be required, though that part of the law does not go into effect this year. More information on that will be provided after the 2022 elections.

#### **Application Deadlines**

The deadline to receive a request for any ballot (early or absentee) to be mailed is now 5 business days before the election. A business day is any weekday that is not a legal holiday, so this will typically fall one week before Election Day.

For the September 6<sup>th</sup> State Primary, because Labor Day is not a business day, the deadline for you to receive vote by mail applications is 5 p.m. Monday, August 29<sup>th</sup>.

For the November 8<sup>th</sup> State Election, the deadline for you to receive vote by mail applications is 5 p.m. Tuesday, November 1<sup>st</sup>.

No ballots can be mailed to any voter whose application has not been received by 5 p.m. on the 5<sup>th</sup> business day before the election. Remember, however, that in-person early voting is still available until the Friday before the election for applicable elections and in-person absentee voting is still available until noon on the day before the election (if that day isn't a holiday).

Additionally, voters admitted to a health care facility after 12pm on the 7<sup>th</sup> day before the election can request a hand-delivered absentee ballot up until the close of polls.

### **Accessible Vote by Mail**

Effective immediately, voters who have a disability which prevents them from being able to independently mark a paper ballot are allowed to request a reasonable accommodation. Additional information on accessible voting by mail will be forthcoming.

### **Ballot Envelopes**

Return ballot envelopes (AV-8s) for state primaries, state elections, and presidential primaries are now pre-addressed and postage pre-paid.

This means that any AV-8 return ballot envelopes provided by this office need to be printed specifically for your community. It will be very important for you to be aware of your inventory and provide as much notice as possible to the Elections Division if you are running low.

### **Ballot Return**

For most elections, all ballots will still have to be returned by close of polls on Election Day. Beginning with the 2022 State Election, ballots will be able to arrive up to 3 days after Election Day for biennial state elections only. This means that ballots mailed from inside the country can be counted if they are postmarked by Election Day and received by 5 p.m. on the Friday after Election Day. Again, this is only for biennial state elections, which are the November federal elections held in even-numbered years.

This year, because the Friday after the election is a holiday, the deadline for ballots to be received is 5 p.m. on Saturday, November 12<sup>th</sup>. We realize this deadline creates logistical issues and we are in the process of exploring our options. More information will be provided as soon as we have it.

Ballots returned by hand, to a drop box, or electronically still need to be received by your office by close of polls on Election Day for all elections.

### **Ballot Processing**

Similar to 2020, you now have the option of advance removing ballots from their envelopes and advance depositing ballots into the tabulator or ballot box ahead of Election Day. All ballot removal and depositing before Election Day will still need to happen in public sessions. The Elections Division will be issuing regulations, likely similar to those used in 2020, on advance processing and more information will be provided when that happens.

### **Deceased Voters**

Since ballots will begin to be processed before Election Day, the law prohibiting counting the ballot of anyone who dies before Election Day has been repealed. A voter's ballot can be counted as long as the voter was alive when it was cast, which means as of the postmark date or when it was hand-delivered or deposited into a drop box.



### **In-Person Early Voting**

In-person early voting must now be offered for all regular state primaries, state elections, and presidential primaries. It must also be offered for special elections and primaries to fill vacancies for U.S. Senate or Congress. In-person early voting must also be held for any municipal elections being held on the same day as one of the above listed elections.

#### **In-Person Early Voting Dates**

In-person early voting for biennial state elections must be held from the 17<sup>th</sup> day through the 4<sup>th</sup> day before the election. In 2022, the early voting period for the November 8<sup>th</sup> State Election will begin on Saturday, October 22<sup>nd</sup> and end on Friday, November 4<sup>th</sup>.

Early voting for state and presidential primaries will begin on the 10<sup>th</sup> day before the primary and end on the 4<sup>th</sup> day before the primary. Early voting for the September 6<sup>th</sup> State Primary will begin on Saturday, August 27<sup>th</sup> (the same day as the voter registration deadline) and end on Friday, September 2<sup>nd</sup>.

#### **In-Person Early Voting Hours**

The requirements for early voting hours have changed to require weekend hours and set standards for weekday hours. Please note that these are minimum hours and you can always increase the in-person early voting hours.

On weekends, the number of hours you must be open depends on the number of registered voters in your community. The required minimum hours for weekends are:

| <b>Number of Voters</b> | <b>Required Weekend Early Voting Hours</b>                                                                  |
|-------------------------|-------------------------------------------------------------------------------------------------------------|
| 0 - 4,999               | At least 1 day per weekend<br>At least 2 hours each day you are open<br>At least 4 hours total each weekend |
| 5,000 – 24,999          | At least 1 day per weekend<br>At least 3 hours per day you are open<br>At least 6 hours total each weekend  |
| 25,000 – 39,999         | At least 4 hours each weekend day                                                                           |
| 40,000 – 74,999         | At least 6 hours each weekend day                                                                           |
| 75,000+                 | At least 8 hours each weekend day                                                                           |

For weekdays, the required minimum early voting hours will vary depending on the size of your community and at what point it is during the in-person early voting period. By default, the early voting hours are during your regular business hours; however, your city council, board of selectmen, or town council may have the option to limit early voting hours on certain days, if your community is small enough.

The required weekday early voting hours are:

| <b>Number of Voters</b> | <b>Required Weekday Early Voting Hours</b>                                                                                                 |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 0 - 4,999               | At least 25% of regular business hours                                                                                                     |
| 5,000 – 39,999          | Primary: Regular business hours<br><br>State Election:<br>Week 1: at least 50% of regular business hours<br>Week 2: Regular business hours |
| 25,000 – 39,999         | At least 4 hours each weekend day                                                                                                          |
| 40,000 – 74,999         | At least 6 hours each weekend day                                                                                                          |
| 75,000+                 | At least 8 hours each weekend day                                                                                                          |

In order to limit your early voting hours, your board of selectmen, city council, or town council will need to vote to do so at a public meeting held no later than 20 days before early voting begins. For the November 8, 2022 State Election, the deadline to take that vote is Sunday, October 2, 2022.

### **Early Voting Locations**

Minor changes have been made to the law regarding the designation of early voting sites. As has been the case previously, your local election office is the default early voting site in your community. If your office is determined to be unsuitable or inaccessible, the registrars must vote to hold early voting in a different location. You can also designate additional early voting locations, which must also be accessible.

When assigning early voting sites, your city or town must now consider, to the extent feasible, diverse geographic locations and whether the sites would have an impact on access to the polls on the basis of race, national origin, disability, income, or age. Unlike the assignment of polling places in 2020, no written report on the impact of the early voting locations is required.

Your early voting sites must be designated no later than 2 weeks before early voting begins.

### **Notice Requirements**

You will also need to publish notice of the locations and schedule for early voting at least 5 business days before early voting begins and at least once during the early voting period.

Notice must be posted: in your office or on the city/town bulletin board; in any other public building considered necessary; on the city/town's website; and on the Secretary's website. Remember, you need to enter your hours and locations into VRIS (or notify the Elections Division by email, if that VRIS screen is locked) for them to be posted on our website.

The deadlines for early voting posting for 2022 are:

#### **State Primary**

Designate Early Voting sites & schedule: Saturday, August 13, 2022

Post 1<sup>st</sup> Notice: Monday, August 22, 2022

Post 2<sup>nd</sup> Notice: August 27 – September 2

#### **State Election**

Designate Early Voting sites & schedule: Saturday, October 8, 2022

Post 1<sup>st</sup> Notice: Monday, October 17, 2022

Post 2<sup>nd</sup> Notice: October 22 – November 4

#### **Local Elections**

For local elections, cities and towns may choose to have in-person early voting. To opt-in to early voting for local elections, at least two registrars need to recommend it, and the board of selectmen, town council, or city council must then vote to authorize in-person early voting.

The vote to opt-in to early voting must take place no later than 5 days before early voting would begin, and must include the early voting schedule. Early voting can begin no earlier than the 17<sup>th</sup> day before the election or preliminary and can end no later than 2 business days before the election. Early voting for local elections default to your usual business hours, unless the vote specifies otherwise.

Sites for early voting for local elections will be designated by the clerk. The location(s) and early voting schedule must be posted no less than 48 weekday hours before early voting begins.

#### **150 Foot Rule**

Beginning with early voting for the September 6<sup>th</sup> State Primary, the 150 foot rule prohibiting campaigning around polling places will be extended to early voting sites as well. This means that there shall be no campaigning for or against a candidate or question on the ballot for that election within 150 feet of the entrance to the early voting site during voting hours. Signature gathering of any kind will also be prohibited during the voting hours.

#### **Jail-Based Voting**

While voters who are incarcerated for a reason other than a felony conviction can already vote by absentee ballot, the new law contains provisions to make voting easier for those who are incarcerated, including adding requirements to correctional facilities to distribute information. Changes to jail-based voting take effect at the beginning of 2023 and more information will be provided after the 2022 elections.

#### **Automatic Voter Registration**

Beginning on January 1, 2023, applicants at the RMV will no longer have the option to opt out of automatic voter registration. Instead, the RMV will be required to transmit the names and

addresses of all ***eligible citizen*** applicants to local election officials for voter registration purposes.

Applicants who are automatically registered to vote will now be allowed to decline registration only after receiving the acknowledgment notice you send to them.

**City of Gardner - Executive Department****Mayor Michael J. Nicholson**

RECEIVED

2022 JUL -6 PM 4:11

CITY CLERK'S OFFICE  
GARDNER, MA

July 5, 2022

Hon. Elizabeth J. Kazinskas, Council President

And City Councilors

Gardner City Hall, Rm 121

95 Pleasant St

Gardner, MA 01440

RE: Fleet Status Update – Gardner Fire Department

Dear Madam President and Councilors,

Attached, please find an update on the status of the Gardner Fire Departments apparatus fleet. Please note that the state of the fleet was not included in the scope of the Fire Department Operations Audit.

Whereas the City Council voted to approve funding to repair Tower 1 in June of 2022, I wanted to write to provide you an update regarding the remaining vehicles at the Fire Department.

As I have previously written to the Council, we are in a position where the fleet of the Fire Department is getting old and are in a situation in which a large portion of the fleet is now reaching its usable age.

**Replacing Engine 2, Rescue 1, and Rescue 2:**

Working with the City's Fire Chief and City Auditor, we have made arrangements to trade in and replace the Engine 2, Rescue 1 (Heavy Rescue), and Rescue 2 (refurbished Ambulance) vehicles utilizing funding received from the Federal American Recovery Plan Act (ARPA). These three vehicles are the ones that the City annually spends the most on maintenance and have had the most issues with inspections over the past five (5) years. These have all been ordered, however, due to the large amount of municipalities ordering fire trucks as a result of vehicles being considered an approved use of ARPA funds, there is an expected 18-24 month waiting period before they will arrive.

During this time period, Rescue 1 (Heavy Rescue) and Rescue 2 (ambulance) will remain in service in Gardner, however, Engine 2 is being traded in early to the dealer. As such, the dealer who we are selling the engine to is providing the City with a yellow-colored temporary replacement engine until the new truck arrives.

**Tower 1:**

With the repairs that were approved by the City Council in June of 2022, Tower 1 is in good condition. We expect to be able to get another five (5) years out of this vehicle and the



administration is putting together a funding plan to cover the cost of a replacement vehicle at after that five-year period is over.

**Engine 1:**

Engine 1 is one of the older vehicles in the fleet but is still in good working condition. This vehicle will also become eligible for potential Federal Assistance to Firefighters Grant funding for replacement in three (3) years.

Other information can be found in the attached correspondence by Chief Lagoy.

Respectfully Submitted,



Michael J. Nicholson  
Mayor, City of Gardner

CC: Public Safety Committee  
Finance Committee

# **GARDNER FIRE DEPARTMENT APPARATUS FLEET CONDITION/REPLACEMENT RECOMMENDATIONS**

## **REPLACE ENGINE 2**

- Order a basically identical pumper truck to Engine 3 (2019 Sutphen purchased on AFG grant). We are satisfied with the design of this truck that was specifically custom designed for our response district. The order could be placed immediately with minimal design effort (delivery time is over 1 year).
- This new truck would be kept at HQ and could be rotated with Engine 3 weekly or monthly as the staffed, first-out Engine. This would give us two reliable, equally capable Engines at HQ that could be used interchangeably, minimizing heavy wear and tear on Engine 3, therefore prolonging the life of both trucks and allowing ample time to complete preventative and other minor maintenance.
- Engine 2 (2011 International/Rosenbauer) has been a problematic truck since the day it was delivered. On-going maintenance issues due to poor design and low-quality construction has repeatedly placed this truck out of service for extended time periods for major repairs. The International “MaxxForce” motor in the truck has a reputation of having many problems. In the last year alone, it experienced major engine and pump failures resulting in well over \$30,000 in expenses.
- Estimated cost for the new truck is \$625,000.00. I would be requesting \$25,000 for equipping the truck, half of the \$50,000 cost of equipping Engine 3 in 2019, due to the current Engine 2 having a lot of relatively newer equipment in better condition that can be moved to the new truck.
- Trade-in or auction value of the current Engine 2 is estimated at \$100,000. This could offset at least a portion of the cost of the replacement truck.

## REPLACE RESCUE 2

- Current Rescue 2 (2007 Ford/Horton – reserve ambulance) needs replacement. It was inspected by OEMS on February 8<sup>th</sup>, it failed due to body corrosion (repairs have since been completed). Rescue 3 (2018 Ford/Horton) is now four years old and has over 60,000 miles. The recommended timeline for ambulance replacement is 10 years (5 years front line service, 5 years reserve service).
- Estimated cost for new ambulance is \$300,000 fully equipped. Estimated delivery time is 13 months. Delivery would hopefully be prior to the next required OEMS ambulance inspection (Feb 2024). This would be in line with the recommended ambulance replacement schedule.

## REPLACE RESCUE 1 (HEAVY RESCUE)

- Current Rescue 1 (1996 Ford/E One) Heavy Rescue truck (carries specialized and technical rescue equipment- not an ambulance) needs replacement. It is now beyond its 25-year life expectancy. Much of the equipment on this truck is also “vintage” and in need of replacement with modern, advanced, up-to-date equipment.
- This would be a custom-designed truck to meet the specific needs of the City of Gardner. Unlike the Engine that much time and effort was already put into the design process, we would be basically starting from scratch with the Heavy Rescue truck as it has been 25+ years that we have had the current truck. The process to custom design, construct, and deliver this truck is expected to be in the 19–21-month range.
- Estimated cost of the truck is \$775,000.00, and new equipment to replace the mostly outdated technical rescue equipment on the current truck is estimated at \$125,000, for a total of \$900,000.

## REPLACE TOWER 1

- Current Tower 1 (2002 E One) is now 20 years old and is in fair condition, beginning to show signs of its age. The truck is at its life expectancy for a first-out ladder truck. Recent hydraulic issues, re-cabling of the aerial ladder, as well as other routine maintenance issues have been completed

at a specialized repair shop in Hartford, CT at a total cost of just over \$24,000.00. With a truck of this age there is always the on-going balance of reliability & maintenance costs vs. replacement cost. A funding plan should be considered for replacement of this truck within 5 years. The design and delivery time will also be in the 18–22-month range, which should be considered.

- Current estimated replacement cost is in the \$1.5 – 1.7 million range.

## REPLACE ENGINE 1

- Recommend not replacing Engine 1 (1996 E One) at this time. While this truck is older than Engine 2, it has proven to be more reliable with less maintenance costs. It is stored at the South Gardner Station and is used as a reserve/major incident truck. With two much newer Engines (assuming Engine 2 is replaced now) handling most of the workload, this older Engine should be sufficient to handle this limited role. It could be kept in that capacity until such time it becomes eligible for replacement through the AFG grant program (approximately 3 years).

## COMBINATION 4

- Current Combination 4 (2011 Sutphen Engine/Ladder truck) is in good condition and has been reliable and fits the City's needs. This truck should be able to serve for at least another 10 years.

## ENGINE 3

- Current Engine 3 (2019 Sutphen) is in very good condition and has proven itself well-designed and reliable. Many more years of service can be expected from this truck.

## RESCUE 3

- Current Rescue 3 (2018 Ford/Horton – front line ambulance) is in fair to good condition. It is now 4 years old with over 60,000 miles. Life expectancy for an ambulance is 10 years (5 years front line service, 5 years reserve service). A plan to replace this ambulance for the 2028 model year should be considered.

## TRUCK 10

- Current Truck 10 (2016 Ford/CET Brush Fire Truck) is in very good condition. This truck was custom designed to fit the needs of the City and should serve for many years to come.





**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED

2022 JUL -6 PM 3:36

CITY CLERK'S OFFICE  
GARDNER, MA

July 6, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Notification of Receipt of Medicaid Reimbursement Payment

Dear Madam President and Councilors,

I am writing to inform you that the City recently received our annual payment for the Commonwealth's FY2021 Ambulance Certified Public Expenditure Cost Settlement Program

This program is issued by the Commonwealth to assist municipal ambulance services in offsetting the low patient transport rates for patients who are on Medicaid/MassHealth insurance.

This year we received an increase in the amount we received. Traditionally we have received approximately, \$230,000 from this reimbursement program. This year, we received \$255,573.00.

Whereas the City Council has recently inquired about the work and revenue of the ambulance department, I wanted to be sure to communicate this news with you.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC:  
Finance Committee  
Public Safety Committee

**Mayor**

---

**From:** Greg Lagoy  
**Sent:** Thursday, June 30, 2022 4:51 PM  
**To:** Mayor  
**Subject:** FW: [EXTERNAL] RE: Ambulance CPE FY2021 Cost Settlement - Payments to be Issued

Mr. Mayor,

The Gardner Fire Department Ambulance Service received the FY2021 MA Ambulance CPE Cost Settlement payment of \$255,573.00 on June 28, 2022. This program is in place to assist municipal ambulance services offset the low patient transport rates paid by Medicaid.

Respectfully,  
 Greg



**Chief Gregory F. Lagoy**  
**Gardner Fire Department**  
 978-632-1616 ext. 5  
[glagoy@gardner-ma.gov](mailto:glagoy@gardner-ma.gov)

**From:** MAASCR <MAASCR@pcgus.com>  
**Sent:** Tuesday, June 28, 2022 1:18 PM  
**Subject:** [EXTERNAL] RE: Ambulance CPE FY2021 Cost Settlement - Payments to be Issued

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Good Afternoon Everyone,

The Commonwealth began deposits for the FY2021 program this morning. Please note that the amount will be higher than what is calculated on the cost reporting portal. Due to the pandemic, the Commonwealth was able to recoup an enhanced federal match, leading to increased settlements for all providers.

Additionally, our phone and email inbox have been very busy this morning – we will respond as soon as we can.

Thank you,



**PUBLIC**  
 CONSULTING GRO

**Zac Corradino**  
 Senior Consultant

(844) 225-3664  
<https://maascr.pcghealthservices.com/>

**Solutions that Matter**

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited.

**From:** MAASCR

**Sent:** Friday, June 17, 2022 11:54 AM

**Subject:** Ambulance CPE FY2021 Cost Settlement - Payments to be Issued

Good Morning MA Ambulance CPE Program Participants,

We have received confirmation from the Commonwealth that the FY2021 payments will be deposited into providers' bank accounts by June 30. This will likely be the same account that you receive your MassHealth interim payments. If you are receiving a physical check, it will be issued in a few days.

Additionally, we will be reaching out in the late summer/early fall to begin the FY2022 reporting year. Please look out for an email regarding training sessions.

As always, do not hesitate to reach out if you have any questions and thank you for your participation in another successful program year!

Have a nice weekend!



**PUBLIC**  
CONSULTING GRO

**Zac Corradino**  
Senior Consultant

(844) 225-3664

<https://maascr.pcghealthservices.com/>

**Solutions that Matter**

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**City of Gardner - *Executive Department***  
**Mayor Michael J. Nicholson**

RECEIVED  
2022 JUL -7 AM 8:10  
CITY CLERK'S OFFICE  
GARDNER, MA

July 6, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Notification regarding Transfer Station Revenue Trends

Dear Madam President and Councilors,


As you may remember, during the Spring of 2020, we made some adjustment on staffing and procedures at the Transfer Station to try to increase efficiencies in operations and better monitor what is being dropped off at the location.

This was done due to the City being charged by the ton by certain types of products that are delivered.

Now that we have been able to have two full fiscal years since this change was made, we have seen large increases in revenue at the Transfer Station. This increased revenue funds the operations of the transfer station with any increased revenue falling to the enterprise account at the end of the fiscal year.

On average we are making approximately \$50,000.00 more a year in revenue at the transfer station since this change in staffing and procedures were made.

Respectfully Submitted,

  
Michael J. Nicholson  
Mayor, City of Gardner

CC:  
Finance Committee

**Mayor**

**From:** John Richard  
**Sent:** Wednesday, July 6, 2022 4:34 PM  
**To:** Mayor  
**Subject:** RE: Transfer Station Fees History-Updated Report

Here you go.

**FY22 TRANSFER STATIONS FEES HISTORY AS OF 6/30/22**

| Org   | Object | Description                | 2022 Actual       | 2021 Actual       | 2020 Actual       | 2019 Actual       |
|-------|--------|----------------------------|-------------------|-------------------|-------------------|-------------------|
| 65002 | 42446  | BULK ITEM/VOLUME LOAD FEES | \$ 84,042         | \$ 88,804         | \$ 62,821         | \$ 62,821         |
| 65002 | 42445  | LANDFILL STICKER FEES      | \$ 26,170         | \$ 31,055         | \$ 24,720         | \$ 24,720         |
| 65002 | 42442  | TRASH BAG FEES             | \$ 65,776         | \$ 57,154         | \$ 33,354         | \$ 41,154         |
|       |        | <b>TOTAL</b>               | <b>\$ 175,988</b> | <b>\$ 177,012</b> | <b>\$ 120,895</b> | <b>\$ 128,695</b> |

John Richard  
City Auditor



95 Pleasant Street, Room 114  
Gardner, MA 01440-2630  
978-632-1900 ext 8020

**From:** John Richard  
**Sent:** Wednesday, July 6, 2022 1:48 PM  
**To:** Mayor <Mayor@gardner-ma.gov>  
**Subject:** Transfer Station Fees History

Hi Mike

Here you go.

**FY22 TRANSFER STATIONS FEES HISTORY AS OF 6/30/22**

| Object | Description                | 2022 Actual       | 2021 Actual       | 2020 Actual       |
|--------|----------------------------|-------------------|-------------------|-------------------|
| 42446  | BULK ITEM/VOLUME LOAD FEES | \$ 84,042         | \$ 88,804         | \$ 62,821         |
| 42445  | LANDFILL STICKER FEES      | \$ 26,170         | \$ 31,055         | \$ 24,720         |
| 42442  | TRASH BAG FEES             | \$ 65,776         | \$ 57,154         | \$ 33,354         |
|        | <b>TOTAL</b>               | <b>\$ 175,988</b> | <b>\$ 177,012</b> | <b>\$ 120,895</b> |

John Richard  
City Auditor





**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED  
2022 JUL 13 AM 11:17  
CITY CLERK'S OFFICE  
GARDNER, MA

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: FY2021 Free Cash Review

Dear Madam President and Councilors,

As we close out the previous fiscal year, I wanted to provide you with a full list of free cash expenditures that were made in the previous fiscal year.

As you are aware, per the General Laws and the Code of Massachusetts Regulations (CMR), cities and towns are not able to make any free cash expenditures between July 1<sup>st</sup> and when the Massachusetts Department of Revenue (DOR) certifies free cash from the previous fiscal year.

As a reminder, Free Cash is a one-time funding source that is comprised of revenue that came in over budget and expenditures that came in under budget. As such, the money from the attached list came from revenue that came in over budget and expenses that came in under budget in FY2021. We will not know the free cash totals for FY2022 until approximately November of this year.

Any remaining balances are carried over from fiscal year to the next fiscal year, but again this cannot be used until free cash is certified in the fall and just becomes part of that aggregate number. There was approximately \$65,000 carried over from FY21 to FY22. While any left-over balance does carry over from year to year, DOR does issue guidance that the amount should be lowered as close to \$0 every year as a primary funding source for capital projects for municipalities- as again this is legally considered one-time money. This is the same reason the DOR Guidance states that free cash should not be used as budgetary revenue when setting the budget and the tax rate, due to its variable nature with amounts differing from year to year.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

|                                      |               |
|--------------------------------------|---------------|
| <b>Financial Policy Requirements</b> |               |
| Stabilization                        | \$ 180,581.70 |
| OPEB                                 | \$ 36,116.34  |
| Road Resurfacing                     | \$ 588,390.00 |
| <b>Grant Matches</b>                 |               |
| Complete Streets                     | \$ 33,148.16  |
| Assistance to Firefighters           | \$ 4,363.00   |
| PARC Phase 1                         | \$ 26,903.00  |
| PARC Phase 2 Design                  | \$ 39,800.00  |
| MassTrails                           | \$ 40,000.00  |
| MA DER Culvert Replacement           | \$ 9,800.00   |
| Wayside Pond Grant                   | \$ 41,575.00  |
| PARC Phase 2 Construction            | \$ 162,900.00 |
| Leamy St Factory Demo                | \$ 30,000.00  |
| Uptown Rotary TIP                    | \$ 30,000.00  |
| <b>Budgetary Corrections</b>         |               |
| Snow and Ice                         | \$ 335,000.00 |
| Landfill Closure                     | \$ 75,000.00  |
| Termination Leave                    | \$ 45,000.00  |
| Medical Exams                        | \$ 18,000.00  |
| Building Maintenance                 | \$ 11,000.00  |
| Assessor Valuation Update            | \$ 22,200.00  |
| Fire Dept OT                         | \$ 135,000.00 |
| Fire Dept Repairs                    | \$ 18,000.00  |
| Ambulance OT                         | \$ 10,000.00  |
| Clerk Code Subscription              | \$ 2,500.00   |
| <b>Capital Projects/Expenditures</b> |               |
| GMS Locker Replacements              | \$ 85,000.00  |
| GHS Auditorium Renovations           | \$ 75,000.00  |
| Street Sweeper                       | \$ 249,115.00 |
| E-Permitting Software                | \$ 32,262.00  |
| Athletic Field Renovations           | \$ 121,905.00 |
| South Gardner Heating Study          | \$ 22,200.00  |
| GPS Music Support                    | \$ 100,000.00 |
| Building Dept Vehicle                | \$ 40,000.00  |
| Health Dept Vehicle                  | \$ 47,645.00  |
| Park St Park                         | \$ 268,000.00 |
| Maki Park                            | \$ 180,000.00 |
| GHS Tennis Court Refurbishment       | \$ 90,000.00  |
| South Gardner Fire Station Heaters   | \$ 13,028.00  |
| Cheerleader Uniforms                 | \$ 25,000.00  |
| Disc Golf Course                     | \$ 15,000.00  |
| <b>Planning Expenditures</b>         |               |
| Update Subdivision Regulations       | \$ 35,000.00  |
| Update Open Space Plan               | \$ 30,000.00  |
| Fire Dept Operations Audit           | \$ 9,000.00   |
| City Centennial Celebration          | \$ 100,000.00 |
| Clerk Record Preservations           | \$ 1,500.00   |
| <b>Unanticipated Expenditures</b>    |               |
| Graves v. City of Gardner            | \$ 20,000.00  |
| Dance Studio Relocation              | \$ 80,000.00  |
| Replace Cyber Security System        | \$ 11,700.00  |



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

July 18, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RECEIVED  
2022 JUL 18 PM 3:18  
CITY OF GARDNER  
OFFICE OF THE MAYOR

RE: Creation of City Centennial Celebration Gift Account

Dear Madam President and Councilors,

As we begin to create the committee to oversee the City Centennial Celebration next year, I am requesting the creation of a gift account for this purpose so that the committee may solicit and receive donations for the events that will occur in the upcoming year.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner

ACCEPTANCE OF DONATION AND GIFTS GARDNER CENTENNIAL  
CELEBRATION DONATIONS

*VOTED:*

That the City of Gardner is Authorized to accept certain donation and gifts for use  
by the City of Gardner ,said acceptance in accordance with the provisions of  
Chapter 44, Section 53A ½ of the General Laws.

**City of Gardner - Executive Department****Mayor Michael J. Nicholson****RECEIVED**2022 JUL -5 PM 4:15  
CITY CLERK'S OFFICE  
GARDNER, MA

July 5, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Update Regarding Air Quality Improvement Work at the Gardner Fire Department  
Headquarters

Dear Madam President and Councilors,

I am writing to provide you all and update with the work that is being done at Fire Headquarters in order to improve the air quality of the location.

In September of 2021, at the Administration's request, the Massachusetts Department of Public Health conducted an air quality assessment our Fire Department Headquarters, located at 70 City Hall Avenue.

The Final Report is attached. The report noted that the main area of concern was the large number of leaks in the roof over the apparatus bay and living quarters causing water to get into the drywall and insulation leading to mold concerns.

While the report noted there were no issues of immediate emergency concern, there were several recommendations that were made.

Acting on these recommendations, the carpet in the station has been removed and the wet/molded dry wall and insulation in the roof of the apparatus bay have been removed in order to identify where the leaks are. As you are aware, the roof of the Fire Headquarters building was patched in 2010 and the roof itself is original to the building in 1978.

Our next step is to ensure that all places where holes (mainly for pipes) in the wall between the apparatus bay and the living and office quarters of the building are fully sealed.

All of this work has been covered under regular operating budget appropriations.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC: Public Safety Committee





**The Commonwealth of Massachusetts**  
 Executive Office of Health and Human Services  
 Department of Public Health  
 Bureau of Environmental Health  
 250 Washington Street, Boston, MA 02108-4619  
 Phone: 617-624-5757 Fax: 617-624-5777  
 TTY: 617-624-5286

**CHARLES D. BAKER**  
 Governor

**KARYN E. POLITO**  
 Lieutenant Governor

**MARYLOU SUDDERS**  
 Secretary

**MARGRET R. COOKE**  
 Acting Commissioner

Tel: 617-624-6000  
[www.mass.gov/dph](http://www.mass.gov/dph)

November 4, 2021

Greg Lagoy, Acting Fire Chief  
 Gardner Fire Department  
 70 City Hall Avenue  
 Gardner, MA 01440 (electronic copy)

Dear Chief Lagoy:

Enclosed is a copy of the report by our Indoor Air Quality (IAQ) Program on their visit to the Gardner Fire Department Headquarters located at 70 City Hall Avenue in Gardner. Please refer to the recommendations section for advice on how to correct any issues identified by this assessment.

If you have any questions regarding the report or if we can be of further assistance in this matter, please feel free to call us at (617) 624-5757.

Sincerely,

Michael A. Feeney, B.Pharm, R.Ph., J.D., C.H.O.  
 Director, Indoor Air Quality Program

cc: Jan Sullivan, Acting Bureau Director, BEH  
 Lt. Mark Bettez, Systems Manager, Gardner Fire Department

Enclosure(s)

# **INDOOR AIR QUALITY ASSESSMENT**

**Gardner Fire Department  
Headquarters Building  
70 City Hall Avenue  
Gardner, Massachusetts**



Prepared by:  
Massachusetts Department of Public Health  
Bureau of Environmental Health  
Indoor Air Quality Program  
November 2021

## Background

|                                                                                                                         |                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Building:</b>                                                                                                        | Gardner Fire Department (GFD)                                                                                                                                                                                                                                            |
| <b>Address:</b>                                                                                                         | 70 City Hall Ave. Gardner, MA                                                                                                                                                                                                                                            |
| <b>Assessment coordinated via:</b>                                                                                      | Lieutenant Mark Bettez, Systems Manager, GFD                                                                                                                                                                                                                             |
| <b>Reason for Request:</b>                                                                                              | General indoor air quality (IAQ)                                                                                                                                                                                                                                         |
| <b>Date of Assessment:</b>                                                                                              | September 28, 2021                                                                                                                                                                                                                                                       |
| <b>Massachusetts Department of Public Health/Bureau of Environmental Health (MDPH/BEH) Staff Conducting Assessment:</b> | Jason Dustin, Environmental Analyst, IAQ Program                                                                                                                                                                                                                         |
| <b>Date of Building Construction:</b>                                                                                   | This building was built in the 1970's.                                                                                                                                                                                                                                   |
| <b>Building/Site Description:</b>                                                                                       | The GFD is a two-story red brick building on concrete slab. Interior walls and ceilings are finished with gypsum wallboard, floors have both carpet and tile, some areas have suspended ceiling tile systems. Attached to the main building is a six-door apparatus bay. |
| <b>Building Population:</b>                                                                                             | This building is staffed 24/7 with a staff of ~40. The public also visits this building daily.                                                                                                                                                                           |
| <b>Windows:</b>                                                                                                         | Openable in most areas                                                                                                                                                                                                                                                   |

## Methods

Please refer to the IAQ Manual for methods, sampling procedures, and interpretation of results (MDPH, 2015).

## Results and Discussion

The following is a summary of indoor air testing results (Table 1).

- **Carbon dioxide** levels were below the MDPH guideline of 800 parts per million (ppm) in most areas. A few rooms were above or near the higher end of this level which indicates a lack of fresh air for the occupancy in these areas.
- **Temperature** was within or close to the MDPH recommended range of 70°F to 78°F in occupied areas.

- **Relative humidity** was above the MDPH recommended range of 40 to 60% in most occupied areas on the day of assessment and was reflective of outdoor humidity.
- **Carbon monoxide (CO)** levels were non-detect (ND) in all areas.
- **Particulate matter (PM<sub>2.5</sub>)** concentrations measured were below the National Ambient Air Quality (NAAQS) level of 35 µg/m<sup>3</sup> in all areas.
- **Total Volatile Organic Compounds (TVOCs)** levels were non-detect in all areas.

### Ventilation

A heating, ventilating and air conditioning (HVAC) system has several functions. First it provides heating and, if equipped, cooling. Second, it is a source of fresh air. Finally, an HVAC system will dilute and remove normally occurring indoor environmental pollutants by not only introducing fresh air, but by filtering the airstream and ejecting stale air to the outdoors via exhaust ventilation. Even if an HVAC system is operating as designed, point sources of respiratory irritants may exist and cause symptoms in sensitive individuals.

The GFD was recently equipped with newer hot water boilers. These units are gas-fired, sealed combustion boilers that supply forced hot water to radiators throughout the GFD. There is no air handling unit (AHU), nor any heat recovery ventilator units located in the building. Therefore, the only source of fresh air is opening windows. Window air conditioning units (ACs) were noted in most rooms of the GFD. These units may provide for some limited fresh air if set to the “fan only” mode. However, it is impractical to adequately control fresh air intake while maintaining thermal comfort and proper humidity levels with only open windows and/or AC units in the New England climate.

Ceiling-mounted exhaust vents were noted in the bathrooms and locker rooms, which exhaust air directly outside. A few were examined and found not to be drawing air, notably in the first-floor janitor closet and women’s room. The exhaust fans for the restrooms on the first floor were both wired to the women’s room light switch. The MDPH recommends that these exhaust vents are on continuously during occupied hours to adequately remove moisture and odors from these areas.

The engine bay is equipped with a tailpipe exhaust collection system (Plymovent™, Picture 1); some of these were observed to be in use at the time of the visit. However, it was

noted that several of the Plymo exhaust hoses were broken (Picture 2) and some vehicle bay areas were not equipped with Plymovent hoses. Collecting the exhaust directly at its source is recommended to best reduce the migration of gases and particulates to occupied areas of the GFD. Two large general exhaust vents are also present in the apparatus bay to supplement exhaust ventilation (Picture 3). IAQ staff did not locate a source for make-up ventilation for these vents. Utilizing the general exhaust fans without adequate make-up air may result in inefficient clearing of pollutants or make-up air coming from cracks in the slab foundation, wall cavities, or other uncontrolled sources. Opening bay doors opposite these fans a couple of feet should serve as an adequate temporary make-up air supply until a permanent system can be installed.

### **Microbial/ Moisture Concerns**

At the time of this assessment, water leaks in the apparatus bay were reported. Leaks should be repaired when discovered, and any water-damaged materials dried promptly and cleaned or discarded as needed. It was noted that the apparatus bay had substantial water damage to the ceiling above most of the bay doors (Pictures 4 and 5). This ceiling is comprised of gypsum wallboard with paper-backed insulation above it. These materials are carbon-based and contain cellulose. When chronically moistened, these porous materials are susceptible to mold growth. It is recommended that porous material be dried with fans and heating within 24 to 48 hours of becoming wet (US EPA, 2008, ACGIH, 1989). If porous materials are not dried within this time frame, mold growth may occur. Water-damaged porous materials cannot be adequately cleaned to remove mold growth.

Ceilings were noted to be stained in other areas of the GFD including the dispatch area, the upstairs locker area, and some dorm areas (Pictures 6 and 7). It was reported that the roof of the GFD has been patched and they are looking into future roof replacement.

Floor drains were noted throughout the GFD. These drains should be cleaned/maintained regularly including adding water regularly to avoid dry drain traps and associated odors.

The GFD is equipped with a newer turnout gear washer and dryer. The dryer did not appear to be vented to the outside (Picture 8). Although this unit was reported to be electric, the exhaust from this unit may still contain considerable moisture and particulates during operation.



Some areas of the GFD had carpeting installed directly on the concrete slab. This carpeting may be subject to water damage due to condensation during extended humid weather events. In addition, in some areas there were cardboard boxes and other porous materials stored directly on the concrete slab where they may become moistened by condensation. Porous materials subjected to chronic moisture may become colonized with microbial growth.

The exterior of the building was examined for conditions that may lead to water infiltration.

- Some weep holes were noted to be just below the surface of the ground, which will prevent them from functioning effectively (Picture 9);
- The roof is designed with gutters embedded within the roof system above the roof edge which were found to be leaking into the apparatus bay (Picture 10);
- Other areas of the roof were reportedly in need of repair;
- The flashing around the main chimney appeared to be in disrepair;
- Only a single, small-diameter drain line was observed to serve each side of the roof (Picture 11);
- Some cracks in the brickwork and mortar were observed. These may allow for water infiltration into the building envelope (Picture 9).

## **Other IAQ Evaluations**

### *Vehicle Exhaust/Sources*

Under normal conditions, a firehouse can have several sources of environmental pollutants present from the operation of fire vehicles. These sources of pollutants can include:

- Vehicle exhaust containing carbon monoxide and soot;
- Vapors from diesel fuel, motor oil and other vehicle liquids which contain volatile organic compounds;
- Water vapor from drying hose equipment;
- Rubber odors from vehicle tires; and
- Residues from fires on vehicles, hoses, and fire-turnout gear.

Of particular importance is vehicle exhaust, which involves the process of combustion. As described above, the engine bays are equipped with a mechanical exhaust system to remove exhaust from vehicles. This equipment should be used each time a vehicle is operated in the bays and maintained in accordance with manufacturer's instructions.

Pathways between the engine bays and occupied areas should be sealed to the greatest extent possible. The main pathway for vehicle odors/fumes is the breaches in the gypsum wallboard ceiling caused by the chronic water damage. These breaches may allow the transport of fugitive odors and particulates through the ceiling plenum and walls leading into the bunk house area. The fire pole has some smaller gaps around the pole enclosure, allowing pollutants to migrate into the locker room directly above. Additionally, doors between the engine bay and occupied areas should remain closed and be tightly fitted with weather-stripping. If there are other pathways, such as gaps around pipes/utilities between the engine bay and other areas, these should also be sealed.

#### *Other Issues*

The GFD has carpeting in some areas. In general, it is not recommended for police departments and other emergency response agencies to have carpeted floors due to the possible cross-contamination that may occur from footwear contact with automotive products, chemicals, or biological contamination. The Institute of Inspection, Cleaning and Restoration Certification (IICRC) recommends twice-daily vacuuming and/or pile-lifting cleaning for commercial carpeting in heavy traffic areas. This frequency of cleaning of the building as well as the use of vacuum cleaners equipped with high-efficiency particulate arrestance (HEPA) filters would remove respirable dust from the indoor air. Carpets should be deep/extraction cleaned annually (or semi-annually in soiled/high traffic areas) in accordance with IICRC recommendations, (IICRC, 2012).

Most occupied rooms of the GFD contained a portable air purifier. These units contain filters that should be cleaned/changed per the manufacture's recommendations.

The dispatch area had a ceiling grate installed in the place of a ceiling tile so that personnel could better hear an alarm device within the ceiling (Picture12). Also, the mechanical room had a large hole cut in the ceiling which communicated with the ceiling plenum (Picture

13). These breaches can provide pathways for particulates and odors to enter the ceiling plenum and migrate into occupied areas.

## **Recommendations**

In view of the findings at the time of the visit, the following recommendations are made:

### **Ventilation Recommendations**

1. Consult with an HVAC engineering firm to determine the feasibility of installing a building-wide mechanical AHU system to supply the GFD with adequate fresh air ventilation while incorporating controlled heating, cooling, filtration, humidity control, and balanced supply/exhaust systems.
2. Use openable windows as needed for temperature control and fresh air; however, ensure they are closed during wet weather and when the air conditioning is operating to prevent water infiltration and condensation on cold surfaces. Ensure openable windows have intact screens to prevent pest entry.
3. Ensure that local exhaust vents are operating (e.g., bathrooms) and that exhaust is ejected outside the building. Consider re-wiring first floor restroom exhaust switches to operate continuously rather than by the women's room light switch.
4. Make repairs to any Plymo vent hoses that are broken. Consider installing Plymo vent hoses to vehicle bay areas that are lacking them. Use these systems whenever vehicles are running in the apparatus bay.
5. Operate the exhaust fans in the apparatus bay as needed. Open bay doors a couple of feet when utilizing these fans to provide for some controlled make-up air. Consider if make-up air vents can be installed in the apparatus bays to work along with these exhaust vents.

### **Water Damage Recommendations**

6. Repair leaking gutter/roof system over apparatus bay and remove/replace any water-damaged porous materials (e.g, gypsum wallboard, paper-backed insulation). Remediate any water-damaged building materials in accordance with the EPA guideline "Mold Remediation in Schools and Commercial Buildings" (USEPA, 2008).

7. Consider replacing the areas of water-damaged ceiling in the apparatus bay with nonporous/noncellulostic materials (e.g., rigid foam insulation, cement board etc.).
8. Investigate the source of the leaks where other water-damaged ceilings are found (e.g., dorm areas, dispatch, upper locker room). Make necessary repairs to stop the leaks and remove/replace water-damaged porous materials in these areas as well.
9. Continue with plans to consult contractor regarding roof repair vs replacement.
10. Consult manufacturer to determine if the electric turn out gear dryer can be vented directly outside to prevent discharge of moisture and particulates in the bays.
11. Consider having alarm in dispatch ceiling relocated into room so that the ceiling panel can be replaced to prevent dust/debris or odors from the ceiling plenum into occupied area.
12. Ensure the fire pole hatches have tightly fitted gaskets or remove completely and seal if not needed.
13. Ensure any other pathways between the engine bay and occupied areas are sealed (e.g., doorways, utility holes in common walls, breaches in ceiling/walls).
14. Consult a building envelope contractor to repair chimney flashing, cracks in brickwork/mortar, and ensure proper drainage of gutter system and weep holes.
15. Consider replacing carpeting located on the concrete slab (first floor) with a non-porous floor covering.
16. Avoid storing porous materials such as boxes directly on the floor in the lower level to prevent moistening due to condensation. Use shelving or pallets to keep items away from the floor.

#### **Other Recommendations**

17. Have the carpets deep cleaned regularly once or twice a year in accordance with IICRC recommendations and regularly vacuum with a HEPA-equipped vacuum cleaner.
18. Clean/change filters in portable air purifiers and AC units as per the manufacture's recommendations.
19. For buildings in New England, periods of low relative humidity during the winter are often unavoidable. Therefore, scrupulous cleaning practices should be adopted to minimize common indoor air contaminants whose irritant effects can be enhanced when

the relative humidity is low. To control for dusts, a high efficiency particulate arrestance (HEPA) filter equipped vacuum cleaner in conjunction with wet wiping of all surfaces is recommended. Avoid the use of feather dusters. Drinking water during the day can help ease some symptoms associated with a dry environment (throat and sinus irritation).

20. Refer to resource manual and other related indoor air quality documents located on the MDPH's website for further building-wide evaluations and advice on maintaining public buildings. These documents are available at <http://mass.gov/dph/iaq>.



## REFERENCES

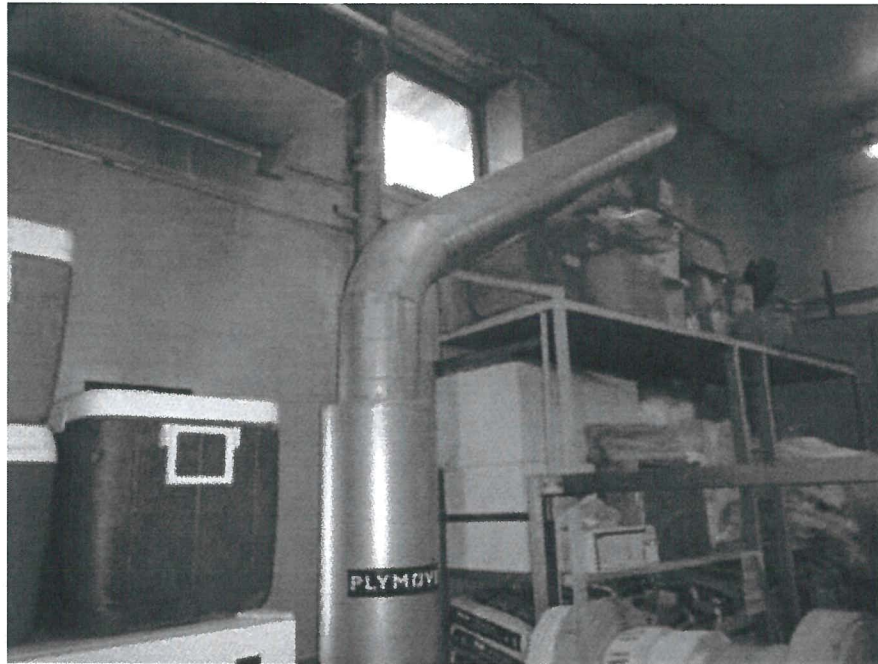
ACGIH. 1989. Guidelines for the Assessment of Bioaerosols in the Indoor Environment. American Conference of Governmental Industrial Hygienists, Cincinnati, OH.

IICRC. 2012. Institute of Inspection, Cleaning and Restoration Certification. *Carpet Cleaning: FAQ*.

MDPH. 2015. Massachusetts Department of Public Health. Indoor Air Quality Manual: Chapters I-III. Available at: <https://www.mass.gov/lists/indoor-air-quality-manual-and-appendices>.

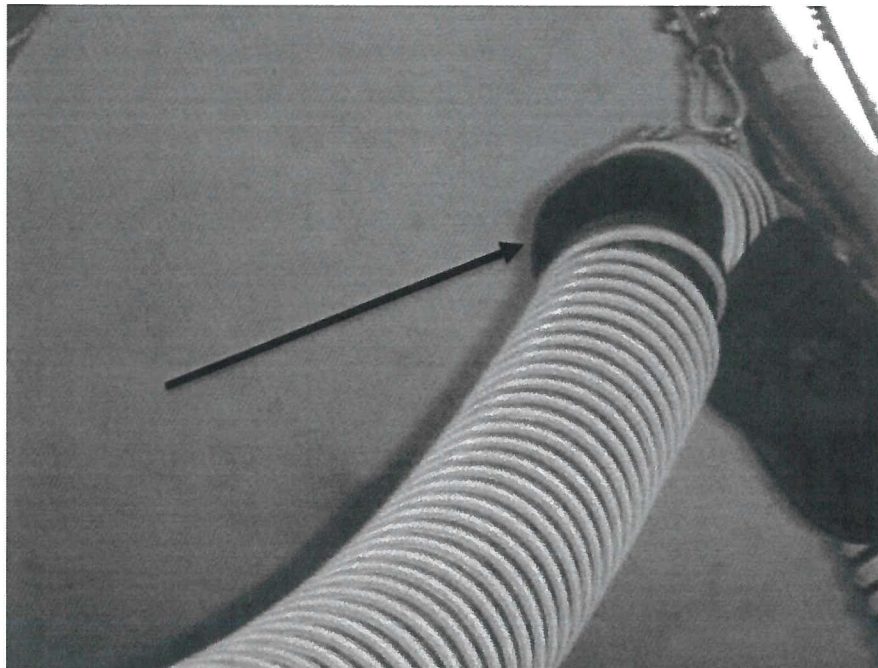
US EPA. 2008. “Mold Remediation in Schools and Commercial Buildings”. Office of Air and Radiation, Indoor Environments Division, Washington, DC. EPA 402-K-01-001. September 2008. Available at: <http://www.epa.gov/mold/mold-remediation-schools-and-commercial-buildings-guide>.

**Picture 1**



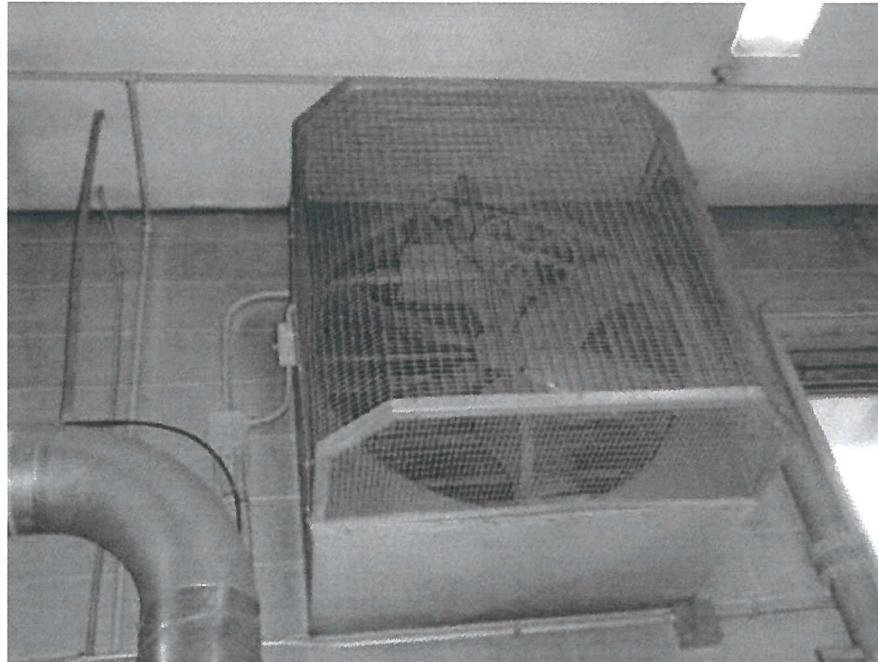
**Plymovent™ vehicle exhaust system**

**Picture 2**



**Broken vehicle exhaust hose**

**Picture 3**



**General exhaust fan in the GFD apparatus bay**

**Picture 4**



**Water-damaged ceiling in the apparatus bay**



**Picture 5**



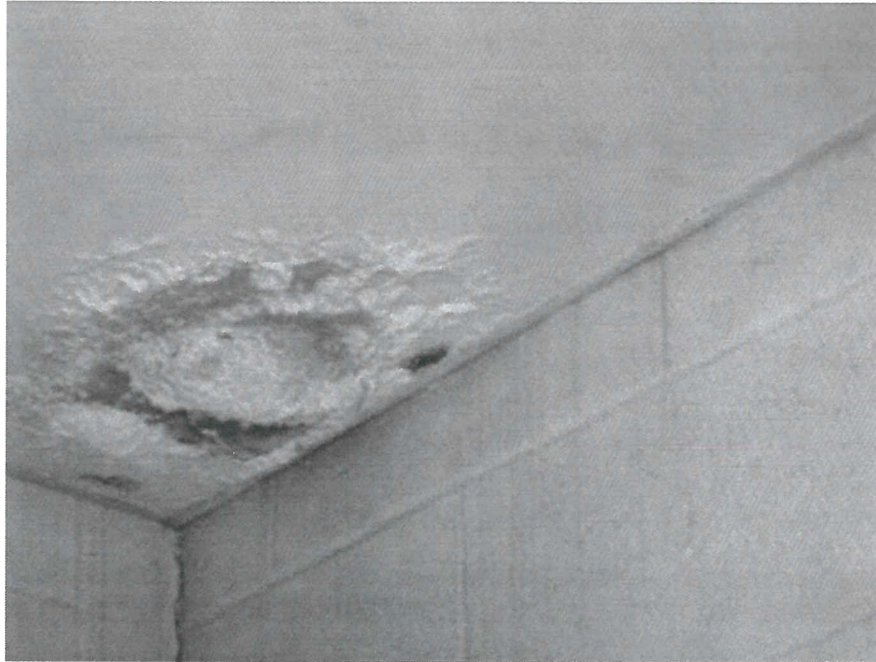
**Water-damaged ceiling in apparatus bay**

**Picture 6**



**Water-damaged ceiling in the dispatch area**

**Picture 7**



**Water-damaged ceiling in upstairs locker area**

**Picture 8**



**Turnout gear dryer not vented to the exterior**



**Picture 9**



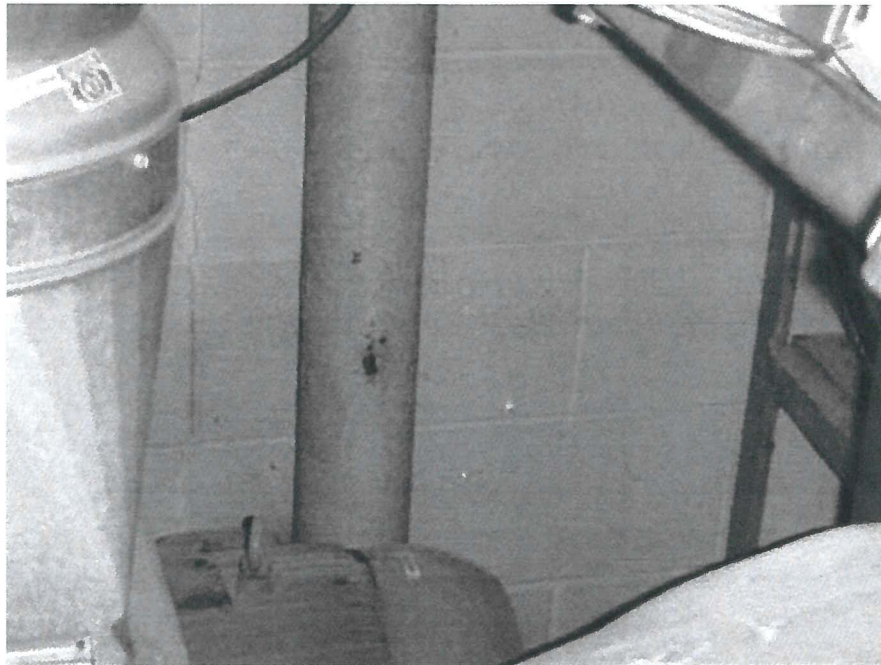
**Building exterior; note partially obstructed weep holes and cracks in brick/mortar**

**Picture 10**



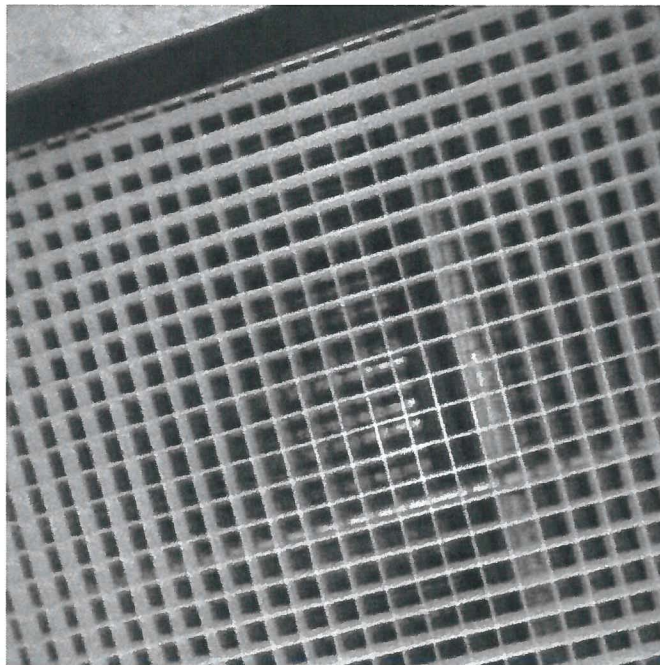
**Roof showing “embedded” gutter system**

**Picture 11**



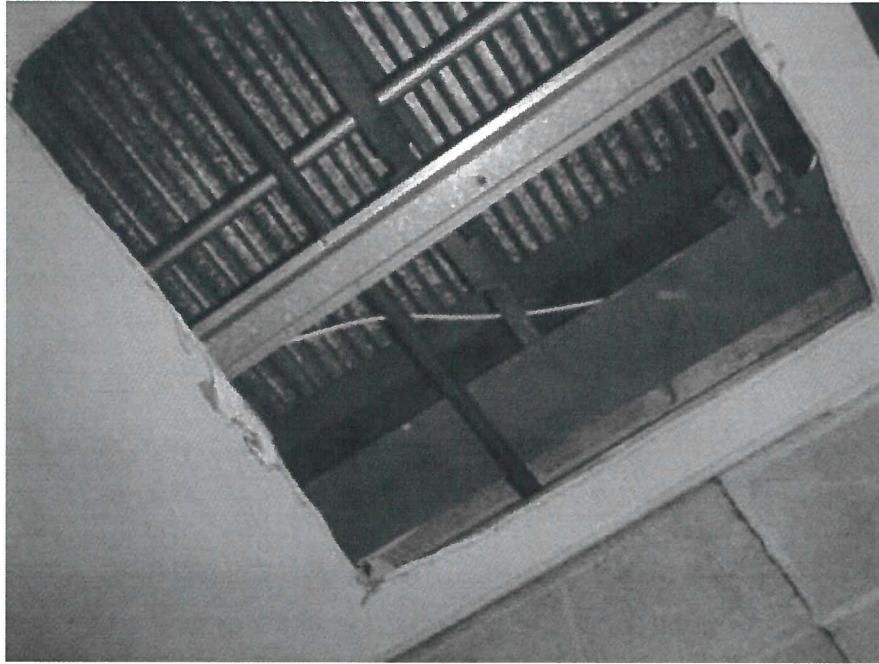
**Single drain serving each side of roof/gutter system**

**Picture 12**



**Ceiling grate in dispatch area**

**Picture 13**



**Large hole in mechanical room**

Location: Gardner Fire Department HQ  
Address: 70 City Hall Ave. Gardner, MA

Indoor Air Results  
Date: 9/28/2021

Table 1

| Location       | Carbon Dioxide (ppm) | Carbon Monoxide (ppm) | Temp (°F) | Relative Humidity (%) | TVOCs (ppm) | PM2.5 (µg/m³) | Occupants in Room | Windows Openable | Ventilation |         | Remarks                                                    |
|----------------|----------------------|-----------------------|-----------|-----------------------|-------------|---------------|-------------------|------------------|-------------|---------|------------------------------------------------------------|
|                |                      |                       |           |                       |             |               |                   |                  | Supply      | Exhaust |                                                            |
| Background     | 393                  | ND                    | 67        | 76                    | ND          | 10            | -                 | -                | -           | -       | Overcast, light rain                                       |
| Apparatus Bays | 415                  | ND                    | 73        | 61                    | ND          | 8             | 3                 | Y                | N           | Y       | Plymo hoses broken, WD GW ceiling, pathways                |
| Union Office   | 798                  | ND                    | 72        | 66                    | ND          | 4             | 2                 | Y                | N           | N       | WAC, AI, boxes on tile floor                               |
| Kitchen        | 787                  | ND                    | 74        | 67                    | ND          | 4             | 2                 | Y                | N           | Y       | Stove exhaust, tile floor                                  |
| Captain        | 760                  | ND                    | 76        | 67                    | ND          | 3             | 3                 | Y                | N           | N       | DEM, tile floor                                            |
| Chief          | 760                  | ND                    | 73        | 64                    | ND          | 3             | 3                 | Y                | N           | N       | PAF, carpet on slab                                        |
| Dispatch       | 681                  | ND                    | 72        | 66                    | ND          | 4             | 3                 | Y                | N           | N       | WD CTs, ceiling grate pathway to plenum                    |
| Secretary      | 545                  | ND                    | 71        | 69                    | ND          | 3             | 3                 | Y                | N           | N       | Carpet on slab, fridge on carpet, WAC, PAF, boxes on floor |

µg/m³ = micrograms per cubic meter      AI = accumulated items      DEM = dry erase materials      ND = non detect      WAC = window air conditioning  
ppm = parts per million      CT = ceiling tile      GW = gypsum wallboard      PAF = personal air filter      WD = water-damaged

**Comfort Guidelines**

Carbon Dioxide: < 800 ppm = preferable  
> 800 ppm = indicative of ventilation problems

Temperature: 70 - 78 °F  
Relative Humidity: 40 - 60%

Table 1, Page1



Location: Gardner Fire Department HQ  
Address: 70 City Hall Ave. Gardner, MA

Indoor Air Results  
Date: 9/28/2021

Table 1 (continued)

| Location                    | Carbon Dioxide (ppm) | Carbon Monoxide (ppm) | Temp (°F) | Relative Humidity (%) | TVOCs (ppm) | PM2.5 (µg/m³) | Occupants in Room | Windows Openable | Ventilation |         | Remarks                             |
|-----------------------------|----------------------|-----------------------|-----------|-----------------------|-------------|---------------|-------------------|------------------|-------------|---------|-------------------------------------|
|                             |                      |                       |           |                       |             |               |                   |                  | Supply      | Exhaust |                                     |
| Front Dorm                  | 787                  | ND                    | 68        | 62                    | ND          | 4             | 2                 | Y                | N           | N       | WAC, PAF, carpet                    |
| EMS-Thunderdome             | 732                  | ND                    | 69        | 73                    | ND          | 4             | 4                 | Y                | N           | N       | PAFx2                               |
| Upper lockers/restroom area | -                    | ND                    | -         | -                     | ND          | -             | -                 | -                | -           | Y       | WD GW, small gaps around pole slide |
| Training                    | 665                  | ND                    | 72        | 72                    | ND          | 7             | 3                 | Y                | N           | N       |                                     |
| Back Dorm                   | 897                  | ND                    | 69        | 49                    | ND          | 5             | 2                 | Y                | N           | N       | WAC, carpet, PAF                    |
| Lt. Dorm                    | 773                  | ND                    | 69        | 71                    | ND          | 3             | 2                 | Y                | N           | N       | Carpeting, PAF                      |

µg/m³ = micrograms per cubic meter      AI = accumulated items      DEM = dry erase materials      ND = non detect      WAC = window air conditioning  
ppm = parts per million      CT = ceiling tile      GW = gypsum wallboard      PAF = personal air filter      WD = water-damaged

**Comfort Guidelines**

Carbon Dioxide: < 800 ppm = preferable  
> 800 ppm = indicative of ventilation problems

Temperature: 70 - 78 °F  
Relative Humidity: 40 - 60%

Table 1, Page 2





**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

10756 10756

RECEIVED

2022 JUL -5 PM 4:15

CITY CLERK'S OFFICE  
GARDNER, MA

July 5, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Update Regarding Station 1 Repair and Remediation Work

Dear Madam President and Councilors,

I wanted to write to you all to provide you all an update regarding the repair and remediation work taking place at Station 1, colloquially referred to as the South Gardner Fire Station.

As a reminder, on Wednesday, March 9, 2022, I notified the City Council in writing that there had been a malfunction of the oil pipe that connected the station's oil tank and the station's emergency back up generator, which lead to oil being pumped out the vent pipe into the window well of the station.

The Licensed Service Provider ("LSP") who was conducting the remediation efforts at the site has not completed all work. The location is expected to be completely remediated, however, as a precaution, the site will be monitored by the LSP for the next few months.

During this work, the oil tank was completely decommissioned, the soil under the floor was replaced, and the soil around the station was tested and monitored. The retaining wall behind the station that had been marked as unsafe and structurally unstable was also removed and replaced during this process in order to test the soil behind it.

Our insurance company covered 100% of the costs associated with this work and the City did not have to pay anything extra for this.

As was stated at the June meeting of the City Council, the heating system at Station 1 is being converted to propane, which would prevent this from happening again in the future.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

Cc: Public Safety Committee



**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED

2022 JUL 19 PM 2:52

CITY CLERK'S OFFICE  
GARDNER, MA

July 16, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

Hon. Jennifer Z. Pelavin, Esq., Vice Chair  
And Gardner School Committee Members  
Gardner Public Schools – Central Office  
70 Waterford St  
Gardner, MA 01440

RE: Joint Convention Open Meeting Law Complaint by Scott Graves Decision

Dear City Councilors and School Committee Members,

As the Chair of the Joint Convention of the City Council and School Committee that took place on April 19, 2022, I am writing to inform you that my office has received official notification from the Attorney General's Office that they have officially closed the complaint filed by Mr. Scott Graves on April 1, 2022 against the Joint Convention and found the Convention's response sufficient.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
[www.mass.gov/ago](http://www.mass.gov/ago)

July 13, 2022

Scott Graves  
Via Email: [sgraveslawoffice37@gmail.com](mailto:sgraveslawoffice37@gmail.com)

Dear Mr. Graves:

We understand that on or about April 1, 2022, you filed a complaint with the Gardner Joint Convention ("Convention"), alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. The Convention is required to notify our office of the complaint and any remedial action taken to address the complaint. G.L. c. 30A, § 23(b); 940 CMR 29.05(5). Our office received notification and a response from the Convention on April 19, 2022.

Under the Open Meeting Law, a complaint is ripe for review by our office when the complainant files a copy of the initial complaint with the Division of Open Government, provided that at least 30 days have passed since that complaint was filed with the public body. G.L. c. 30A, § 23(b); 940 CMR 29.05(6). We sent you a letter on May 2, 2022 stating that if we did not receive the original complaint from you by June 16, 2022, we would presume the action taken by the Convention was sufficient and would close this file. Our office currently has no record of a complaint filed by you in this matter. Therefore, we now consider this matter closed.

Please feel free to contact me if you have any questions or believe anything stated in this letter to be inaccurate.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Arellano".

Natalie Arellano  
Paralegal  
Division of Open Government

Cc: Michael Nicholson, Mayor  
Gardner Joint Convention

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



## COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
GARDNER

CITY OF

I appoint the following as temporary Election Officers and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.



Michael J. Nicholson, Mayor

for terms expiring August 31, 2023

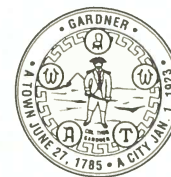


Iiti Siriphan, City Clerk

|    |           |           |          |    |               |                       |             |
|----|-----------|-----------|----------|----|---------------|-----------------------|-------------|
| 1A | Warden    | Permanent | Norman   | H. | Beauregard    | 147 Oak Street        | Gardner     |
| 1A | Clerk     | Permanent | Roland   | D. | Mailloux, Jr. | 20 Teaberry Lane      | Gardner     |
| 1A | Inspector | Permanent | Ann      |    | Twohig        | 315 Union Street      | Gardner     |
| 1A | Inspector | Permanent | Doris    |    | Buefort       | 238R West Street      | Gardner     |
| 1A | Inspector | Permanent | Diane    | M. | Meany         | 58 Jean Street        | Gardner     |
|    |           |           |          |    |               |                       |             |
| 1B | Warden    | Permanent | Lynn     | M. | Roux          | 203 Betty Spring Road | Gardner     |
| 1B | Clerk     | Permanent | Joanne   | B. | Rogers        | 82 Narrows Road       | Westminster |
| 1B | Inspector | Permanent | Bridget  |    | Koetsch       | 32 Talcott Avenue     | Gardner     |
| 1B | Inspector | Permanent | Valerie  | D. | Spar          | 20 Plymouth Street    | Gardner     |
| 1B | Inspector | Permanent | Marjorie | J. | Whittemore    | 47 Lake Street, A606  | Gardner     |
| 1B | Inspector | Permanent | Walter   |    | Scott         | 103 Bayberry Drive    | Gardner     |

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor

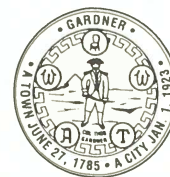


|    |           |           |           |    |             |                               |           |
|----|-----------|-----------|-----------|----|-------------|-------------------------------|-----------|
| 2A | Warden    | Permanent | Clifton   | J. | Melatti     | 37 Rosewood Drive             | Gardner   |
| 2A | Clerk     | Permanent | David     | L. | Hendren     | 55 Bickford Hill Road         | Gardner   |
| 2A | Inspector | Permanent | Alice     | P. | Anderson    | 34 Chapman Park               | Gardner   |
| 2A | Inspector | Permanent | Carol     | A. | Cormier     | 47 Lake Street, A207          | Gardner   |
| 2A | Inspector | Permanent | Robert    | J. | Cormier     | 47 Lake Street, A207          | Gardner   |
| 2A | Inspector | Permanent | Cathy     | T. | Leger       | 134 Greenwood Place           | Gardner   |
| 2A | Inspector | Permanent | Annette   | M. | Melanson    | 178 Waterford Street          | Gardner   |
|    |           |           |           |    |             |                               |           |
| 2B | Warden    | Permanent | Kevin     | M. | Ares        | 60 Ridgewood Lane,<br>Apt. 18 | Gardner   |
| 2B | Clerk     | Permanent | Nancy     | M. | Girouard    | 110 Marquette Street          | Gardner   |
| 2B | Inspector | Permanent | Val       | J. | Cormier     | 166 Acadia Road               | Gardner   |
| 2B | Inspector | Permanent | Marcia    | J. | White       | 92 Ryan Street                | Gardner   |
| 2B | Inspector | Permanent | Elaine    | M. | Leger       | 47 Lake Street, A201          | Gardner   |
| 2B | Inspector | Permanent | G. Ronald |    | Leger       | 47 Lake Street, A201          | Gardner   |
| 2B | Inspector | Permanent | Theresa   | H. | Hillman     | 155 Champagne Road            | Gardner   |
|    |           |           |           |    |             |                               |           |
| 3A | Warden    | Permanent | Robert    | J. | Swartz      | 53 Racette Avenue             | Gardner   |
| 3A | Clerk     | Permanent | Howard    | A. | Leadbetter  | 100 Ross Street               | Fitchburg |
| 3A | Inspector | Permanent | Rachel    | I. | Blais       | 25 Way Street                 | Gardner   |
| 3A | Inspector | Permanent | Anita     | M. | Boudreau    | 8 Jackson Park                | Gardner   |
| 3A | Inspector | Permanent | Marcel    |    | Martin      | 17 Bayberry Drive             | Gardner   |
| 3A | Inspector | Permanent | Robert    | L. | Owens       | 217 Riverside Road            | Gardner   |
| 3A | Inspector | Temporary | Mark      |    | St. Laurent | 153 Colony Road               | Fitchburg |
|    |           |           |           |    |             |                               |           |
| 3B | Warden    | Permanent | Thomas    | H. | Patterson   | 132 Pinewood Drive            | Gardner   |
| 3B | Clerk     | Permanent | Paulette  | A. | Burns       | 185 Benwood Drive             | Athol     |
| 3B | Inspector | Permanent | Gayle     | M. | Jaillet     | 35 Wickman Drive              | Gardner   |
| 3B | Inspector | Permanent | Odette    | R. | Racette     | 44 Jean Street                | Gardner   |



# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



|    |           |           |           |    |           |                              |             |
|----|-----------|-----------|-----------|----|-----------|------------------------------|-------------|
| 3B | Inspector | Permanent | Dorothy   | M. | Ronn      | 145 Prospect Street          | Gardner     |
| 3B | Inspector | Permanent | Monica    | J. | Williams  | 19 City Hall Ave             | Gardner     |
| 3B | Inspector | Permanent | Loyall    | C. | Allen     | 169 Sunrise Lane             | Gardner     |
| 4A | Warden    | Permanent | Ronald    | J. | Roy       | 51 Pinewood Drive            | Gardner     |
| 4A | Inspector | Permanent | Judith    | A. | King      | 32 Jay Street                | Gardner     |
| 4A | Inspector | Permanent | Gloria    | M. | Landry    | 458 Pearl Street             | Gardner     |
| 4A | Inspector | Permanent | Danielle  | L. | Rice      | 409 Pleasant Street          | Gardner     |
| 4A | Inspector | Permanent | Ann       | E. | Johnson   | 176 Main Street              | Westminster |
| 4A | Inspector | Permanent | Judy      |    | Roy       | 51 Pinewood Drive            | Gardner     |
| 4A | Inspector | Permanent | Joanne    |    | Augustino | 15 Chatham Street            | Gardner     |
| 4B | Warden    | Permanent | Dianne    | M. | LeBlanc   | 209 Elm Street               | Gardner     |
| 4B | Clerk     | Permanent | Jaime     |    | Lubelczyk | 63 South Main Street,<br>#2F | Gardner     |
| 4B | Inspector | Permanent | Doris     | L. | Forte     | 47 Lake Street, A602         | Gardner     |
| 4B | Inspector | Permanent | Susan     |    | Greninger | 194 Central Street,<br>#315  | Gardner     |
| 4B | Inspector | Permanent | Jill      | M. | Cormier   | 35 Water Street              | Gardner     |
| 4B | Inspector | Permanent | Donald    | A. | LeBlanc   | 209 Elm Street               | Gardner     |
| 4B | Inspector | Permanent | Nancy     | E. | Parker    | 27 Wachusett Road            | Gardner     |
| 5A | Warden    | Permanent | Paul      | A. | Spano     | 33 Adams Street              | Gardner     |
| 5A | Clerk     | Permanent | Mary      | L. | Glotch    | 47 Montvale Road             | Gardner     |
| 5A | Inspector | Permanent | Judith    | T. | Collette  | 47 Kendall Street            | Gardner     |
| 5A | Inspector | Permanent | Gloria    | M. | O'Malley  | 80 Kendall Pond Road<br>West | Gardner     |
| 5A | Inspector | Permanent | Constance | I. | Pelletier | 81 Airport Road              | Gardner     |
| 5A | Inspector | Permanent | Marcia    | A. | Stone     | 185 Bridge Street            | Gardner     |
| 5B | Warden    | Permanent | Leonette  | M. | Roy       | 49 Temple Street             | Gardner     |

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



|    |           |           |            |     |             |                        |           |
|----|-----------|-----------|------------|-----|-------------|------------------------|-----------|
| 5B | Clerk     | Permanent | Barbara    | A.  | Yablonski   | 195 Sherman Street     | Gardner   |
| 5B | Inspector | Permanent | William    |     | Edwards     | 4 Sunrise Lane         | Gardner   |
| 5B | Inspector | Temporary | Susan      | H.  | Lariviere   | 95 Bayberry Drive      | Gardner   |
| 5B | Inspector | Permanent | Mary       | Ann | Suchocki    | 154 Sand Street        | Gardner   |
| 5B | Inspector | Permanent | Edward     | S.  | Yablonski   | 195 Sherman Street     | Gardner   |
|    |           |           | Cheryl     | M.  | Girouard    | 23 Oriole Street       | Gardner   |
|    |           |           | Karen      | L.  | Olivari     | 185 Leo Drive          | Gardner   |
|    |           |           | Patricia   | A.  | Lewis       | 32 Water Wheel Circle  | Templeton |
|    |           |           | Beth       | A.  | Leadbetter  | 100 Ross Street        | Fitchburg |
|    |           |           | Jeanne     |     | Cuskey      | 65 Kileys Way          | Gardner   |
|    |           |           | Dianne     | A.  | Hunt        | 28 Osgood Street, #1   | Gardner   |
|    |           |           | Ann        |     | Chandler    | 133 Pleasant Street    | Gardner   |
|    |           |           | Gloria     |     | Bourgeois   | 47 Racette Avenue      | Gardner   |
|    |           |           | Erana      | E.  | Landry      | 298 Park Street        | Gardner   |
|    |           |           | Jacqueline |     | Kraskouskas | 222 Bickford Hill Road | Gardner   |

July 25, 2022

RECEIVED

2022 JUL 25 PM 4:05

## Commonwealth of Massachusetts

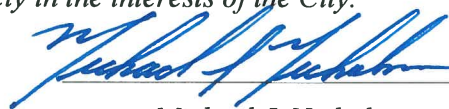
Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Nancy Binder to the position of Member, Bandstand Committee, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: July 25, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named Nancy Binder and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Bandstand Committee according to law and the best of his/her abilities.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

July 25, 2022

2022 JUL 25 PM 4:05

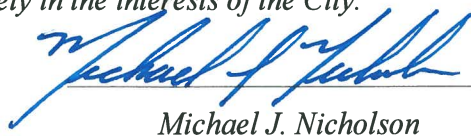
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Edward Vipond to the position of Member, Bandstand Committee, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: July 25, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named Edward Vipond and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Bandstand Committee according to law and the best of his/her abilities.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

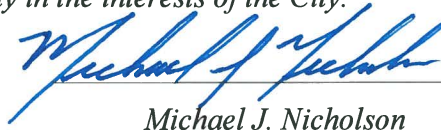
RECEIVED

July 25, 2022

2022 JUL 25 PM 4:05

**Commonwealth of Massachusetts****Worcester County****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Donna Russo** to the position of **Member, Bandstand Committee**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: July 25, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named **Donna Russo** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Bandstand Committee** according to law and the best of his/her abilities.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

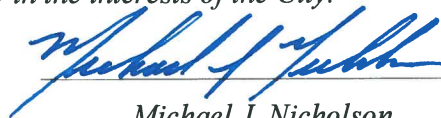
Received \_\_\_\_\_



RECEIVED

July 25, 2022

2022 JUL 25 PM 4:05

**Commonwealth of Massachusetts****Worcester County****City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint Anne Hurst to the position of Member, Disability Commission, and I certify**that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.*

 Mayor  
 Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: July 25, 2025

Worcester, ss., \_\_\_\_\_

*Then personally appeared the above named Anne Hurst and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Disability Commission according to law and the best of his/her abilities.*

Before me,

\_\_\_\_\_ City Clerk

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

2022 JUL 25 PM 4:23

July 25, 2022

CITY CLERK'S OFFICE  
GARDNER, MA

## Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **ROCKY**, to the position of **Police K-9** as Member of the Gardner Police K-9 Unit  
and I certify that in my opinion he is a canine specially fitted by specialized, training,  
to perform the duties of said office and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council: \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: Permanent

Worcester, ss., \_\_\_\_\_ 2022

Then personally appeared the above named **ROCKY** and by his handler, Officer Joshua Willis's presence and that Rocky would bear true faith and allegiance to the United States of America and the Commonwealth of Massachusetts and would support the Constitution and laws thereof.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

**Commonwealth of Massachusetts**

**CITY OF GARDNER  
STATE PRIMARY ORDER  
SEPTEMBER 6, 2022**

*VOTED:*

That meetings of the citizens of this City qualified to vote in the State Primaries shall be held on TUESDAY, THE SIXTH DAY OF SEPTEMBER, 2022, FROM 7:00 A.M. TO 8:00 P.M. for the purpose of casting their votes in the State Primaries for the candidates of political parties for the following offices:

|                                      |                                |
|--------------------------------------|--------------------------------|
| GOVERNOR.....                        | FOR THIS COMMONWEALTH          |
| LIEUTENANT GOVERNOR.....             | FOR THIS COMMONWEALTH          |
| ATTORNEY GENERAL.....                | FOR THIS COMMONWEALTH          |
| SECRETARY OF STATE .....             | FOR THIS COMMONWEALTH          |
| TREASURER AND RECEIVER GENERAL.....  | FOR THIS COMMONWEALTH          |
| AUDITOR.....                         | FOR THIS COMMONWEALTH          |
| REPRESENTATIVE IN CONGRESS.....      | THIRD DISTRICT                 |
| COUNCILLOR.....                      | SEVENTH DISTRICT               |
| SENATOR IN GENERAL COURT.....        | WORCESTER & MIDDLESEX DISTRICT |
| REPRESENTATIVE IN GENERAL COURT..... | SECOND WORCESTER DISTRICT      |
| DISTRICT ATTORNEY.....               | MIDDLE DISTRICT                |
| SHERIFF.....                         | WORCESTER COUNTY               |

It is further ordered that the following polling places are designated by the City Council:

WARD 1, PRECINCT A – Elk’s Home, 31 Park Street  
 WARD 1, PRECINCT B – Elk’s Home, 31 Park Street  
 WARD 2, PRECINCT A – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 2, PRECINCT B – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 3, PRECINCT A – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 3, PRECINCT B – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 4, PRECINCT A – Police Headquarters, 200 Main Street  
 WARD 4, PRECINCT B – Police Headquarters, 200 Main Street  
 WARD 5, PRECINCT A – Polish American Club, 171 Kendall Pond Road W  
 WARD 5, PRECINCT B – Polish American Club, 171 Kendall Pond Road W

BY ORDER OF THE CITY COUNCIL

*Titi Siriphan*

TITI SIRIPHAN  
City Clerk

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor

RECEIVED

2022 JUL 18 PM 3:33

CITY CLERK'S OFFICE  
GARDNER, MA



## COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
GARDNER

CITY OF

I assign the following to the Police Officers as election poll details, as designated, and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

  
Michael J. Nicholson, Mayor

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan, City Clerk

### Early voting @ City Hall-8/27/22

SPAIN-----City Hall Auditorium/0900-1700

### Primary Polling Assignments-9/6/22

LAWRENCE-----WITH CITY CLERK/0430  
NEUFELL-----WARD 1/ELK'S/0700-1500  
SIAW-----WARD 1/ELK'S/1500-2000  
GUERREIRO-----WARD 2/LIBRARY/0700-1500  
DORVAL-----WARD 2/LIBRARY/1500-2000  
LAWRENCE-----WARD 3/CITY HALL AUDITORIUM/0700-2000  
SGT. ST. PIERRE-----WARD 4/POLICE DEPARTMENT/0700-1500  
SPAIN-----WARD 4/POLICE DEPARTMENT/1500-2000  
DET. STARZYNSKI-----WARD 5/PACC/0700-2000



# OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

RECEIVED

2022 JUL 18 AM 8:09

CITY CLERK'S OFFICE  
GARDNER, MA

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Gregory Last Name: Deehan

Address: PO Box 1960

City: Gardner State: MA Zip Code: 01440

Phone Number: \_\_\_\_\_ Ext. \_\_\_\_\_

Email: gregory.d.deehan@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

## Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): City Council

Specific person(s), if any, you allege committed the violation: James Boone

Date of alleged violation: 6/6/2022



**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

During discussion on an item regarding scooters, Counselor Jimmy Boone stated that he had a conversation with Counselor Karen Harden outside of the meeting that changed his mind as to whether or not he was going to vote in favor of making scooters a thing in the semeteries.

Since there are only 3 people on the committee, this means they had an illegal meeting if 2 of them talked about an item they were gonna vote on when they were not in a public meeting. This is not transparent and I believe was illegal.

He did this at the Public Safety Subcommittee meeting on May 26, but then did it AGAIN at the full City Council Meeting on June 6, 2022.

Terribly non-transparent and I think quite illegal.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

release the contents of any conversations had between Jimmy Boone and any other counselors as screenshots or transcripts for the minutes so the citizens can see why he changed his mind, because right now, we don't know.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: \_\_\_\_\_

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

Gregory Deehan  
PO Box 1960  
Gardner, MA 01440

Re: Open Meeting Law Complaint

Dear Mr. Deehan:

The City Council is in receipt of your Open Meeting Law Complaint received on July 18, 2022. Whereas the deadline to respond to your Complaint is August 5, 2022, this response to your Complaint is timely.

In response to your Complaint, the City Council states as follows. Whereas it appears that a violation of the Open Meeting Law was committed by the Public Safety Committee, through discussion outside of an open meeting by Councillors James Boone and Karen Hardern regarding an item before the Committee, it does not constitute an Open Meeting Law violation of the City Council. Councillors Boone and Hardern make up a quorum of the Public Safety Committee and not a quorum of the City Council.

The City Council met to consider your Complaint at its meeting on August 1, 2022. Based on the foregoing, the City Council has concluded that no violation of the Open Meeting Law occurred and will not be taking any further action in regard to your Complaint.

Very truly yours,

Elizabeth Kazinskas  
City Council President

Cc: Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
City of Gardner Law Department



# OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

RECEIVED

2022 JUL 18 PM 3:13

Please note that all fields are required unless otherwise noted.

CITY CLERK'S OFFICE  
GARDNER, MA

## Your Contact Information:

First Name: Gregory Last Name: Deehan

Address: PO Box 1960

City: Gardner State: MA Zip Code: 01440

Phone Number: \_\_\_\_\_ Ext. \_\_\_\_\_

Email: gregory.d.deehan@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

## Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): City Council Public Safety Committee

Specific person(s), if any, you allege committed the violation: James Boone

Date of alleged violation: 5/26/2022

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

During discussion on an item regarding scooters, Counselor Jimmy Boone stated that he had a conversation with Counselor Karen Harden outside of the meeting that changed his mind as to whether or not he was going to vote in favor of making scooters a thing in the semeteries.

Since there are only 3 people on the committee, this means they had an illegal meeting if 2 of them talked about an item they were gonna vote on when they were not in a public meeting. This is not transparent and I believe was illegal.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

release the contents of any conversations had between Jimmy Boone and any other counselors as screenshots or transcripts for the minutes so the citizens can see why he changed his mind, because right now, we don't know.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: \_\_\_\_\_

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

July 29, 2022

To: Gregory Deehan, the Gardner City Council, John Flick and the Massachusetts Attorney General's Office

Re: Public Safety Committee Meeting  
City Council Chambers  
8:45 AM

Present: Councilor Craig Cormier, Councilor Karen Hardern, Councilor James Boone, City Clerk Titi Siriphan

This meeting was recorded and held in response to the Open Meeting Law complaint received from Gregory Deehan on July 18<sup>th</sup>, 2022, against the Public Safety Committee and James Boone on 05/26/2022.

The alleged violation was a comment made during the 5/26/2022 Public Safety Committee meeting that Councilor Boone made, stating that he had changed his mind on the legislation before the committee regarding powered scooters.

In discussion with Councilor Harden and Councilor Boone, both were willing to admit that this conversation about the legislation before the committee had occurred outside of the meeting, which with 2 out of 3 councilors being involved made for a quorum.

Confirming that this discussion had taken place, we moved on to the details of the discussion. The discussion was recalled as being at the Memorial Day parade attended by both counselors. Councilor Boone recalled telling Councilor Hardern he was against the legislation as written because he felt that the section limiting scooters from cemeteries should not be in it, as perhaps some citizens from our apartment housing may wish to use the scooters to visit gravesites. Councilor Hardern recalled sharing that she felt it would be intrusive to others trying to visit the cemetery to have the scooters traveling through. Councilor Boone then shared that perhaps the people visiting the cemetery would NOT be the ones using scooters. Both councilors did not recall any further conversation beyond this, and the discussion was limited to this instance.

This discussion was held in the meeting and has now been entered into minutes and video available to the public, which should remedy the complaint involved.





**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED

2022 JUN 27 PM 2:16  
CITY CLERK'S OFFICE  
GARDNER, MA

June 27, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant Street  
Gardner, MA 01440

RE: Appointment of Lorin Walter – Police Sergeant

Dear Madam President and Councilors,

I hereby submit the appointment of Mr. Lorin Walter for the position of Police Sergeant.

Sgt. Walter was first hired by the City as a patrol officer on March 12, 2012 and was originally promoted to the position of sergeant on January 20, 2019 by former Mayor Mark Hawke.

Sgt. Walter had resigned from this position in the Summer of 2021, but is now looking to return to working for the Gardner Police Department.

Whereas this is currently still as Civil Service Position, Sgt. Walter still has the ability to return to his previous position, as it was only filled with an Acting Sergeant and no permanent replacement was appointed.

As required by the General Laws of the Commonwealth, since this appointment is for an Officer who is protected through a collective bargaining agreement, this is a permanent appointment and not one that expires.

Therefore as required by Section 7 of the Charter of the City of Gardner, I appoint Lorin Walter to the position of Police Sergeant, and I certify that in my opinion he is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC: Appointments Committee

RECEIVED

July 1, 2022

2022 JUN 27 PM 2:16  
CITY CLERK'S OFFICE  
GARDNER, MA

## Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Lorin Walter, to the position of Sergeant, of the Gardner Police Department  
and I certify that in my opinion he is a person specially fitted by education, training, or experience  
to perform the duties of said office and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council: \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: Permanent

Worcester, ss., \_\_\_\_\_ 2022

Then personally appeared the above named Lorin Walter and made oath that he would bear  
true faith and allegiance to the United States of America and the Commonwealth of Massachusetts and  
would support the Constitution and laws thereof.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

RECEIVED

2022 JUN 27 PM 2:16

CITY CLERK'S OFFICE  
GARDNER, MA

June 27, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Re-appointment of Paulette Burns, Member, Board of Assessors

Dear Madam President and Councilors,

I hereby submit the re-appointment of Mrs. Paulette Burns as a member of the Board of Assessors.

Mrs. Burns has served on the Board of Assessors since March 1, 2004, and has served the City quite well in her time as a member.

She also comes at the recommendation of the City's Assessor, Christine Kumar, who also serves as the Board's Chair.

Therefore as required by Section 7 of the Charter of the City of Gardner, I appoint Paulette Burns to the position of Member, Board of Assessors, and I certify that in my opinion he is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC: Appointments Committee

RECEIVED

July 1, 2022

2022 JUN 27

Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Paulette Burns** to the position of **Member, Board of Assessors**, and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Titi Siriphan

Expires: July 1, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named **Paulette Burns** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Board of Assessors** according to law and the best of his/her abilities.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



City of Gardner - *Executive Department*  
Mayor Michael J. Nicholson

RECEIVED

2022 JUN 30 AM 11:43

CITY CLERK'S OFFICE  
GARDNER, MA

June 27, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Ordinance to Amend Code of the City of Gardner Section 44-171, Entitled "Compensation In Lieu of Paid Holidays"

Dear Madam President and Councilors,

On a review of the City Code, it was noted that the Police Chief position was listed in the ordinance to receive holiday pay.

This benefit time is meant to provide additional compensation to employees who are expected to work on holidays as part of their normal job performance.

Neither the Chief nor the Deputy Chief work on holidays as part of that job duties. As salaried employees these positions are expected to be on call during emergencies, just like all other department heads within the city. While the position is currently vacant, the attached ordinance proposal is being submitted in order to clean up the language in the City Code so it is more in line with its original intent.

Furthermore, as was discovered last year, there are positions listed in the ordinance that are covered under collective bargaining agreements and not under this section of the City Code. This amendment seeks to correct those discrepancies as well.

As I have done with ordinance changes in the past, the following are included with this correspondence:

- the legislative document
- a comparison document in which any deletions are in red and additions in green
- an opinion on the amendment from the Law Department

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC: Finance Committee



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# *Legislative Document*

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**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, SECTION 44 OF CHAPTER 171, ENTITLED "COMPENSATION IN LIEU OF PAID HOLIDAYS"**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER THAT:

SECTION 1: Section 44 of Chapter 171 of the Code of the City of Gardner, entitled "Compensation in Lieu of Paid Holidays," be amended by deleting subsection A.

SECTION 2: Section 44(B) of Chapter 171 of the Code of the City of Gardner, entitled "Compensation in Lieu of Paid Holidays: Police Department," be amended by deleting the word "Captain" from the provisions of this section.

SECTION 3: Section 44(B) of Chapter 171 of the Code of the City of Gardner, entitled "Compensation in Lieu of Paid Holidays: Fire Department," be amended by deleting the word "Lieutenant" from the provisions of this section.

SECTION 4: Section 44(B) of Chapter 171 of the Code of the City of Gardner, entitled "Compensation in Lieu of Paid Holidays: Fire Department," be amended by deleting the words "and all regular firefighters" from the provisions of this section.

SECTION 4: This ordinance shall take effect upon passage and publication as required by law.

---

# *Comparison Document*

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## ORDINANCE COMPARISON:

### § 171-44 **Compensation in lieu of paid holidays.**

In order to make uniform a policy of paid holidays for certain officers and employees of the City of Gardner, not covered under a collective bargaining agreement, who have not been otherwise provided for, there shall be paid to the following persons, for the 11 holidays per year, in addition to their regular and maximum compensation as follows: 10.15% of the yearly salary in lieu of the 11 paid holidays to each of the persons in the following groups according to his present pay schedule as said schedule may hereafter be in force:

A. ~~Police Department: Chief, Deputy Chief, Lieutenant, Sergeant, and all regular patrolmen.~~

B. Fire Department: Chief, ~~Captain, Lieutenant, and all regular firefighters.~~

---

*Law Department*  
*Legal Opinion*

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# CITY OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Ethan Kolodny  
Assistant City Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

Telephone (978) 632-7948  
Fax (978) 630-3703

Writer's Email:

May 5, 2022

VIA ELECTRONIC DELIVERY ([Mayor@gardner-ma.gov](mailto:Mayor@gardner-ma.gov))

Mayor Michael J. Nicholson  
City of Gardner  
95 Pleasant Street  
Gardner, MA 01440

*Re: Holiday Pay Ordinance, Chapter 171 of City Code*

Dear Mayor Nicholson:

You have requested an opinion from the City Law Department concerning the proposed Ordinance changes to Chapter 171 of the City Code, entitled "Compensation in Lieu of Paid Holidays." Specifically, you are proposing various amendments to Section 44 of said Chapter including removal of subsection A ("Police Department: Chief, Deputy Chief, Lieutenant, Sergeant, and all regular patrolmen"), as well as the following deletions to Section 44(B) (removal of "Captain, Lieutenant, and all regular firefighters"). Seeing no significant legal issues posed with the proposed amendments, it is the opinion of the City Law Department that this Ordinance be submitted to the City Council for enactment and approval.

I hope this answers your question. Please let me know if you have any additional questions or if I may be of any further assistance.

Very truly yours,

Ethan D. Kolodny, Esq.  
Assistant City Solicitor

Cc: Debra Pond, Director of Human Resources



JUNE 30, 2022

*Commonwealth of Massachusetts**Worcester County**City of Gardner**CERTIFICATE OF ELECTION*

*We elect **Jennifer A. Dymek**, to the position of **City Treasurer** and certify that in our opinion she is a person specially fitted by education, training, or experience to perform the duties of said office, and that we make this election solely in the interests of the City.*

---

*President, City Council of Gardner*

*Elected by the City Council -  
Term Effective -*

---

*Titi Siriphan, City Clerk*

Expires August 19, 2025

Worcester, ss., \_\_\_\_\_ 2022

*Then personally appeared the above named **JENNIFER A. DYMEK** and made oath that she would faithfully and impartially perform the duties of the office of **CITY TREASURER** according to law and the best of her abilities.*

*Before me,*

---

*City Clerk*

*Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983*

*Received* \_\_\_\_\_



July 14, 2022

Ms. Elizabeth Kazinskas  
Council President  
95 Pleasant Street  
Gardner, MA 01440

RE: Treasurer/Collector Position

Dear Madam President:

Thank you for the opportunity to express my interest in keeping my position as Treasurer/Collector for the City of Gardner.

The department has been working hard, over the last 3 years, to streamline activities. I have implemented digital timesheets and digital payroll reporting, eliminating the need for reams of paper on a weekly basis. I have also switched to online bank statements allowing us to receive statements at the end of the month and balance the month significantly sooner than previous years. This also allows the Auditing Office to close their monthly books quickly.

Since Jim Nicholson has retired, many of the duties that he used to perform have now fallen on my position. I process files, from the Assessor, to create the real estate, personal property, and motor vehicle tax bills, prepare them for printing and mailing, upload the real estate file to the bank clearing houses for escrow payments, and upload onto the City's website for payment. I also process the electronic payment files from the bank clearing houses.

Quarterly tax reporting is also part of this job now. I process the 941, 941B, and 945 Federal Tax reports, the State Tax report, and the Division of Unemployment reports. Weekly Federal and State tax payments are also required. Reporting and payment processing for the school meal tax and the golf cart sales tax is also done monthly.

There is still much to accomplish in this position. I would like to implement electronic payroll direct deposit advices. This would allow employees to receive their pay information, to an email of their choosing, eliminating the printing of approximately 2000 advices monthly (which also need to be sorted and stuffed into envelopes). I would also like to begin EFT payments to vendors. This would also cut down on the amount of checks printed and mailed. I'll need to work with the IT Department to see if our version of Munis has the capability to do this.

I truly enjoy my job and I'm lucky to have such a wonderful group of people working with me every day. Tammy Tenney, Lisa Arseneau, and Phyllis Charters have immense knowledge and provide support which allows me to focus on my own tasks.

Sincerely,

*Jennifer A. Dymek*

Jennifer Dymek  
Treasurer/Collector

**Titi Siriphan**

---

**From:** Judy Mack  
**Sent:** Monday, June 27, 2022 3:22 PM  
**To:** Titi Siriphan  
**Cc:** Elizabeth Kazinskas  
**Subject:** Ordinance: Salary Proposal  
**Attachments:** Compensation Elected Officials.docx

RECEIVED

2022 JUN 27 PM 4:21

CITY CLERK'S OFFICE  
 GARDNER, MA

June 27, 2022

Ms. Titi Siriphan  
 Gardner City Clerk  
 95 Pleasant Street  
 Gardner, MA 01440

Dear Ms. Siriphan,

Please see the enclosed ordinance I'm proposing to increase the salary of the Mayor of Gardner. The salary of the mayor for years has not been aligned with other positions within the city. Based on the City of Gardner earnings report, for FY '21 the mayor is listed as #48 on the list based on salary.

The Mayor per the City charter is the chief executive of the city. The fact that so many other city employees, including many within city hall, have higher salaries than their boss, positions that don't have the responsibilities that the executive of the city has is erroneous and long overdue to be corrected.

In 2021, the city had a special election for a mayor that cost the City of Gardner more than raising the salary that was requested for that time. The members of the City Council at that time voted down a raise of 2%, \$1,800. The cost of this special election was well over \$25,000.

Of the salaries within the city, the mayor's salary has remained rather stagnant for quite some time and deserve more equity in pay in comparison to the fire, police, school and other city departments. I'm proposing a \$15,000 raise to be spread out over three years with an increase of \$5,000 a year.

Per the charter, the council is able to look at the mayor's salary at any time. As the salary can't per the charter go in effect during a term, this is proposed for the next term starting in FY24. If we, the city council, want the city to be run by qualified individuals, then compensation needs to increase. Compensating the leader who is the representative of our city, a person that works more than 8 hours a day and 40 hours a week. The same person attends many events on the city's behalf in the evening, on weekends and who is always on call, is long overdue.

Included in the Compensation of Elected Officials attached, listed under A and D, are the positions of City Councilor and School Committee members which include a small increase in compensation to members of the City Council and School Committee. The increase is the same 2% COLA that all city employees receive. As with the proposed increase in the salary of the mayor, if passed it would not be effective until FY 24.

Sincerely,  
 Judy A. Mack  
 Councilor at Large

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, SECTION 68 OF CHAPTER 171, ENTITLED COMPENSATION SCHEDULE, ATTACHMENT A: MAYOR, ATTACHMENT B: CITY COUNCIL, AND ATTACHMENT D: SCHOOL COMMITTEE

Be it ordained by the City Council of the City of Gardner as follows:

SECTION 1: Attachment A, entitled Mayor, of Section 68 of Chapter 171, entitled Compensation Schedule, be stricken in its entirety and replaced with the following:

Exhibit A  
Mayor

| Position | Annual Salary             |           |
|----------|---------------------------|-----------|
| Mayor    | Effective January 1, 2024 | \$97,196  |
|          | Effective January 1, 2025 | \$102,196 |
|          | Effective January 1, 2026 | \$107,196 |

SECTION 2: Attachment B, entitled City Council, of Section 68 of Chapter 171, entitled Compensation Schedule, be stricken in its entirety and replaced with the following:

Exhibit A  
City Council

| Position          | Annual Salary             |             |
|-------------------|---------------------------|-------------|
| Council President | Effective January 1, 2024 | \$10,921.14 |
|                   | Effective January 1, 2025 | \$11,139.56 |
|                   | Effective January 1, 2026 | \$11,362.35 |
| City Councilor    | Effective January 1, 2024 | \$7,472.52  |
|                   | Effective January 1, 2025 | \$7,621.97  |
|                   | Effective January 1, 2026 | \$7,774.41  |

SECTION 3: Attachment D, entitled School Committee, of Section 68 of Chapter 171, entitled Compensation Schedule, be stricken in its entirety and replaced with the following:

Exhibit D  
School Committee

| Position                                           | Annual Salary             |            |
|----------------------------------------------------|---------------------------|------------|
| School Committee Member<br>(excluding Chairperson) | Effective January 1, 2024 | \$5,100.00 |
|                                                    | Effective January 1, 2025 | \$5,202.00 |
|                                                    | Effective January 1, 2026 | \$5,306.04 |

SECTION 4: This ordinance take effect upon passage and publication as required by law.