



February 15th, 2017

Adam Duchesneau, Town Planner
Town of Boxborough
29 Middle Road
Boxborough, MA 01719

RE: Boxborough Town Center

Dear Adam,

Toll Brothers would like to provide the board with information to address some of the questions and concerns raised at the first hearing of the Boxborough Town Center Project. This information is based on our vast experience of building Age-Restricted (Active Adult) communities in Massachusetts and throughout the country. Our recently completed communities in MA include Regency at Methuen (240 homes), Regency at Assabet Ridge (69 homes), and Regency at Bolton (60 homes). We also have two Active Adult communities currently under construction; Regency at Emerald Pines (140 homes) and Regency at Stow (66 homes). We believe that a visit to any or all of these communities would be beneficial in providing perspective on the type of community which is being proposed. We can provide contacts for town officials who would be willing to discuss our projects with you.

We have asked Mark Kablack to provide a legal perspective on regulations on age restricted housing (attached). Mark is a local attorney who has worked with Toll providing guidance on many of our Active Adult Communities along with assisting with drafting condominium documents and other legal services. Please understand that any restriction on ownership in an age restricted community on top of the existing occupancy restriction would be extremely overbearing to the community.

Additionally, our land planning department has prepared a Fiscal Impact Analysis Report (attached) to show the town the financial benefits of an Age-Restricted Community. The results of this report show a net surplus of tax revenues in the amount of \$637,805 per year upon completion of the project. There are many other fiscal benefits outlined within the report on top of the annual tax revenue.

Another item of concern raised at the meeting was the anticipated number of occupants within the community. Our fiscal analysis used the actual data from our Regency at Methuen Community (240 homes completed in 2014) to determine an occupancy rate of 1.9 people per household. Please note that this community had NO bedroom restrictions and many of the homes were built with 3rd and even

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4th bedrooms. The total number of occupants in the Boxborough Town Center community would fall in line with these numbers or be even less based on only allowing a maximum of 30% - 3 bedroom units.

I hope this information is beneficial in allowing the town to see favorably upon the benefits of an age-restricted community. Please feel free to contact me with any questions you may have. I can be reached at 508-366-1440 (office) or 508-922-1956 (cell).

Sincerely,



Shawn Nuckolls

Vice President

Toll Bros., Inc.



M.A. KABLACK & ASSOCIATES, P.C.

176 East Main Street, Suite 3, Westborough, MA 01581
phone 508-366-2900 fax 508-366-1089

MARK A. KABLACK
email mkablack@kablacklaw.com

February 6, 2017

Planning Board
Town of Boxborough
29 Middle Road
Boxborough, MA 01719

Re: Regulations Regarding Age Restricted Housing

Dear Board Members:

It has recently come to our attention that the Board is considering zoning bylaw revisions affecting age restricted housing. The current proposal may include restrictions on ownership of age restricted housing in lieu of or in addition to restrictions on occupancy.

Provisions for age restricted housing exist under a qualified exemption in the Federal Fair Housing Act. Provided certain conditions are met, housing can be discriminate based upon age, for persons 55 years of age or older, and in some instances 62 years of age or older. These provisions are codified in the Federal Fair Housing Act, 42 USC Section 3601 et seq., as amended (the "FHAA"), together with implementing regulations, 24 CFR Part 100, subpart E, as amended ("Qualified Age Restriction"). Massachusetts law provides for the same Qualified Age Restriction under state fair housing law at M.G.L. c.151B, Section 4.

The provisions of federal and state law regarding Qualified Age Restriction focus on occupancy, and require that the Qualified Age Restriction is achieved by occupancy of at least one age-qualified individual. The federal and state laws do not focus on or impose restrictions on ownership of age-restricted housing, and for good reason.

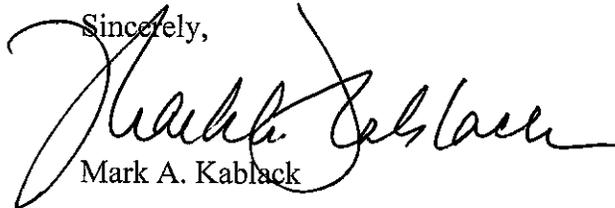
First, age restricted housing is meant to apply to rental communities as well as to ownership communities. In a rental community, ownership may be in the name of a trust, corporation or other such entity, without regard to the owner's age or even that the owner is an individual.

Second, even in the case of homeownership, age-restriction is meant focus on qualifying the occupants of a home, not its owners. There are numerous reasons, particularly for individuals over 55, where the ownership of the home is not in the name of the older person. Many of these reasons revolve around valid estate planning or Medicaid planning principles where title to a home is placed in a trust, where the trustee may be an attorney, spouse or offspring. In such circumstances, the trustee of those trusts are often not over 55. Similarly, a married couple of disparate age, may want to place title ownership in the name of the younger spouse for purposes of tax planning and probate avoidance.

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These are just a few examples of practical, modern day arrangements regarding ownership that would be severely affected and compromised by further restrictions on ownership of age restricted units. Such overbearing restrictions would be misguided, and we urge the Board not to pursue such changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Kablack". The signature is fluid and cursive, with a large initial "M" and "K".

Mark A. Kablack