

**Town Clerk's Certification**  
**Westwood -- Case # 8691**  
**Fall Annual Town Meeting of November 13, 2017**  
**Articles # 10, 11 and 12**

I hereby certify that I have posted and published a true copy of this Attorney General's Notice, as follows:

Posting - On June 20, 2018, and for a period of at least 14 days, I posted a true copy of this Notice at the following conspicuous place in the Westwood Town Hall:

\_\_\_\_\_

Publication - I published a true copy of this Notice in Westwood Hometown Weekly, a newspaper of general circulation in the Town of Westwood. The date of publication was: June 21, 2018. A copy of the published notice, including the date of publication, is attached.

Certification of Claims Filed - I certify that 21 days has expired from the date on which the notice was published in a newspaper and as of such date July 12, 2018

no claims were filed, or

one or more claims were filed, and copies of each are attached hereto.

Date: July 13, 2018

  
\_\_\_\_\_  
Town Clerk, Town of Westwood



**TOWN OF WESTWOOD  
COMMONWEALTH OF MASSACHUSETTS**

**OFFICE OF THE TOWN CLERK  
Dorothy A. Powers, MMC, CMMC**

**NOTICE TO WESTWOOD RESIDENTS**

**This will serve to notify Town residents that because of a procedural defect in the adoption of Articles 10,11,and 12 the Attorney General has elected to proceed under the authority conferred by G.L.c.40,§32, as amended by Chapter 299 of the Acts of 2000, and place these articles on "hold".**

**Respectfully Yours,**

**Dorothy A. Powers, MMC, CMMC  
Town Clerk**

**Posted by Constable**

**Sgt. Paul Sicard**

**Date: June 20, 2018**

A TRUE COPY ATTEST:

  
Dorothy A. Powers

Town Clerk

Form 299

Westwood, Massachusetts

Date: May 23, 2018

## Attorney General's Notice

*Pursuant to G.L. c. 40, § 32, as amended by  
Chapter 299 of the Acts of 2000*

Town of Westwood -- Case No. 8691  
Fall Annual Town Meeting of November 13, 2017  
Articles # 10, 11, and 12

MAY 23 2018

TOWN CLERK  
TOWN OF V...

Attorney General's Limited Authority to Waive Procedural Defects in the Notice of the Planning Board Hearing  
Pursuant to the provisions of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, if the Attorney General finds there to be any defect in the procedure of adoption or amendment of any zoning by-law relating to the form or content of the notice of the Planning Board hearing prescribed by G.L. c. 40A, § 5, or to the manner or dates on which said notice is mailed, posted or published as required by that section, then instead of disapproving the by-law or amendment by reason of any such defect, the Attorney General may elect to proceed under the defect waiver provisions of G.L. c. 40, § 32. Under those provisions, the Attorney General is conditionally authorized to waive any such defect.

### Defect Determined in Notice of Planning Board Hearing

The Attorney General has determined that the planning board hearing notice relating to Articles 10, 11 and 12 failed to comply with the notice requirements for such hearing established by G.L. c. 40A, § 5. Section 5 provides in part (with emphasis added):

No zoning by-law or amendment thereto shall be adopted until after the planning board in a town has held a public hearing thereon at which interested persons shall be given an opportunity to be heard... Notice of the time and place of such hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town... In cases involving boundary, density or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought.

Based on the materials submitted to this Office, we have identified the following defects: the notice of the planning board hearing of November 7, 2017 was not published for two successive weeks; posted at least fourteen days prior to the hearing; and mailed to the Department of Housing and Community Development, the Regional Planning Agency, and to the Planning Boards of each abutting city or town, all as required by G.L. c. 40A, § 5.

### Attorney General's Election to Proceed Under the Waiver Provisions of G.L. c. 40, § 32

The Attorney General has elected to proceed under the limited defect waiver authority conferred by

A TRUE COPY ATTEST:

  
Town Clerk  
Westwood, Massachusetts

G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000.

Suspension of Review of Zoning By-Law Amendments

The 90-day period prescribed by law for the Attorney General's review of local by-laws is therefore suspended in accordance with the provisions of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000.

Posting and Publication of This Notice

The Town Clerk shall post a true copy of this Notice in a conspicuous place in the Westwood Town Hall for a period of not less than 14 days and shall publish a copy once in a newspaper of general circulation in the Town of Westwood.

Filing of Claim That Defect in Notice Was Misleading or Otherwise Prejudicial

Within 21 days of the date on which this Notice is published in a newspaper of general circulation in the Town of Westwood, any resident of the Town of Westwood, or the owner of any real property in the Town of Westwood, or any other party entitled to notice of the planning board hearing may file with the Town Clerk a written statement that the notice defect was misleading or otherwise prejudicial. The statement must include the reasons supporting the claim that the defect in the Planning Board Notice was misleading or otherwise prejudicial. This statement must be actually on file with the Town Clerk not later than 21 days from the date on which this Notice is published in the newspaper.

Town Clerk's Certification of Compliance with This Notice

After the expiration of the 21-day period, the Town Clerk shall submit to the Attorney General a true copy of this Notice with a certification of compliance with the publishing and posting requirements of the preceding paragraph, and a certification that either (a) no claim was filed within the 21-day period, or (b) one or more claims were filed within the 21-day period. The Town Clerk shall submit to the Attorney General true copies of any such claim(s).

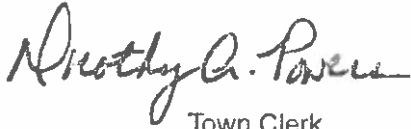
Resumption of Attorney General's Review

Upon receipt of one original copy of this Notice with the Clerk's certification, the 90-day period provided for the Attorney General's review under G.L. c. 40, § 32, shall resume. If no claim is made, the Attorney General has the discretion to waive any such defect; if any claim is made, however, the Attorney General may not waive any such defect.

**Note:** By not filing a claim under this provision, a person shall not be deprived of the right to assert a claim of invalidity arising out of any possible defect in the procedure of adoption or amendment, as provided in G.L. c. 40, § 32, and in G.L. c. 40A, § 5.

Date: May 23, 2018

A TRUE COPY ATTEST:



Town Clerk  
Westwood, Massachusetts

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL



By: Margaret J. Hurley  
Chief, Central Massachusetts Division  
Director, Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4402

cc: Town Counsel Thomas P. McCusker



**TOWN OF WESTWOOD**  
COMMONWEALTH OF MASSACHUSETTS  
**OFFICE OF THE TOWN CLERK**

A TRUE COPY ATTEST:

*Dorothy A. Powers, CMC, CMMC*

Town Clerk  
Justice of the Peace  
Notary Public

*Dorothy A. Powers*

Town Clerk  
Westwood, Massachusetts

**To Whom It May Concern:**

***I hereby certify the following action taken under Article 10 of the Warrant for the Fall Town Meeting held on November 13, 2017***

***Annual Town Meeting, Article 10.*** The Finance and Warrant Commission recommended and the town voted by a 2/3 vote in favor, 101-YES, 36-NO, declared by the Moderator, to approve certain amendments to the Westwood Zoning Bylaw related to permitting cafeterias, snack bars, gift shops and vending machines as accessory uses in the HB (Highway Business) zoning district by amending Section 4.3.1 [Table of Accessory Uses].

Amend Section 4.3.5 to read as follows:

**4.3.5 ACCESSORY USES IN INDUSTRIAL, HIGHWAY BUSINESS AND ARO DISTRICTS**

ACCESSORY USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.3.5.1 Retail uses, such as cafeterias, snack bars, gift shops and vending machines dispensing food, soft drinks and incidental merchandise items; provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.	N	N	N	N	N	N	N	N	N	Y	Y	Y	BA

***Witness my hand and seal of the Town of Westwood this 20th day of June, 2018.***

**Attest:**

*Dorothy A. Powers*

**Dorothy A. Powers, CMC, CMMC  
Westwood Town Clerk**

**\*\*Pending approval by the Attorney General**



**TOWN OF WESTWOOD**  
COMMONWEALTH OF MASSACHUSETTS  
**OFFICE OF THE TOWN CLERK**

A TRUE COPY ATTEST:

*Dorothy A. Powers, C.M.C. C.M.A.C.*  
Town Clerk  
Justice of the Peace  
Notary Public

*Dorothy A. Powers*  
Town Clerk  
Westwood, Massachusetts

**To Whom It May Concern:**

***I hereby certify the following action taken under Article 11 of the Warrant for the Fall Town Meeting held on November 13, 2017***

***Annual Town Meeting, Article 11.*** The Finance and Warrant Commission recommended and the Town voted by a 2/3 voice vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw related to various medical uses by amending Section 2.0 [Definitions] and Section 4.1.2 [Table of Principal Uses]:

- 9) Revise definitions in Section 2.0 [Definitions] for "Medical Center or Clinic" and "Office of Health Care Professional" to read as follows:

**Medical Center or Clinic** A building designed and used for the diagnosis and treatment of human patients that is not a Hospital or Substance Rehabilitation or Treatment Facility.

**Office of Health Care Professional** An office for a medical doctor, dentist, psychologist, chiropractor, acupuncturist, or similar physical or mental health care professional, including clinical and laboratory analysis activities directly associated with such medical office use, but excluding offices within Medical Centers or Clinics, Hospitals, or Substance Rehabilitation or Treatment Facilities.

- 9) Add new definitions to Section 2.0 [Definitions] for "Hospital" and "Substance Rehabilitation or Treatment Facility" as follows:

**Hospital** A building designed and used for the diagnosis and treatment of human patients that includes overnight care facilities.

**Substance Rehabilitation or Treatment Facility** A building designed and used for the diagnosis and treatment of human patients for substance rehabilitation and/or treatment facilities.

- 9) Amend Section 4.1.5 [Table of Principal Uses - Commercial Uses] by revising new definitions to Section 2.0 [Definitions] for "Hospital" and "Substance Rehabilitation or Treatment Facility" changing the title of Section 4.1.5.22 from "Office of a doctor or dentist not a resident on premises" to "Office of Health Care Professional", and by adding new Section 4.1.5.23 "Medical Center or Clinic", new Section 4.1.5.24 "Hospital", and new Section 4.1.5.25 "Substance Rehabilitation Facility" as follows, and renumber subsequent sections as appropriate:

**4.1.5 COMMERCIAL USES**

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5.22 Office of Health Care Professional	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
4.1.5.23 Medical Center or Clinic	N	N	N	N	N	N	N	N	N	N	BA	BA	BA
4.1.5.24 Hospital	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.25 Substance Rehabilitation or Treatment Facility	N	N	N	N	N	N	N	N	N	N	N	N	BA

- 4) Amend Section 9.5.8.1.9 [Use Permitted by FMUOD Special Permit in any FMUOD] by revising new definitions to Section 2.0 [Definitions] for "Office of Health Care Professional" from "Office of a doctor or dentist" as follows:

9.5.8.1.9 Office of Health Care Professional;

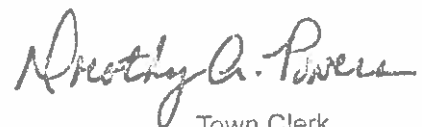
*Witness my hand and seal of the Town of Westwood this 20th day of June, 2018.*

Attest:

A TRUE COPY ATTEST:



**Dorothy A. Powers, CMC, CMMC**  
Westwood Town Clerk



Town Clerk  
Westwood, Massachusetts

*\*\*Pending approval by the Attorney General*





**TOWN OF WESTWOOD**  
COMMONWEALTH OF MASSACHUSETTS  
**OFFICE OF THE TOWN CLERK**

*Dorothy A. Powers, C.M.C. C.M.M.C.*

Town Clerk  
Justice of the Peace  
Notary Public

A TRUE COPY ATTEST:

*Dorothy A. Powers*  
Town Clerk  
Westwood, Massachusetts

***To Whom It May Concern:***

***I hereby certify the following action taken under Article 12 of the Warrant for the Fall Town Meeting held on November 13, 2017***

***Annual Town Meeting, Article 12:***The Finance and Warrant Commission recommended and the Town voted by a 2/3 voice vote in favor declared by the Moderator to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and Official Zoning Map as may be necessary to correct errors or inconsistencies and to clarify such sections.

- 1) Add "Access Approval Overlay District (AAOD)" to the list of overlay districts in Section 3.1.3 [Overlay Districts]
- 2) Amend Alternative Dimensions Table 9.5.9 to change the Section reference from 9.5.14.2.4.3 to read as follows:  
  
Minimum Public Amenity Areas or other public amenities required under Section 9.5.15.2.4.3
- 3) Delete the words "Section 8.4, Senior Residential Development (SRD)" in the second paragraph under Section 9.7.12.5 [Relationship to Underlying Districts and Regulations].
- 4) Amend the second paragraph in Section 9.7.12.5 [Relationship to Underlying District Regulations] to correct the Section reference referring to Section 8.5, Residential Retirement Community (RRC) to Section 8.4.

***Witness my hand and seal of the Town of Westwood this 20th day of June, 2018.***

**Attest:**

*Dorothy A. Powers*

**Dorothy A. Powers, CMC, CMMC  
Westwood Town Clerk**

**\*\*Pending approval by the Attorney General**

\*\*\*\*Claim that defect was misleading or prejudicial received 7/12/2018 @4:40PM via e

July 12, 2018

Margaret J. Hurley, Director  
The Commonwealth of Massachusetts  
Office of the Attorney General  
Chief, Central Massachusetts Division  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608

2018 JUL 12 P 4: 40

TOWN CLERK  
TOWN OF WESTWOOD

**(via e-mail in care of Dottie Powers, Town Clerk, Town of Westwood, MA)**

Re: Town of Westwood, MA  
Case No. 8691  
Fall Annual Town Meeting of November 13, 2017  
Warrant Article Nos. 10, 11, and 12

Dear Director Hurley:

Pursuant to M.G.L. Chapter 40 Section 32, please be advised that this correspondence serves as our collective claim of invalidity relative to the above-referenced matter.

It is our position that the defect in notice was both misleading and prejudicial in that it severely restricted public exposure of the subject articles and ultimately provided limited opportunity to the residents of Westwood as well as the planning boards of each abutting town to comprehensively examine the proposed zoning bylaw amendment language during the public vetting process in addition to precluding equal and meaningful participation of all interested parties to express concerns and raise questions in order to gain a true and complete understanding of the intended consequences of the subject articles as written.

Furthermore, the deceptive and prejudicial concerns raised within apply equally and individually to Articles 10, 11, and 12, with more particular troubling concerns relating to Article 11.

The procedural defect for Article 11 created a clear obstruction to public access, which subsequently precluded all interested residents from gaining critical information necessary in order to make a thoughtful and informed decision at the referenced Town Meeting.

Margaret J. Hurley, Director  
Re: Town of Westwood, MA  
Case No. 8691  
Fall Annual Town Meeting of November 13, 2017  
Warrant Article Nos. 10, 11, and 12  
July 12, 2018

Beginning on or about December 2014, up to and including today, the Town of Westwood governing bodies have continually met heated debate from residents in connection with the extremely controversial proposed redevelopment of Islington Center and the corresponding zoning bylaw amendments sponsored by the Planning Board in the last three (3) years prior to this subject Fall Annual Town Meeting of November 13, 2018, which appear to be a premeditated plan on behalf of town officials in support of one particular developer.

As memorialized in a variety of numerous public hearing recordings performed by the Westwood Media Center, both the heated debates and the resulting resistance to the redevelopment of this specific area in Westwood revolve around an established pattern of intentional omissions from public hearing agendas dating back to (at a minimum) July 17, 2017 as well as a total lack of transparency serving to reinforce the town's objective to conceal and cloud the intent of the actual Article prior to presenting the same at Town Meeting for a vote.

The notice defect related to the subject Articles are intentionally deceptive and clearing intended as a means to limit resident citizen input to ensure successful passage of the Articles.

What is certainly troubling about the town's noncompliance is that a significant percentage of residents believe this deviation from the legal publishing requirements presented a barrier and precluded residents from gaining full understanding of the implications of a successful passage of the proposed zoning bylaw amendments most certainly in respect of Article 11.

The procedural defect did not allow for comprehensive question and answer sessions with residents resulting in a comprehensible understanding of why, for instance, this proposed bylaw change as presented in Article 11 had already been put in place many months prior to having been officially presented and subsequently voted on at November 13, 2017 Town Meeting. This specific bylaw change allowed for a physical therapy practice to be placed with the Flexible Multiple Use Overlay District 6 (the "FMUOD6") during the calendar year 2017

Margaret J. Hurley, Director  
Re: Town of Westwood, MA  
Case No. 8691  
Fall Annual Town Meeting of November 13, 2017  
Warrant Article Nos. 10, 11, and 12  
July 12, 2018

despite our then existing zoning bylaws only allowing a “dentist or doctor office”, and no other such language was then in existence.

Additionally residents were misled by the intent of Article 11 in “defining” a substance abuse rehabilitation and/or treatment facility, under this article, when its intent was to ‘allow’ it in a particular district as previously reflected in Section 4.0 of the Westwood Zoning Bylaw and further elaborated on in Section 4.1.2 “Table of Principal Uses”. Again, the publication defect presented an obstacle to the residents in fully understanding the applicability of Article 11, and once again prevented public discussion of the then existing location of the “substance abuse rehabilitation and/or treatment facility” and further discussion of the potential alternative areas relating to the proposed amendment.

Confusion was simply exasperated when it became evident that this proposed zoning bylaw change had already been incorporated into the town’s zoning bylaw indicating successful approval by the Attorney General’s Office when in fact your office had not yet made a legal determination regarding its validity.

Lastly, there was no opportunity presented towards requesting information respecting why the Meditech CEO, a then and current member of the Finance and Warrant Commission, did not recuse himself and was allowed the privilege of voting a positive recommendation as reflected in the official Warrant to the November 13, 2017 Town Meeting for the applicability of this Article to Meditech (where he is employed).

Notwithstanding the desire of over four hundred (400+) residents clamoring to sign this letter and given the time constraints mandated by M.G.L. for the filing of claims for invalidity respecting a defect in notice, we respectfully ask that you reject all of the documentation submitted in support of the subject rezoning Articles 10, 11, and 12, and block each of the proposed zoning bylaw changes.

We are also appealing for a thorough investigation into the events pertaining to all Town of Westwood zoning bylaw amendments in connection with the Islington redevelopment project and its sole developer, Petruzzello Properties, Inc.

Margaret J. Hurley, Director  
Re: Town of Westwood, MA  
Case No. 8691  
Fall Annual Town Meeting of November 13, 2017  
Warrant Article Nos. 10, 11, and 12  
July 12, 2018

Respectfully submitted,

/s/

Nada Milosavljevic-Fabrizio

cc: The Honorable Maura Healey  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
*(by mail)*

2018 JUL 12 P 4:40

TOWN CLERK  
TOWN OF WESTWOOD