



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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January 22, 2016

Janine Domina, Town Clerk
Town of Southampton
210 College Highway, Suite 2
Southampton, MA 01073

**RE: Southampton Special Town Meeting of October 20, 2015 - Case # 7767
Warrant Article # 1 (General)**

Dear Ms. Domina:

Article 1 - We approve Article 1 from the October 20, 2015 Southampton Special Town Meeting.

Article 1 adds to the Town's general by-laws a new Article XXXVII, "The Preservation of Historically Significant Buildings" and amends Article VII, Section 1 (e) to reference the new Article XXXVII. Article XXXVII, Section 1, provides as its purpose and intent "preserving and protecting significant buildings within the Town..." and seeks to accomplish this purpose by creating a procedure for issuance of a demolition permit for a "building which is in whole or in part 100 years or more old and/or listed on the Massachusetts Cultural Resource Inventory System." See Section 3.

Section 3 (2) provides that the Southampton Historical Commission ("Commission") will make a written determination of whether the building is significant. Section 3 (6) provides that the Commission shall decide (after a public hearing) whether the building should be preferably preserved. However, the by-law is silent as to any criteria or standards that the Commission will use to determine whether the building is significant and/or whether the building should be preferably preserved. The Town may wish to consider amending the by-law to include the criteria and standards that will guide the Commission in these decisions to ensure that the by-law is not applied in an arbitrary or discriminatory manner. The Town should consult with Town Counsel on this issue.

Section 6 provides that if a building subject to the bylaw is demolished without first obtaining a demolition permit, a building permit will not issue for two years from the date of demolition on the subject parcel of land "or any adjoining parcels of land under common ownership and control." The Town must have a valid reason to withhold a building permit on an adjoining parcel of land when a building on another parcel of land is demolished without a

permit. The Town should consult with Town Counsel to ensure the proper application of Section 6.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

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cc: Town Counsel Michele E. Randazzo