

Client Alert: Guilty Plea by City Hall Staffer Leads to Calls for Reform

By Michael J. Barone, Jr. on October 31, 2019



Several members of the Boston City Council have proposed various reforms to the Boston Zoning Board of Appeal (ZBA) and Boston Planning & Development Agency (BPDA) following widespread news coverage of a City Hall staffer's guilty plea in connection with an alleged \$50,000 bribe meant to influence the ZBA. Subsequent investigations have revealed potential conflicts of interest surrounding former members of the ZBA during their tenure. Included among the calls for reform is a proposal by City Councilor Lydia Edwards to dramatically restructure ZBA membership qualifications and a proposal by City Councilor Michelle Wu to dismantle the BPDA altogether.

Filed with the City Council on October 2, 2019, Councilor Edwards' proposed **legislation** would, among other things, specifically prohibit membership by persons that are engaged in real estate development and construction or otherwise engaged in the purchase and sale of real estate in Boston. The City may also require, as a condition of appointment, that members not engage in real estate related businesses for up to five years after the expiration of their term. Moreover, Councilor Edwards' proposal would have the ZBA restructured so that at least one member and one alternate of the seven members and seven alternates comprising the ZBA would have expertise in specific social causes, including affordable housing, civil rights, fair housing, environmental protection and climate change, and urban planning and design. Councilor Edwards' reforms would also promote ZBA membership for homeowners and renters in the City of Boston.

Members would be appointed by the Mayor, subject to approval by the City Council. The proposal further addresses conflict of interest concerns by prohibiting members and alternates from participating in hearings relating to: (i) any property that said member or alternate may have owned, or rendered services to for compensation, within the two (2) years preceding the hearing; or (ii) any property in the same geographic zoning district seeking the same relief as another property before the ZBA in which a member or alternate has a legal or financial interest. Councilor Edwards' proposal would, among other things, require the ZBA to publish quarterly reports regarding the permits and variances granted during the quarter and detail the neighborhoods and zoning districts in which the properties are located. Records of hearings and votes would also be published within a week following a hearing.

In contrast with Councilor Edwards' proposal, Councilor Wu proposes a far larger shakeup of the BPDA – the abolition and dismantling of the agency. According to Councilor Wu, her **proposal** is a "living document" and only a first version, at that. Accordingly, legislation has yet to be proposed.

In response to the myriad issues raised in her proposal, Councilor Wu advocates for Boston

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to examine and emulate the planning and sustainable development practices of a number of Boston's "peer cities" such as Philadelphia, Seattle, San Francisco, and Vancouver. Per the proposal, these peer cities can provide Boston with examples of efficient and effective agency organization, master planning, and climate change mitigation. One of the chief steps proposed by Council Wu to help modernize Boston's zoning and planning practices is the creation of a designated Planning Department to overhaul the existing zoning code and prepare an updated comprehensive master plan with the involvement and engagement of the community. Although Mayor Martin J. Walsh's "Imagine Boston 2030" was the first attempt as a city-wide master plan in over 50 years, Councilor Wu argues that Imagine Boston 2030 failed to meet the Commonwealth's definition of a master plan as it fails to provide details and timelines for the City to take action to achieve the objectives set forth therein. Additionally, Councilor Wu argues that the reassignment of personnel from many of the BPDA's departments to existing City agencies would greatly streamline the process and increase accountability.

While acknowledging the issues that have plagued the BPDA over the past few months, Mayor Walsh and the BPDA have defended the steps towards reform already taken by the Walsh administration and the City of Boston. According to Mayor Walsh and the BPDA, after conducting Imagine Boston 2030, the BPDA began running numerous planning studies across the City and have engaged with neighborhood residents to better address planning issues relating to housing and transportation, among others. Notwithstanding their satisfaction with the reform to date, the Mayor and the BPDA have both recognized that there is still work to be done to further modernize the planning and development practices of the City and to reduce conflicts of interest.

This article is for informational and educational purposes and is intended to provide an understanding of developments relating to the ZBA and the BPDA. This article should not be interpreted as an endorsement or critique of any individual or proposal relating to the ZBA, the BPDA, or the City.

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