



TOWN OF MIDDLEBOROUGH OFFICIAL MEETING POSTING

NAME OF PUBLIC BODY: Board of Selectmen/Rent Board

DAY AND DATE OF MEETING: Wednesday, May 30, 2012

TIME OF MEETING: 7:00 PM

LOCATION OF MEETING (INCLUDING ADDRESS): Town Hall, 10 Nickerson Avenue

MEMBER OF PUBLIC BODY POSTING MEETING: Jackie Shanley, Confidential Secretary to Board of Selectmen

POSTED BY TOWN CLERK'S OFFICE:

***FOR CANCELLATIONS**

MEMBER OF PUBLIC BODY CANCELLING MEETING: [Type text]

CANCELLATION POSTED BY TOWN CLERK'S OFFICE: DATE:

TIME:

AGENDA

1. **Pledge of Allegiance**
2. **Minutes:** 5/14/12 Regular minutes.
3. **New Business**
 - a. Vote to sign Tispaquin Street Culvert contract.
4. **Hearings, Meetings, Licenses**

7:00 PM	Edgeway Mobile Home Park Matter (continued from 5/14/12) Phase I Update (continued from 5/14/12) Vote to authorize Health Officer to issue Mobile Home Park permit.
7:10 PM	Hillcrest MHC, LLC Public Hearing -- Petition for Rent Increase (continued from 4/25/12)
5. **Executive Session** -- Pending Litigation, Dispute with Mashpee Wampanoag Tribe.

**Middleborough Board of Selectmen
Meeting Minutes**

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Chairman opened meeting at 7:00 PM by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectmen A. Rullo, A. Frawley, S. Spataro, and S. McKinnon, Town Manager C. Cristello and Confidential Secretary J. Shanley.

UNANTICIPATED

None.

NEW BUSINESS

DPW Director Andy Bagas informed the Board that Town Counsel and the Town Accountant have signed the Tispaquin Street Culvert contract. Selectman Spataro asked several questions of Mr. Bagas relative to the bidding process regarding this contract. Mr. Bagas responded. Town Manager asked Mr. Bagas if he'd give an update regarding the E. Main Street Road Resurfacing project, which he did. Anyone interested in information regarding bidding on this project may contact Mr. Bagas at the DPW. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimous to approve and sign the Tispaquin Street Culvert contract.

HEARINGS, MEETINGS, LICENSES

Edgeway Mobile Home Park matter (continued from 5/14/12)

Chairman noted that, at the request of Attorney Marsan, the Edgeway Mobile Home Park matter would be continued. Chairman read aloud the status update provided by Attorney Marsan re work at Edgeway. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to continue the matter to 6/18/12 at 7:30 PM.

Hillcrest Petition for Rent Increase Hearing continued from 4/25/12

Chairman swore in Hillcrest MHC, LLC Controller Diane Volkmar. Selectman Spataro noted he was not present at last meeting, but he has reviewed the minutes and related documentation and would be participation in tonight's hearing. Attorney Kraus addressed Board and submitted a photo of the fire hydrant with "Out of Service" label attached to it (Exhibit #1) along with a memorandum entitled "Update to Petition for Rent Increase" (Exhibit #2). Ms. Volkmar addressed Board to review her written answers in response to questions from the 4/25/12 hearing. Ms. Volkmar's experience: She has 20 plus years in accounting, math major, six years with Morgan Management, and oversees approximately 100 plus properties. They have a lot of internal controls in place. She reviewed all of the financials provided by their divisional controllers who prepared it. Homeowner Frank Cuddy asked if the management fees are just for Morgan Management fees. She responded that it is based strictly on the lot rent.

Attorney Kraus offered that Betty Wadsworth is the on-site management 24/7. Chairman asked Ms. Volkmar if she used the anticipated rental receipts for Hillcrest for the anticipated \$321/month to which she responded, yes. Chairman offered that this would significantly drive up their share of management fees. Ms. Volkmar responded that it is 4% based on cash receipts. Attorney Kraus offered that it is a mathematical simple equation. Chairman agreed, but also noted that it is a dramatic increase for residents at Hillcrest. More of the cost is being put on Hillcrest than the other Parks by function of allocation.

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Attorney Kraus offered that Morgan Management hasn't had an increase in years and has taken on the management expense.

In response to a comment by Selectman Spataro, Attorney Kraus offered that, if they used CPI, their management fee would be close to what they are projecting. Their goal would be to work out the future allowance to use the CPI index. Chairman noted that our Rules & Regulations were adopted after three Parks in Town were already in operation and they are in compliance as far as the Attorney General's office is concerned. CPI is not up for discussion as part of this hearing.

Resident Frank Cuddy wanted to make point for clarification - looking at the purchase date until now, and Morgan Management waited until now to come up with a rent increase, with little changes to the Park other than a full time manager, which we never expected. Chairman offered that the Board will take this into consideration and render its decision later.

In response to question by Chairman, Ms. Volkmar answered that the expense for generators was for a total of three. Chairman indicated that those would not be considered capital expenses, however, Ms. Volkmar responded that they capitalize a lot of items under \$500 and \$5,000. Selectman Spataro asked where the profit goes and she responded that they don't have a profit. Chairman asked about the fees listed for the purchase of a printer totaling \$3,000. She explained that this is a total purchase order amount and that the printer was \$400.

ANNOUNCEMENT

Chairman announced that the meeting was being aired live by MCCAM and recorded by MCCAM and Verizon.

HEARINGS, MEETINGS, LICENSES (continued)

Hillcrest Petition for Rent Increase Hearing continued from 4/25/12

Attorney Kraus offered that the Board can see the losses that the Park is incurring over the past ten years. The financials show that. Chairman asked Ms. Volkmar if their loans increased over the past ten years and if they went to a 3rd party bank. She answered, probably a combination of both, but can get back to the Board.

Elizabeth Roma of 8 Gerald Drive asked if they are including the house to which Attorney Kraus responded, no. Chairman asked if the listed uncollectable rents specifically from Hillcrest, to which Ms. Volkmar responded, yes. Chairman asked if they were collected, to which she responded that she was not sure.

Attorney Kraus added that they haven't been able to process evictions over these past years due to some licensing issues. Selectman Frawley asked what happened to the people owing \$11,000. Attorney Kraus offered that they have one in process to come before the Board to try and collect the money owed. It's a lengthy process. Sometimes the expense of pursuing outweighs the debt. Attorney Kelleher offered that they had a tenant pass away owing rent with no estate/heirs.

Chairman asked Ms. Volkmar to explain if the deferred interest incurred in the amount of \$18,000. She responded that she believes she knows what it represents, but will have to check.

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Chairman asked what that would be for to which she responded, loans that Hillcrest lent the company. Selectman McKinnon asked for clarification to which she responded, if money is loaned out it's on the balance sheet and if money is owed it's on the balance sheet.

Chairman asked how Hillcrest could give 2.5 million back to Morgan if it's running in a deficit. Ms. Volkmar responded that she will get back to the Board with an explanation.

Chairman asked how much they paid for Hillcrest to which Attorney Kraus responded that they don't know because they weren't around at the time. Chairman informed Attorney Kraus that he expects him to provide answer with other answers. Attorney Kraus responded that they will get that answer. Chairman asked if they made capital improvements to Hillcrest other than the \$5k for furniture. Attorney Kraus responded that they maintain the Park, whether it is characterized as maintenance, or capital expenses, we have continued to maintain the Park. Chairman offered that he would like an estimated list of major items that they identify as capital expenses. Selectman Frawley noted that they provided expenses incurred on the house in the Park and yet aren't counting the house. Attorney Kraus offered that it was for full disclosure purposes.

Selectman Frawley further offered that it appears to be in their rent increase. Chairman noted and asked that it went to the 3 bedroom home and if this capital is included in Hillcrest, is the expense to maintain this home included and the rental income? Attorney Kraus responded that they will review their numbers and that it is understood that if the house is not included in rent, then these capital expenses cannot be either. Chairman offered that it is not a given fact that this Board is going to accept their requested 7% increase. Attorney Kraus responded that, if the Board believes their numbers with very few variables, the regulations and statute indicate a right to a fair rate of return - allowed to make a profit.

Selectman McKinnon noted that there's been no increase in years and Morgan claims to be running at a deficit. He offered that it is not this Board's fault or its responsibility to look at their business model. He drove through the Park and didn't see any miraculous improvements/maintenance. Attorney Kraus responded that they understand that they haven't been here. Morgan owns six parks in rent control. We should have been here sooner, but we were occupied starting in the Western part of the state and working our way here. It's a lot of work to get ready for this. He further noted that backup expense items take a lot of time. Chairman agreed. Selectman Spataro noted that the Board is doing its due diligence.

Attorney Kraus suggested that the Board is like a rate setting commission. Morgan believes its numbers are fair and accurate and will provide the information to questions for tonight and ask for three weeks. Chairman clarified that he just wants any capital improvements made over \$5k or more. Elizabeth Roma asked when they bought the house that is located in the Park. Attorney Kraus offered that he presumes when they bought the Park, but will get back with an answer.

Chairman noted significant changes in the payroll expense line, in early years they were capitalizing labor and then they didn't. He asked what caused them to change accounting policy and why. She answered some labor is used for capital expenditures.

Mr. Cuddy asked how the fair market value is determined and noted that property values have decreased. Attorney Kraus responded, assessed values.

Mr. Cuddy asked what card readers are, noting that there was an expense item of \$349 for same.

Ms. Volkmar responded that she believes they are I.T. related and spread out over all of the parks.

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Attorney Kraus offered that he believes they are for security/internal expenses to protect computer access, but will come back and explain.

Mr. Cuddy asked how legal fees got so expensive to which Ms. Volkmar responded, financial statements show a lot of expenses in that line item.

Susan Ware maintenance man is at our park 20% of the time and doesn't know what percent they are allocating for his pay. Hillcrest is a very old park and they cannot compare to any other park, even Oak Point. Our Community center can't even hold our residents and comes with no amenities.

Homeowner's Association President Robert Capeau offered that he has a letter from the Fire department indicting that it is very concerned about the non-functioning hydrant and he believes that the Town Manager has a copy of the same letter. Town Manager acknowledged that the Town does have the letter, but clarified that putting a water meter in the Park can potentially blow out the water lines in the Park and the risk could cost the residents further expense.

Chairman requested that all material be submitted to the by 6/15 for the Board's consideration. Once the Board feels it has enough information to render a decision, it will then close the hearing. Town Counsel confirmed that the Board can take more testimony if it finds it necessary until it closes the hearing. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to continue to 6/25/12 at 7:30 pm.

Attorney Kraus agreed to send 10 copies of responses to President of Tenant's Association to distribute to tenants.

Mr. Cuddy offered that the water meter is not working properly and asked if they are going to get one that is. Attorney Kraus responded that he got the information from the Town's Water Superintendent and they are going to process putting in that meter and anticipate that the expense will be in excess of \$5k and will get those numbers to the Board & residents.

Mr. Capeau suggested that the Fire department had said that it's a possibility that if the meter is replaced, it might give power to hydrant.

The following additional Exhibits were submitted into the record:

(Petitioner Exhibit #3)

- Letter addressed to Town Manager dated 5/24/12 referencing further information attached, including:
 - Rent Roll for the Community showing # of units in the Park
 - Loan Balance on Morgan MHC, LLC
 - Written answers to questions asked at 4/25/12 hearing

(Petitioner Exhibit #4)

- Letter addressed to Town Manager dated 5/17/12 re Hillcrest MHC LLC/Water Meter
- Ti Sales Quote for Water Meter

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(Petitioner Exhibit #5)

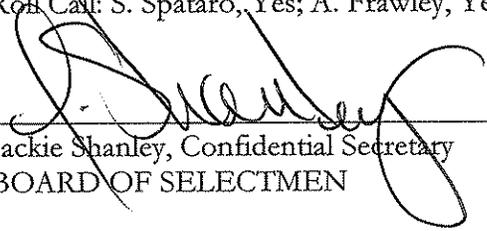
- Hillcrest MHC LLC Comparative Income Statement

(Homeowner's Association Exhibit #1)

- Letter addressed to Attorney Kraus from Fire Chief Benjamino dated 5/24/12 re Hillcrest MHC LLC (the "Park") Fire Hydrants
- Letter addressed to Town Manager from Attorney Kraus dated 5/16/12 re Fire Hydrants

***NOTE: In accordance with 801 CMR 1.02 (attached), the Presiding Officer shall arrange for verbatim transcripts of the proceedings to be supplied at cost to any party upon request, at the party's own expense. All evidence and testimony at the hearing shall be recorded either stenographic ally, or by Electronic Medium.**

At 8:44 PM, Board voted by Roll Call to go into Executive Session to discuss strategy relative to Pending Litigation – Dispute with Mashpee Wampanoag Tribe and not to return into Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; S. McKinnon, Yes; A. Rullo, Yes. Ended at 9:35 PM.



Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

5.26.12 Hillcrest

Name (Appearance Sheet) Address/Organization

Diane Volkman

1170 Pittsford Victor Rd, Morgan
Pittsford, NY 14534
Mgmt

FOCUS™ Terms standard adjudicatory rules Search Within Selected Documents

Advanced Source: Legal > /.../ > MA - Code of Massachusetts Regulations and Massachusetts Register
TOC: Code of Massachusetts Regulations > TITLE 801: EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE > CHAPTER 1.00: STANDARD ADJUDICATORY RULES OF PRACTICE AND PROCEDURE > 1.02: Informal/Fair Hearing Rules

Terms: standard adjudicatory rules (Edit Search | Suggest Terms for My Search)

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801 CMR 1.02

CODE OF MASSACHUSETTS REGULATIONS

*** This document reflects all regulations in effect as of August 6, 2010 ***

TITLE 801: EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
CHAPTER 1.00: STANDARD ADJUDICATORY RULES OF PRACTICE AND PROCEDURE

801 CMR 1.02 (2010)

1.02: Informal/Fair Hearing Rules

(1) Preamble. 801 CMR 1.02 of the Standard Adjudicatory Rules of Practice and Procedure is a self-contained segregable body of regulations of general applicability for proceedings in which formal rules cannot be utilized or federal fair hearing procedures are applicable. An Agency must determine for any class of hearings whether to hold hearings under 801 CMR 1.01, Formal Hearings, or 801 CMR 1.02. Agencies shall determine based on such factors as: the volume of cases held; whether claimants are represented by counsel; the complexity of the issues; or the applicability of Federal fair hearings procedures. All notices from which an Adjudicatory Proceeding can be claimed shall state which rules apply, whether formal under 801 CMR 1.01, or informal under 801 CMR 1.02. In addition, all notices shall contain a notice printed in English, Spanish, Portuguese, Italian, Greek, French and Chinese that informs the reader that the document is important and should be translated immediately.

(2) Scope, Construction and Definitions.

(a) Scope and Construction. 801 CMR 1.02 shall apply to Adjudicatory Proceedings involving review of action or inaction of an Agency or of a Veterans' agent with respect to a claim for benefits or services. Without intending to limit its applicability, 801 CMR 1.02 shall apply to all hearings held pursuant to the fair hearing requirements of 7 CFR 273; 42 USC 503 (a)(3) and M.G.L. c. 151A, §§ 39 and 41. 801 CMR 1.02 shall also apply to the hearing procedures of any other Agency which is, in whole or in part, governed by the requirements of similar law, and to classes of hearings of any Agency for which 801 CMR 1.02 establishes minimum procedural protections for applicants or recipients in such proceedings, and shall in no way be construed to limit the protections afforded by state or federal law.

(b) Definitions: Refer to all definitions included in M.G.L. c. 30A and in 801 CMR 1.01. In addition, the following words when used in 801 CMR 1.02 shall have the following meanings:

Applicant. An individual who has applied or been denied the opportunity to apply for benefits available under any program administered by an Agency, H.C.C. or veterans' agent appointed pursuant to M.G.L. c. 115, § 3.

ASAP. An Aging Services Access Point organized to provide services pursuant to a contract with The Executive Office of Elder Affairs.

Benefits. Any benefit to an individual or service administered or rendered by an Agency.

Case Manager. The Person who performs case management services.

DALA. The Division of Administrative Law Appeals.

Division of Hearings (DTA). The Division of Hearings for the Department of Transitional Assistance.

Electronic Medium. Any device used to preserve or transmit information electronically, including but not limited to telephone, e-mail and facsimile.

Hearing. An Adjudicatory Proceeding held under these Informal rules at 801 CMR 1.02.

Institution. Any licensed hospital, nursing home or public medical institution.

Presiding Officer. The individual(s) authorized by law or designated by the Agency or DALA to

conduct an Adjudicatory Proceeding.

Recipient. A Person or family receiving benefits under a program administered by an Agency, ASAP, or Veterans' Agent pursuant to M.G.L. c. 115, § 3.

(3) Representation.

(a) Appearance. An individual may appear in his or her own behalf, or may be accompanied, represented and advised by an Authorized Representative.

Appearance

(b) Notice. An Authorized Representative shall appear by filling a written notice with the Agency or Presiding Officer. Notice shall contain the name, address and telephone number, as well as facsimile number and e-mail address if available, of the Authorized Representative and of the Party represented, and may limit the purpose of the appearance. The filing by an attorney of any pleading, motion or other paper shall constitute an appearance by the attorney who signs it, unless the paper states otherwise.

(c) Powers. An Authorized Representative may exercise on a Party's behalf any rights and powers vested in that Party by 801 CMR 1.00.

(4) Time. Papers shall be filed according to the procedures set forth in 801 CMR 1.01(4)(a) through (e).

(5) Filing. All papers filed with the Agency, its designee, or DALA should contain the name, address, telephone number and signature of the sender or Authorized Representative. Papers which do not contain all of this information shall be accepted for filing if they contain sufficient identifying information so they can be placed in the appropriate file.

(6) Initiation of Adjudicatory Proceedings.

(a) Notice of Agency, ASAP, or Veterans' Agent Action.

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1. Requirements. Notice of action by an Agency, ASAP or Veterans' agent to deny, terminate, reduce, or suspend services or Benefits to a Recipient or to deny Benefits or services to an applicant shall include but not be limited to:

- a. clear and plain statement of the action to be taken;
- b. the date on which the action shall become effective;
- c. an explanation of reasons for the action;
- d. the regulation or other legal authority on which such action is based;
- e. the telephone number and address where further information may be obtained;
- f. an explanation of the applicant's or recipient's right to request a hearing (including the time limits and manner for request);
- g. a copy of the form used to request a hearing;
- h. an explanation of the circumstances, if any, under which Benefits or services will continue pending an Adjudicatory Proceeding;
- i. an explanation of the right to be represented, including if applicable, the availability of assistance; and
- j. the mailing address, telephone number and office hours of the office responsible for receiving and/or hearing appeals from the Agency action.

2. Exceptions for ASAP.

- a. If a Recipient voluntarily assents in writing to a termination, reduction or suspension of services, the ASAP shall implement the change in service in accordance with the terms of that assent, without sending notice of action. ASAP shall use a written assent format provided by Elder Affairs.
- b. If a recipient is hospitalized or otherwise institutionalized, ASAP shall suspend the Recipient's services as soon as feasible, without sending notice of action. Upon discharge, the ASAP shall reassess the Recipient's service needs.
- c. If an ASAP has actual knowledge that a Recipient is temporarily absent from the ASAP service area and is therefore unavailable to receive services, the ASAP may suspend services for the period of the Recipient's absence without sending notice of action.

(b) Grounds for Appeal. A right to request an Adjudicatory Proceeding shall arise when controversy exists which by law or Agency regulation requires an Adjudicatory Proceeding, or

when a Person is aggrieved by an Agency, ASAP, or veterans' agent action or failure to act.

(c) **Adjudicatory Proceedings - How Taken.** A Person entitled to an Adjudicatory Proceeding or his or her Authorized Representative must request a hearing in writing in the form prescribed, or on the form provided by the Agency or the Presiding Officer, and must sign and date the request. At the discretion of the Agency, the request for hearing may be filed by Electronic Medium. The requesting Party must file with the Agency or the Presiding Officer within the time limit prescribed by law. In the absence of any time limit, the requesting Party must file within 60 days after receipt of the notice of action or, for failure to act, within 120 days from application, unless the Agency has established a longer period.

(d) **Continuation of Benefits Pending Appeal.** Benefits shall continue when required by applicable statute or regulation, if the Recipient or Institution has met the standard set forth by applicable statute or regulation.

(e) **Termination of Continued Benefits.** Benefits continued in accordance with 801 CMR 1.02(6)(d) shall be terminated if:

1. a determination is made at the hearing that the sole issue is a challenge to the validity of a particular law or regulation; or
2. a change affecting the Recipient's Benefits occurs subsequent to the Adjudicatory Proceeding request which makes the previously filed Adjudicatory proceeding request moot, and the Recipient fails to request a hearing on the subsequent matter within the applicable time period; or
3. a determination is made at the hearing that the Agency action to terminate Benefits was correct.

(7) Special Requests.

(a) **Withdrawals.** With the approval of the Agency or the Presiding Officer, a Petitioner may withdraw his request for an Adjudicatory Proceeding in a writing signed by the Petitioner or his or her Authorized Representative.

(b) **Emergency Scheduling.** The Agency or the Presiding Officer, on its own or by request of a Party, may for good cause order an accelerated hearing.

(c) **Other Requests.** A Party may request rulings or relief in writing at any time or orally during a hearing. After providing notice to the other Parties, the Agency or Presiding Officer shall rule on the request with or without a hearing.

(8) Discovery.

(a) **Generally.** Parties to an Adjudicatory Proceeding are encouraged to engage in voluntary discovery.

(b) **Examination of File.** At any time after an Adjudicatory Proceeding has been requested, a Party and its Authorized Representative shall have adequate access to and an opportunity to examine and copy or photocopy the entire content of his case file and all other documents to be used by the Agency, ASAP, or Veterans' Agent at the hearing. The cost of photocopying shall be determined from time to time by the Executive Office for Administration and Finance.

(9) Group Hearings.

(a) **Purpose.** A group hearing may be held if it appears from the request for a hearing or other written information submitted by the Parties that the matters involve questions of fact which are identical, or the sole issue involves federal or state law or policy, or changes in federal or state law. For these purposes, a change in federal or state law shall mean any change in standards governing eligibility or limitation in the amount of time for which Benefits or services are provided, affecting a class of Recipients or Applicants and promulgated by state or federal law or regulation.

(b) **Severance of Individual Hearing.** If, at any stage of such group hearing, the Presiding Officer finds that any individual appeal involves questions of fact unique to the individual Petitioner, such as the applicability of the law change to such Petitioner, the Presiding Officer shall sever the appeal and hear it individually.

(10) Hearings.

(a) **Adjustment of Matters Related to Hearing.** A filed request for hearing does not prohibit an adjustment in the matters at issue prior to the hearing. If as a result of an adjustment, the Petitioner is satisfied and wishes to withdraw all or part of his appeal, he or she shall file a signed withdrawal in writing with the Agency or the Presiding Officer in accordance with 801 CMR 1.02(7)(a). A hearing shall not be delayed or canceled because of a proposed adjustment under consideration unless the Petitioner requests a delay or cancellation.

(b) **Submission Without a Hearing.** The Petitioner may elect to waive a hearing and to submit any

documents without appearing at the time and place designated for the hearing. Submission of a case without a hearing does not relieve the Parties from supplying all documents supporting their allegations or defenses. Affidavits and stipulations may be employed to supplement other documentary evidence in the record.

(c) Notice of Hearing. The notice of the hearing must include the date, time, and place of the hearing, an explanation of the hearing procedure and an explanation of the Party's right to have an Authorized Representative present. Unless already provided in the notice of action under 801 CMR 1.02(6)(a)(1), the notice shall provide sufficient notice of the issues involved so that the Parties may have a reasonable opportunity to prepare and present evidence and argument. If the issues cannot be fully stated in advance of the hearing, they shall be fully stated as soon as practicable. In all cases of delayed statement, or where subsequent amendment of the issues is necessary, sufficient time shall be allowed after full statement or amendment to afford all Parties reasonable opportunity to prepare and present evidence and argument respecting the issues.

✓ Notice of Hearing

(d) Dismissals for Failure to Appear. If the Petitioner fails to appear at the hearing, the Presiding Officer shall notify the Petitioner in writing that a default will be entered against him unless within ten days from the date of said notice he files a motion for a rescheduled hearing, and the motion is granted. In the event a Petitioner fails to appear at the time and place of a granted rescheduled hearing, the appeal shall be dismissed and shall include an explanation of the manner in which dismissals may be vacated. Any motions to vacate a dismissal must be in writing, signed by the Petitioner or his Authorized Representative, and directed to the Presiding Officer. Dismissals shall be vacated only for good cause shown.

(e) Dismissal for Failure to Prosecute. The Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2.

(f) Presiding Officer's Duties and Powers at Hearings. The Presiding Officer shall have the duty to conduct a fair hearing to ensure that the rights of all parties are protected; to define issues; to receive and consider all relevant and reliable evidence, including examining witnesses and authorizing the Agency to pay for an independent medical examination; to exclude irrelevant or unduly repetitious evidence; to ensure an orderly presentation of the evidence and issues; to ensure a record is made of the proceedings; to reach a fair, independent and impartial decision based upon the issues and evidence presented at the hearing and in accordance with the law; and to reconvene the hearing with notice to the parties at any time prior to the decision being issued.

Presiding Officer

(g) Rights and Duties of Parties.

1. Each Party may present his or her own case, or may be assisted by an Authorized Representative at his or her expense. The Party, or Authorized Representative, shall have a right to:

- a. present witnesses;
- b. present and establish all relevant facts and circumstances by oral testimony and documentary evidence;
- c. advance any pertinent arguments without undue interference;
- d. question or refute any testimony including an opportunity to cross-examine adverse witnesses; and
- e. examine and introduce evidence from his or her case record, and examine and introduce any other pertinent documents.

2. The Agency, in addition to the rights and duties above, at 801 CMR 1.02 (10)(g)1.:

- a. is responsible for submitting at the hearing all documented information on which its action or motions are based;
- b. shall introduce into the hearing only material which pertains to the issues; and
- c. may designate and may send a staff person to the hearing to testify as to its action or inaction. In cases involving the judgment of the Case Manager relative to reduction, suspension, or termination of services, the Case Manager, or a person authorized to represent the Case Manager, shall be present at the hearing.

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(h) Evidence.

1. General. The Agency or Presiding Officer shall admit and consider evidence in accordance with M.G.L. c. 30A, § 11(2).

2. Presented at Hearing. Except as the Agency, its designee, or Presiding Officer may otherwise order, any documentary evidence on which a decision is based must be presented either at the hearing or, in cases submitted without a hearing pursuant to 801 CMR 1.02 (10)(b), before notification that the case is ready for decision. Copies of any evidence shall be provided to all

copies provided

other Parties.

3. Oral Testimony. Oral testimony shall be given under oath or affirmation. Witnesses shall be available for examination and cross-examination.

*oath
cross-exam*

4. Stipulations. Stipulations may be used as evidence in accordance with the provisions of 801 CMR 1.01(10)(b).

5. Additional Evidence. The Agency or the Presiding Officer may in any case require any Party or the Agency, with appropriate notice to all other Parties, to submit additional evidence on any relevant matter.

(i) Subpoenas. The Agency or the Presiding Officer may issue, vacate or modify subpoenas in accordance with M.G.L. c. 30A, § 12. Parties may issue subpoenas in accordance with M.G.L. c. 30A, § 12(3). Witnesses may petition the Agency to vacate or modify subpoenas in accordance with M.G.L. c. 30A, § 12(4).

(j) Scheduling. Upon receipt of a request for a hearing, the Agency or Presiding Officer shall within a reasonable time register the appeal, set a date and designate a site for a hearing, and notify all Parties. If the Petitioner has a disability or is otherwise unable to appear at the designated site, the Petitioner may request that the hearing be held at another convenient location. The Agency or Presiding Officer may grant such request.

(k) The Hearing Record.

1. Contents of the Record All documents and other evidence offered or taken shall become part of the record, which shall be the exclusive basis of the decision. The record shall at reasonable business hours be available at the offices of the Agency or other designated location for inspection by the parties.

2. Stenographic or Taped Record. All evidence and testimony at the hearing shall be recorded either stenographically or by Electronic Medium. The Presiding Officer shall arrange for verbatim transcripts of the proceedings to be supplied at cost to any Party upon request, at the Party's own expense. The Agency by rule may elect to supply a copy of the tape, disc or other audio-visual preserving medium employed at the proceeding to record its events in lieu of a verbatim transcript at the Party's own expense. The Agency or the Presiding Officer may permit any Party to maintain his or her own stenographic or electronic record.

(l) Continuances. The Agency or the Presiding Officer may continue a hearing by notifying all parties and authorized representatives of the date, time and place of the continued hearing.

(11) Decisions. Upon completion of the hearing, the Agency or Presiding Officer shall render a written decision as promptly as administratively feasible, in accordance with M.G.L. c. 30A, § 11(8).

*Decision
30A/11(8)*

(12) Appeals.

(a) General. Within the time prescribed by law or regulation, or within ten days where no other time limit is prescribed, any Party entitled to further administrative review of the decision at an Agency which has a review process, may file a request for review with the appropriate reviewing Agency. Upon receipt of motion for administrative review, the reviewing Agency shall notify all other parties of any hearing scheduled.

(b) DALA Appeals. For any decision adverse to a Petitioner, DALA shall send the Petitioner a copy of the decision with a notice informing the Petitioner of his or her right to appeal. The notice should specify:

1. that the Petitioner must make a written request for appeal within 15 days of the date DALA mailed the notice;
2. that the Petitioner must send the written request for hearing to DALA;
3. that the Petitioner must ask for a new hearing in order to have a new hearing; and
4. that unless the Petitioner requests a new hearing, the appeal shall be limited to a review of the record to determine if the decision was supported by substantial evidence.

REGULATORY AUTHORITY

801 CMR 1.00: M.G.L. c. 30A, §§ 9 and 10.

RENT CONTROL HEARING

(Continued from 4/25/12)

HILLCREST MHC, LLC MOBILE HOME PARK

PETITION FOR RENT INCREASE

WEDNESDAY 5/30/12

“TENANT’S ASSOCIATION” EXHIBITS



MIDDLEBOROUGH FIRE DEPARTMENT



LANCE M. BENJAMINO
Fire Chief

125 North Main Street
Middleborough, Massachusetts 02346

Tel: 508-946-2461
Fax: 508-946-2464

Robert Kraus
Kraus & Hummel LLP
99A Court Street
Plymouth, MA 02360

May 24, 2012

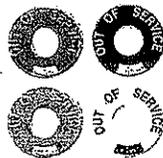
Re: Hillcrest MHC LLC (the "Park") Fire Hydrants

Dear Attorney Kraus,

In response to your letter dated May 16, 2012 requesting direction on "how best to demonstrate and show that the fire hydrants located within the Park are not operative". I refer back to the letter I sent to you dated June 23, 2011 (enclosed) which reads in part;

"With the best interest of public safety and property conservation in mind, the most sufficient manner to address the issue and ensure proper fire flow from the hydrant is to replace the meter and/or piping. In the meantime, in an effort to reduce the false sense of security to the residents of the park and reduce the possibility of a firefighter connecting to the insufficient hydrant, I respectfully request you install an "Out Of Service" indicator on the hydrant located on Robert Drive within Hillcrest Mobile Home Park, Middleborough, MA 02346.

The Middleborough Water Department and the Middleborough Fire Department currently endorse two types of "out-of service" indicators, an out of service steamer ring or an out of service bag. Both of these can be purchased from E.J. Prescott in Avon, MA or a vendor of your choice.



Respectfully,


Lance Benjamino
Chief of Department

KRAUS & HUMMEL LLP

99A COURT STREET
PLYMOUTH, MASSACHUSETTS 02360
(508) 747-4200
(508) 747-0788 FAX
WWW.KRAUSHUMMEL.COM

May 16, 2012

Via Fax – (508) 946-2320
and First Class Mail

Charles J. Cristello
Town Manager
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02347

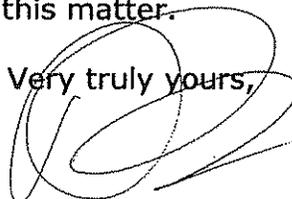
Re: Hillcrest MHC LLC / Fire Hydrants

Dear Mr. Cristello:

Based upon, and pursuant to the last meeting with the Rent Control Board regarding Hillcrest Mobile Home Park (the "Park"), we are requesting direction as to how best to demonstrate and show that the fire hydrants located within the Park are not operative. We understand that there is a system or method called "Red Bagging" that would cover the hydrants so that there would be no confusion in the Park. We are simply looking for direction from you and the Fire Department as to how best to do this and we are prepared to engage the services of the Fire Department or others, at your direction, as to how best to accomplish this feat. Please advise at your earliest possible opportunity.

Thank you for your attention to this matter.

Very truly yours,



Robert Kraus

RK/kl

cc: Client
Lance Benjamino, Fire Chief 

RENT CONTROL HEARING

(Continued from 4/25/12)

HILLCREST MHC, LLC MOBILE HOME PARK

PETITION FOR RENT INCREASE

WEDNESDAY 5/30/12

HILLCREST MHC, LLC "PETITIONER" EXHIBITS

Exhibit # 1



KRAUS & HUMMEL LLP

99A COURT STREET
PLYMOUTH, MASSACHUSETTS 02360

(508) 747-4200
(508) 747-0788 FAX
WWW.KRAUSHUMMEL.COM

Memorandum

TO: **Middleborough Rent Control Board**
FR: Robert Kraus, Esq. 
DE: May 30, 2012
RE: Update to Petition for Rent Increase

Dear Sirs:

This memorandum supplements our letter to the Board dated May 24, 2012; all of the information presented here and in the May 24, 2012 correspondence are intended for and we request that it be added to the record of these proceedings.

Please note that we have ordered the ring devices recommended by the Fire Chief to signify that the hydrants in the Park are not functioning. This morning, we received information from Mr. Silva of the water department regarding the model and cost for replacing the water meter and are taking steps to address that immediately¹.

We have provided information to the Board that 96 units² constitute the Park for purposes of calculating rents.

Based upon the information that we have provided, the calculations for rent increase:

Hillcrest Rent Calculation

<u>Units</u>	<u>96</u>
<u>Expenses</u>	<u>\$231,074.00</u>
<u>Interest rate/ rate of return</u>	<u>0.07 (7%)</u>
<u>Fair Market Value</u>	<u>\$1,760,400</u>

monthly rent: **\$307.55**

¹ Petitioner's position is that given the cost of the recommended meter at \$4,268.92 plus labor, the cost of same shall constitute a capital expense for the purposes of this rent control petition.

² This excludes the house on the site, but includes the manager's property.

Exhibit 3

KRAUS & HUMMEL LLP

99A COURT STREET
PLYMOUTH, MASSACHUSETTS 02360

(508) 747-4200
(508) 747-0788 FAX
WWW.KRAUSHUMMEL.COM

May 24, 2012

Via Fax - (508) 946-2320 & Email

Mr. Charles J. Cristello

Town Manager
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02347

Re: Hillcrest MHC LLC - Rent Control Petition

Dear Mr. Cristello:

In anticipation of the meeting of the Rent Control Board on May 30, 2012, I am hereby providing further information to you and the tenants.

Attached hereto as **Exhibit A** is the rent roll for the community, showing precisely the number of units comprising the Park.

Exhibit B hereto is the loan balance on Morgan MHC, LLC, of which \$1,618,876 represents the loan for the Hillcrest.

Exhibit C represents written answers to ten (10) questions posed by the Board and residents during the first hearing.

As you know, we have written to you and the Fire Chief relating to the fire hydrants in the Park. I have spoken with Mr. Silva and he understands that we want replace the present meter with a similar, non-fire suppressant one; my understanding from him is that he is obtaining the information for us and will so provide it. Any such cost would be a capital improvement under our petition.

As for the questions posed by the Tenants, we believe that during the hearing we addressed most of them. We are happy to address any further questions prior to the time of the hearing in order to make it as effective as possible. As I indicated at the last hearing, Ms. Diane Volkmar and Mr. Kevin Morgan will be present to respond to inquiries from the Board.

Thank you for your attention to this matter.

Very truly yours,

Robert Kraus

RK/kj

cc: Client
Residents Association (79 East Grove Street, Middleborough, MA 02346)

RENT ROLL - SQ. FT.
HILLCREST MHC LLC

As Of: 5/1/2012
Sorted By Unit

HOUSE	Unit	Unit Class	Square Footage	Resident Name	Days Vac	Move-In Date	Lease Begin Date	Lease End Date	Deposit On Hand	Market Rent	Market Rent /SqFt	Actual Rent	Actual Rent/SqFt
001	HOUSE	LEASED	0	VACANT	101				\$0.00	\$1,000.00	\$0.00	\$171.00	\$0.00
001	HOUSE	LEASED	0	BERGERON,JAMES		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
002	HOUSE	LEASED	0	LEVEILLE,ROLAND		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
003	HOUSE	LEASED	0	HORSMAN(OWNER);TAMM		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
004	HOUSE	LEASED	0	DICKINSON,BEVERLY		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
005	HOUSE	LEASED	0	RAY,RICHARD		10/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
006	EMPL	LEASED	0	WADSWORTH,ELTON		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
007	LEASED	LEASED	0	SPARROW,ANNA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
008	LEASED	LEASED	0	CELS,ADELAIDA		07/30/11	07/30/11	07/29/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
010	LEASED	LEASED	0	HARRISON,MARIE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
011	LEASED	LEASED	0	ROLLINS,BETTY		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
012	LEASED	LEASED	0	DACOSTA,MILDRED		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
013	LEASED	LEASED	0	HORSMAN (2) (OWNER);TA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
014	LEASED	LEASED	0	CHADWICK,NANCY		11/01/08	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
015	LEASED	LEASED	0	LETENDRE,CECILE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
016	LEASED	LEASED	0	WILLSON,CORINNA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
017	LEASED	LEASED	0	GARLAND SR.;CHESTER		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
018	LEASED	LEASED	0	BUNAWICZ,ALFRED		01/12/12	01/12/12	01/11/17	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
019	LEASED	LEASED	0	GOVEL,ROBERT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
020	LEASED	LEASED	0	JEE,FRANCIS		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
021	LEASED	LEASED	0	STODDARD,PATRICIA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
022	LEASED	LEASED	0	FREITAS,IRENE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
023	LEASED	LEASED	0	PETTY,BRADFORD		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
024	LEASED	LEASED	0	WILMOTH,DORIS		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
025	LEASED	LEASED	0	DICOSTANZO,MARILYN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
026	VACANT	VACANT	0	DOWN UNIT					\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
027	LEASED	LEASED	0	WARE,ALAN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
028	LEASED	LEASED	0	BRIDGWOOD,DAVID		03/01/12	03/01/12	02/28/17	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
029	LEASED	LEASED	0	STEWART,EVELYN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
030	COMP_OWNED	COMP_OWNED	0	DOWN UNIT					\$0.00	\$183.00	\$0.00	\$183.00	\$0.00
031	LEASED	LEASED	0	CROWLEY,DOUGLAS		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
032	LEASED	LEASED	0	CAMERON,ALAN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
033	LEASED	LEASED	0	BAKER,JANET		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
034	LEASED	LEASED	0	CAPEAU,BEVERLY		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00

Unit	Unit Class	Square Footage	Resident Name	Days Vac	Move-in Date	Lease Begin Date	Lease End Date	Deposit On Hand	Market Rent	Market Rent /Sqft	Actual Rent	Actual Rent/Sqft
035	LEASED	0	PASTA,MARJORIE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
036	LEASED	0	FINNERAN,DONNA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
037	LEASED	0	JOHNSON,PATRICIA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
038	LEASED	0	MCCARTHY (SUBLET); G		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
039	LEASED	0	EATON,CHARLES		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
040	LEASED	0	SEARS JR,HERBERT		04/01/08	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
041	LEASED	0	FERGUSON,ANGUS		11/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
042	LEASED	0	TRIEGER,IRENE		10/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
043	LEASED	0	BAKER,STEPHEN		08/01/09	08/01/09	07/31/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
044	LEASED	0	COLSON,HERBERT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
045	LEASED	0	GRAVELIN,CAROLYN		07/17/09	07/17/09	07/16/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
046	LEASED	0	BOOKER,GARY		01/14/11	01/14/11	01/13/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
047	LEASED	0	GARRIDO,VINCENT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
048	VACANT	0	VACANT	254				\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
049	LEASED	0	BRADLEY,CAROL		06/01/11	06/03/11	05/02/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
050	LEASED	0	SHEALY,MARILYN		07/01/08	07/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
051	LEASED	0	DENAULT,PETER		12/05/09	12/05/09	12/04/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
052	LEASED	0	CHAPMAN,PATRICIA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
053	LEASED	0	PILLA,CECILIA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
054	LEASED	0	WALSH,TERESA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
055	LEASED	0	RUSCO,ROSE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
056	LEASED	0	GILMAN,MARGARET		02/01/08	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
057	LEASED	0	ALDEN, SR,DONALD		08/28/10	08/28/10	08/27/15	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
058	LEASED	0	ROMA,ELIZABETH		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
059	LEASED	0	SHEPARD,NELSON		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
060	LEASED	0	DACEY,JOANNE		11/23/10	11/23/10	11/22/15	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
061	LEASED	0	KERR,GARY		01/30/09	01/30/09	01/29/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
062	LEASED	0	MCCOMBES,JOHN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
063	LEASED	0	ROBBINS,JANE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
064	LEASED	0	PRETT,DANA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
065	LEASED	0	BARRIAULT,OWNER,SHIR		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
066	LEASED	0	CUDDY JR,FRANCIS		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
067	LEASED	0	STEELE,ROSE MARIE		06/01/08	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
068	LEASED	0	TURNBULL,THOMAS		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
069	LEASED	0	THAYER,RICHARD		10/18/11	10/18/11	10/17/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
070	LEASED	0	COSMO,JOYCE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
071	LEASED	0	SEARS SR,HERBERT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
072	LEASED	0	EATON,CHARLENE		07/01/09	07/01/09	06/30/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
073	LEASED	0	BLACKDEN,WILLIAM		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00
074	LEASED	0	BANGS,ALBERT		08/17/10	08/17/10	08/16/15	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00

Unit	Unit Class	Square Footage	Resident Name	Days Vac	Move-In Date	Lease Begin Date	Lease End Date	Deposit On Hand	Market Rent	Market Rent /SqFt	Actual Rent	Actual Rent/SqFt	
075	LEASED	0	CORMIER, JR., JOHN		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
076	LEASED	0	BROWN, RONALD		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
077	LEASED	0	ULIANELLI, JOSEPH		07/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
078	LEASED	0	BORGES, DIANNE		05/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
079	LEASED	0	RICHARD (OWNER), JAMES		10/08/10	10/08/10	10/07/15	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
080	LEASED	0	RICHARD, JOSEPH		08/01/07	10/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
081	LEASED	0	EATON, DIANE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
082	LEASED	0	DUBE, THERESA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
083	LEASED	0	HAYWARD SR, ROBERT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
084	LEASED	0	LINDFORS, BARBARA		01/01/05	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
085	LEASED	0	COPPOLA, FRANCES		12/01/08	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
086	LEASED	0	FRAZIO, RICHARD		03/28/11	03/28/11	03/25/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
087	LEASED	0	GATES, DONNA		08/01/09	08/01/09	07/31/14	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
088	LEASED	0	KUPCHUN, WILLIAM		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
089	LEASED	0	TUBMAN, JR., KENNETH		06/21/11	06/21/11	06/20/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
090	LEASED	0	IBBITSON, RAYMOND		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
091	LEASED	0	CHIODI, VIOLETTA		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
092	LEASED	0	GALANTE, RALPH		12/09/11	12/09/11	12/08/16	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
093	LEASED	0	VACANT	24				\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
094	LEASED	0	BEAUDREAU, ROBERT		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
095	LEASED	0	MCCABE, FRANCES		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
096	LEASED	0	FERRERA, DALE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
097	LEASED	0	MINCKLE, ISABELLE		01/01/07	12/01/08	11/30/13	\$0.00	\$171.00	\$0.00	\$171.00	\$0.00	
Totals:								\$0.00	\$17,428.00		\$15,732.00		
Total Number Of Units:								97	Total Sq. Ft.:	0	Average rent per unit:	\$179.67	\$171.00
Occupied Units:								92	Average Sq. Ft.:	0	Average Rent per square foot:	\$0.00	\$0.00

Rent Roll has 97 Total Number of Units, 1 House, Unit 26 - Vacant, Unit 30 - home on lot to be demolished, Unit 48 - Vacant, Unit 93 - Tenant home is for sale on lot. Total lots = 96 + 1 house = 97

"B"

65



International Bank of Commerce
3817 NW Expressway, Suite 100
Oklahoma City, Oklahoma 73112

00351 0000264 1R 1216A
MORGAN MHP MASS LLC
PO BOX 1660
PITTSFORD NY 14534

RECEIVED
DEC 9 3 2011

NOTICE DATE: 12/16/11

Loan Payment Notice

Loan Balance	6,130,198.34	CL
Principal Due	10,830.61	
Interest Due	32,992.39	
Escrow Due	14,182.00	
Charges/Fees Due	10,342.62	
Past Due Amt	174,018.00	
*Total Amt Due	242,365.62	

This is to inform you that a payment on your loan will be due as shown above. Please remit the Amount Due before the Due Date. PLEASE RETURN THIS NOTICE WITH YOUR PAYMENT.

DUE DATE: 01/01/2012
Loan Number: 8700301104

ALL BANKS MEMBER FDIC

⑆303072793⑆ 8700301104⑆ 725

Hillcrest MHC Rent Control Board Hearing (April 25, 2012) Responses:

1. 2012 Budget for Management Fee was calculated based on anticipated cash receipts for 2012 which would include the proposed rent increase.
2. The 3 generators purchased in January 2011 (\$803.06) were in case of any emergency needed in the park. Some tenants are oxygen dependent and we wanted to be able to provide a generator if there was a need. Two are still in their box, unused.
3. On the list for Capital Improvements #2, the board noted they wanted an explanation for \$3,038.57 in printer purchase. This amount represents the total activity for the month of February 2011, not the amount purchased for Hillcrest MHC. The itemized list shows \$487.30 purchased for a printer for Hillcrest MHC. The invoice is in the binder, purchased through PC Connection.
4. Investor/Other Interest expense went from \$1,747.73 in 2010 to \$41,555.97 in 2011. In conversation with our accounting firm, it was determined that the intercompany loans on the books and the loans due to Robert Morgan should incur interest expense annually, based on the current bank rates. It was decided we would not go back in time and charge for every year, but book this every year going forward. The same applies for any intercompany loans on the books that Hillcrest has loaned out – the interest income is booked in 2011 and will be booked going forward.
5. Non-recurring expense in 2010 - \$11,072.63. 2007 through 2010 Bad Debt written off the books as uncollectible.
6. Accrued Expenses Detail – accrued mortgage interest expense for December due in January 2012 (\$8,663.29), intercompany loan interest (\$41,393.17) and deferred interest earned (\$18,111.30).
7. Current portion of Long Term Debt - \$1,609,702.28 + \$9,174.09 (in A/P) = \$1,618,876.37 as of 12/31/2011. (Due to IBC – loan matures 12/1/2012). The loan is with IBC @ 6.25% interest. Side note - loan is split between Hillcrest (26.4%), Wheel Estates (33.5%) and Spruces (40.1%). Percentages are based on land value at time of acquisition. Total principal due on note for all 3 properties as of 12/31/2011 = \$6,130,198.34. Mortgage statement as of December 2011 is attached.
8. There is not a 2nd mortgage on the property.
9. Asset on the books - Furniture & Fixtures - \$4,970:
 - a. \$1,425 (carpeting) purchased in March 2005 - installed in the home
 - b. \$3,545 (furnace) purchased in October 2004 – installed in the home
10. Clarification on # of units on property – Rent Roll has 97 units. 1 unit is the 3 bedroom home and 96 units are rentable lots (manager's home is included in this number). See notes on the attached rent roll.

Exhibit 4

FAX TRANSMITTAL COVER LETTER

TO : Robert

FROM : Joe Silva

DATE : 5/30/12

PAGES : 4 (including cover)

SUBJECT :

KRAUS & HUMMEL LLP

99A COURT STREET
PLYMOUTH, MASSACHUSETTS 02360
(508) 747-4200
(508) 747-0788 FAX
WWW.KRAUSHUMMEL.COM

May 17, 2012

Via Fax – (508) 946-2320
and First Class Mail

Charles J. Cristello
Town Manager
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02347

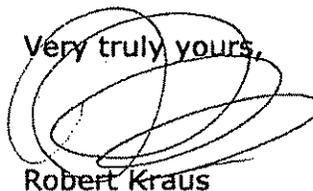
Re: Hillcrest MHC LLC / Water Meter

Dear Mr. Cristello:

Based upon, and pursuant to the last meeting with the Rent Control Board regarding Hillcrest Mobile Home Park (the "Park"), we desire to install an operating water meter consistent with the one that we presently have in place in the Park -- that is not a fire suppression meter, which as we discussed numerous times over a long period of time would potentially destroy the piping system within the Park. I will contact Joseph Silva, the Water Superintendant directly and we will arrange expeditiously to install same. Please note that any such cost of the installation of the water meter we would be seeking a capital improvement cost passed through to the residents based upon the petition that we presently have before the Rent Control Board. Please contact me should you have any questions.

Thank you for your attention to this matter.

Very truly yours,



Robert Kraus

RK/kl

cc: Client
Joseph Silva, Water Superintendant



WATER and WASTEWATER SUPPLIES
 36 Hudson Road (Route 27) Sudbury, MA 01776-2039
 Phone: 978-443-2002 800-225-4616
 Fax: 978-443-7600 www.tisales.com

Quote	QTE0003797
Quoted To	Joe Silva
Date	05/22/2012

Sold To: Middleborough Water Dept.
 48 Wareham St.
 Middleborough MA 02346-2450

Ship To: Middleborough Water Dept.
 48 Wareham St.
 Middleborough MA 02346-2450

Customer Number	Telephone	Fax	Job Location	Job Name	Account Manager
MIDD4	(508) 946-2482	(508) 946-2484			Joe Coulter
Expires	Estimated Delivery	Freight	Terms	Master Number	
07/22/2012	In Stock	Allowed	NET 30	33225	
Item Number	Description	Quantity	Price	Extension	
NCOMP4PRF3	4" Neptune Tru/Flo Compound Meter ProRead Cubic Feet 6 Whl	1	\$3,003.74	\$3,003.74	
KIT-NSTRAINER4	4" Neptune Strainer With (1) Gasket & (8) Bolts	1	\$998.52	\$998.52	
R900V3P06	R900 RF Meter Interface Unit V3 Pit Style W/6ft of Wire	2	\$133.33	\$266.66	
Quoted By: Travis Merrill					
			Merchandise	\$4,268.92	
			Other Charges	\$0.00	
			Tax	\$0.00	
			Total Due	\$4,268.92	

If you are in agreement with this quote and wish to order, please sign, date, and fax back to 978-443-7600

Signature: _____ Date: _____

Hi Joe,

Here is the quote for the Neptune Compound meter. I faxed the Fire Service quote over before and this one but I don't think this one made it thru.

So here is the 4" Compound meter, Strainer and radios that Joe Coulter asked me to send to you. Please review and contact Joe Coulter or us with any questions.

Best regards,
Travis
Ti-SALES inc.
978-443-2002

HILLCREST MHC LLC
Comparative Income Statement

Exhibit 5

May 22, 2012
4:02 pm

	2008 YTD	2009 YTD	2010 YTD	2011 YTD
RENTAL INCOME	\$ 217,640.99	\$ 203,760.90	\$ 204,680.90	\$ 203,466.73
FEES, CHARGES & FORFEITURES	340.00	402.00	664.45	864.90
OTHER INCOME				400.00
MISCELLANEOUS REVENUE	<u>183.00</u>		<u>860.84</u>	
TOTAL REVENUE	\$ 218,163.99	\$ 204,162.90	\$ 206,206.19	\$ 204,731.63
EXPENSES				
ELECTRICITY	\$ 2,538.22	\$ 1,622.94	\$ 2,004.08	\$ 1,213.35
SEWER	8,956.79	7,846.08	18,642.37	28,253.97
WATER	8,766.42	8,440.03	29,870.23	43,740.41
GAS & OIL	<u>262.10</u>	<u>417.02</u>	<u>368.25</u>	<u>1,141.85</u>
TOTAL UTILITIES	\$ 20,523.53	\$ 18,326.07	\$ 50,884.93	\$ 74,349.58
SUPPLIES	\$ 686.06	\$ 459.61	\$ 775.00	\$ 2,891.94
REPAIRS AND MAINTENANCE	141.06			
ELECTRICAL REPAIRS	740.50	675.00		3,820.71
CONTRACTED REPAIRS			1,081.00	12,398.81
FURNACE & WATER HEATER MAINTENANCE			55.00	
MAINTENANCE - WATER	172.50	228.50		
OUTSIDE SERVICES	215.00	200.00	250.00	
PLUMBING REPAIRS			2,200.00	
LANDSCAPING	249.18		860.00	1,911.20
MAINTENANCE - SEWER			7,780.00	6,720.00
LAWN MAINTENANCE - FERTILIZING			91.72	50.51
MOWER - SNOW EQUIP REPAIRS	10.78			78.93
PAINTING	189.81		219.26	140.18
TRANSPORTATION	1,105.41	509.68	750.87	550.65
SNOW REMOVAL	1,260.00	1,727.93	2,187.76	4,139.80
TRASH REMOVAL	<u>5,705.34</u>	<u>6,580.26</u>	<u>8,197.83</u>	<u>8,114.64</u>
TOTAL MAINTENANCE	\$ 10,475.64	\$ 10,380.98	\$ 24,448.44	\$ 40,817.37
PAYROLL	\$ 469.00			
PAYROLL - PROPERTY MANAGER			10,906.00	27,430.20
PAYROLL - MAINTENANCE	21,616.40	21,519.74	23,103.34	13,389.00
PAYROLL TAXES			4,259.89	4,252.80
HEALTH BENEFITS	2,318.47	2,232.94	3,593.35	3,801.92
EMPLOYEE BENEFITS - HA	<u>732.00</u>	<u>713.00</u>	<u>2,196.00</u>	<u>2,196.00</u>
TOTAL PERSONNEL EXPENSE	\$ 25,135.87	\$ 24,465.68	\$ 44,058.58	\$ 51,069.92
ADVERTISING			\$ 100.00	
LEGAL & PROFESSIONAL	164.00	225.00	7,847.25	6,626.32
BANK CHARGES			270.00	2,380.00
DUES AND SUBSCRIPTIONS	383.08	323.40	547.40	739.00
FREIGHT EXPENSE			7.59	86.04
OFFICE EXPENSE	101.06		572.21	786.69
OFFICE SUPPLIES	328.00	301.62	229.61	480.34
OFFICE SCREENINGS	46.40	182.47	279.25	426.02
PAYROLL PROCESSING			387.00	440.26
POSTAGE EXPENSE	68.89	190.04	113.19	283.19
TRAVEL EXPENSE	447.78		106.22	179.38
INTERNET			168.52	1,075.92
TELEPHONE - OFFICE				42.93
TELEPHONE - CELLPHONES			1,134.00	965.78
MANAGEMENT FEES	8,578.56	8,903.28	8,288.11	8,697.36
INSURANCE	4,137.58	4,211.98	4,102.20	3,151.31
REAL ESTATE/OTHER TAXES	<u>19,321.80</u>	<u>27,638.46</u>	<u>21,993.72</u>	<u>23,027.25</u>
TOTAL OTHER EXPENSES	\$ 33,577.15	\$ 41,976.25	\$ 46,146.27	\$ 49,387.79
TOTAL OPERATING EXPENSES	\$ 89,712.19	\$ 95,148.98	\$ 165,538.22	\$ 215,624.66
NOI	\$ 128,451.80	\$ 109,013.92	\$ 40,667.97	\$ (10,893.03)
INTEREST EXPENSE	\$ 109,685.67	\$ 107,681.84	\$ 114,273.93	\$ 103,045.57
INVESTOR/OTHER INT EXPENSE		1,102.00	1,747.73	41,745.97
NON-RECURRING EXPENSES			11,072.63	