

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. **23-0007**

IN THE MATTER

OF

BARBARA DAVIS-HASSAN

ORDER TO SHOW CAUSE

1. The State Ethics Commission (“Commission”) is authorized by G.L. c. 268B to enforce G.L. c. 268A, the state conflict of interest law, and in that regard, to initiate and conduct adjudicatory proceedings.

2. On December 15, 2022, the Commission found reasonable cause to believe that Barbara Davis-Hassan (“Davis-Hassan”) violated G.L. c. 268A, §§ 17(c) and 19, and authorized the initiation of adjudicatory proceedings.

3. Davis-Hassan was at all relevant times Chair of the Town of Lanesborough (“Lanesborough”) Economic Development Committee (“EDC”) and a member of the Lanesborough Planning Board (“Planning Board”).

4. In her private capacity, Davis-Hassan owns and operates Barb Hassan Realty, a real estate brokerage company representing customers in residential and commercial real estate leasing and sales in Berkshire County.

Representing Durga Property Holdings, Inc.

5. The Berkshire Mall (the “Mall”) is located in Lanesborough.

6. The Baker Hill Road District (the “BHRD”) was created by an act of the Massachusetts Legislature (the “Legislature”) in 1989, in response to a home-rule petition

by Lanesborough, in part to maintain the roads around the Mall.

7. The BHRD assesses and collects taxes on properties within the district for road maintenance and municipal services, including Lanesborough municipal police and fire services.

8. In July 2019, Durga Property Holdings, Inc. (“Durga”), an Ohio corporation, purchased the Mall.

9. On November 13, 2019, and January 8, 2020, Davis-Hassan appeared before the BHRD on behalf of Durga in connection with Durga’s Mall-related tax liabilities.

10. During at least one of Davis-Hassan’s appearances before the BHRD on behalf of Durga in connection with Durga’s Mall-related tax liabilities, Davis-Hassan asked questions intended to show that the BHRD should be dissolved.

11. On January 30, 2020, Davis-Hassan filed a property tax abatement application with the Lanesborough Board of Assessors on Durga’s behalf.

12. On January 30, 2020, Davis-Hassan appeared before the Lanesborough Board of Assessors on Durga’s behalf regarding Durga’s property tax abatement application.

13. On May 13 and September 23, 2020, Davis-Hassan, on behalf of Durga, sent drafts of a proposed resolution to dissolve the BHRD to the Lanesborough Town Manager, with a request that the Town Manager forward the resolutions to Lanesborough Town Counsel for review and/or the Select Board for their consideration.

14. In September 2020, Davis-Hassan on behalf of Durga communicated to the Town Manager Durga’s commitment to pay approximately \$200,000 annually to the

Town for five years if the BHRD was dissolved.

15. Davis-Hassan, on behalf of Durga, spoke with a member of the Legislature on or about October 16, 2020, about dissolving the BHRD.

16. In a June 21, 2021, email to the Select Board and others, Davis-Hassan, as “the local representative for the owner of the Berkshire Mall, Durga Property Holdings, Inc.,” sought information regarding an application Lanesborough had made for a grant to address water and sewer concerns at the Mall.

Davis-Hassan’s Financial Interests in the Lease and/or Sale of the Mall

17. Davis-Hassan, as Barb Hassan Realty, entered into an exclusive marketing agreement with Durga on December 26, 2019, to lease space in the Mall, and, if the opportunity presented itself, to quote an asking price of \$10 million to sell the Mall.

18. At Planning Board meetings on January 19, February 16, March 15, and April 20, 2021, Davis-Hassan, as a Planning Board member, discussed and voted on a proposal to rezone the Mall to mixed commercial zoning to facilitate “much more vast redevelopment.”

19. The Lanesborough Town Meeting voted to approve the proposal to rezone the Mall on June 8, 2021.

20. The Mall sold for \$8 million on July 29, 2022.

21. Davis-Hassan received a \$240,000 commission on the sale of the Mall.

Davis-Hassan’s Financial Interests in Williamstown Road Property

22. Davis-Hassan, as Barb Hassan Realty, was the listing agent for a property located on Williamstown Road in Lanesborough at all relevant times.

23. At a February 18, 2020 Planning Board meeting, Davis-Hassan, as a

Planning Board member, discussed a proposal by an electric vehicle assembler whether to rezone the area where the Williams Road property was located to allow light manufacturing and mixed commercial use.

24. The Williamstown Road property sold for \$250,000 on August 27, 2020.

25. Davis-Hassan received a \$25,000 commission on the sale of the Williamstown Road property.

LAW

Section 17(c)

26. General Laws chapter 268A, § 17(c) of G.L. c. 268A prohibits a municipal employee from, otherwise than in the proper discharge of her official duties, acting as agent for anyone other than the municipality in connection with a particular matter in which the municipality is a party or has a direct and substantial interest.

27. As Chair of the EDC and as a Planning Board member, Davis-Hassan is a Lanesborough municipal employee.

28. The BHRD's decision to assess and collect taxes on the Mall was a particular matter in which Lanesborough had a direct and substantial interest because the tax money BHRD collected from the Mall was used, in part, to pay for Lanesborough police, fire, and other municipal services.

29. The decision whether to dissolve the BHRD was a particular matter in which Lanesborough was a party and had a direct and substantial interest because the BHRD was created to maintain roadways around the Mall, which are in Lanesborough, and because the Town receives payments from the BHRD for police, fire, and other municipal services.

30. Lanesborough's decisions to assess and collect taxes on the Mall and seek a water and sewer infrastructure grant for the Mall were particular matters in which the Town was a party and had a direct and substantial interest.

31. Davis-Hassan acted as agent for Durga in connection with the BHRD's decision whether to assess and collect taxes on the Mall by repeatedly appearing at BHRD meetings on behalf of Durga regarding the BHRD taxes on the Mall.

32. Davis-Hassan acted as agent for Durga in connection with the BHRD's possible dissolution by appearing at BHRD meetings on behalf of Durga and asking questions intended to show that the BHRD should be dissolved, contacting a member of the Legislature concerning the BHRD's dissolution, and submitting draft resolutions to dissolve the BHRD to the Lanesborough Town Manager.

33. Davis-Hassan acted as agent for Durga in connection with Durga's application to the Board of Assessors for an abatement of Town property taxes on the Mall by filing Durga's abatement application and by participating in the Board of Assessors meeting concerning that application on Durga's behalf.

34. Davis-Hassan acted as Durga's agent in connection with Lanesborough's application for a water and sewer infrastructure grant for the Mall by making inquiries to the Select Board and others concerning that application as Durga's representative.

35. Acting as agent for Durga in connection with these four matters was not in the proper discharge of Davis-Hassan's official duties as Chair of the EDC or as a Planning Board member.

36. Each time she acted as agent for Durga in connection with its BHRD taxes, the dissolution of the BHRD, Durga's application for an abatement of its

Lanesborough property taxes, and the water and sewer infrastructure grant for the Mall, all particular matters in which Lanesborough had a direct and substantial interest and/or in which the Town was a party, Davis-Hassan violated § 17(c).

Section 19 - The Mall Rezoning

37. General Laws chapter 19 prohibits a municipal employee from participating as such an employee in a particular matter in which, to her knowledge, she has a financial interest.

38. The decision whether to rezone the Mall was a particular matter.

39. Davis-Hassan had a financial interest in rezoning the Mall because she had entered into an exclusive marketing agreement with Durga to lease space or to sell the Mall.

40. Davis-Hassan participated as a Planning Board member and municipal employee in the decision whether to rezone the Mall by discussing and voting on a rezoning proposal.

41. At the time of her participation as a Planning Board member, Davis-Hassan knew that, due to her exclusive marketing agreement with Durga, she had a financial interest in the rezoning of the Mall.

42. Therefore, by participating as a Planning Board member in a proposal to rezone the Mall, while having an exclusive marketing agreement with Durga to lease space in, or to sell the Mall, Davis-Hassan violated § 19.

Section 19 - Williamstown Road Rezoning

43. The decision whether to rezone the Williamstown Road property was a particular matter.

44. Davis-Hassan had a financial interest in rezoning the Williamstown Road property because she was the listing agent for the property.

45. Davis-Hassan participated as a Planning Board member in the decision whether to rezone the Williamstown Road property by discussing a proposal to allow light manufacturing and mixed commercial uses on the property.

46. At the time of her participation, Davis-Hassan knew that, as the listing agent for the property, she had a financial interest in the rezoning of the Williamstown Road property.

47. Therefore, by participating as a Planning Board member in a proposal to rezone the Williamstown Road property while serving as the listing agent for the property, Davis-Hassan violated § 19.

WHEREFORE, Petitioner asks that the Commission:

1. find that Davis-Hassan violated G.L. c. 268A, §§ 17(c) and 19; and
2. levy such fines, issue such orders and grant such other relief as may be appropriate.

Respectfully submitted,

Petitioner State Ethics Commission
By its attorneys,

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