

ARTICLE 14-17

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

On May 11th, the Select Board at its hearing discussed and voted on Articles 14 through 17, including a contingent Art. 14, in case the proposed Art. 14 were not approved.

Issues that came up for discussion were the number of people allowed in a short term rental at any one time, the number of days for which a host could offer a short term rental, whether inspections by Town Staff (Building and Fire Departments) should be mandated or at the discretion of the Town departments, and whether condominium documents should explicitly state that Short Term Rentals are allowed. If the condo documents were silent on this, it would be assumed that Short Term Rentals were not prohibited. One Board member was concerned that Short Term Rentals would have a negative impact on the availability of affordable housing, since less expensive long term rentals of rooms in a house or condominium might be displaced by Short Term Rentals.

Several citizens spoke at the hearing, including Paula Friedman, Paul Warren, and Chris Dempsey.

The Select Board strongly praised the work of the Moderator's Committee on Short Term Rentals, led by Paula Friedman, and thanked them for their many hours of work on this complex subject.

After further discussion, the Select Board made the following recommendations.

On Art. 14, which allows Short Term Rental Use, the Board unanimously recommended FAVORABLE ACTION on the motion offered by the Advisory Committee.

In case Art. 14 was defeated at Town Meeting, Town Counsel's Office had suggested that a contingent motion be made to explicitly state that Short Term Rentals are not allowed in Brookline. This was recommended because of a law suit questioning whether or not Short Term Rentals are allowed under the current Zoning By-Law.

A motion on the contingent motion FAILED 2-3

ROLL CALL VOTE- AC Contingent motion:

<u>Aye:</u>	<u>No:</u>
Greene	Hamilton
Van Scoyoc	Fernandez
	Aschkenasy

Arts. 15 and 17, both provide regulations for Short Term Rental Use, with Art. 15, being more restrictive, and Art. 17, being more permissive and giving the opportunity to Town Meeting to make changes to the regulations. The Board, in a three to two vote, recommended NO ACTION on Art. 15, and recommended Favorable Action, in a three to two vote, on Art. 17.

ROLL CALL VOTE:- ARTICLE 15- No Action motion

<u>Aye:</u>	<u>No:</u>
Hamilton	Greene
Fernandez	Van Scoyoc
Aschkenasy	

ROLL CALL VOTE:- ARTICLE 17- Favorable Action motion

<u>Aye:</u>	<u>No:</u>
Hamilton	Greene
Fernandez	Van Scoyoc
Aschkenasy	

On Art. 16, which focused on enforcement and detailed who would be responsible for what kind of violation, the Board in a unanimous vote recommended FAVORABLE ACTION.

It was mentioned at the Select Board Hearing, that a Compromise Motion for Art. 17 was being proposed and would be taken up by the Moderator's Committee, the Advisory Committee, and the Select Board prior to Thursday night's Town Meeting on Articles 14-17.

ARTICLE 17

SUBSTITUTE MOTION UNDER ARTICLE 17

Moved by Paul Warren TMM P1, Chris Dempsey TMM P6, Paula Friedman TMM P14, Ana Albuquerque TMM P1, Sean Lynn-Jones TMM P1, Linda Pehlke TMM P2, Jonathan Karon TMM P12

Voted: That the Town will amend the General By-laws by adding the following article:

**ARTICLE 5.11
Short-Term Rentals**

Section 5.11.1 PURPOSE

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

Section 5.11.2 DEFINITIONS

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

Section 5.11.3 ELIGIBILITY/APPLICABILITY

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.

b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.

c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town’s General By-laws.

d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.

e. Occupancy (including long term renters on the property) is limited to the number of bedrooms multiplied by 2, up to a maximum of eight (8) guests provided, however, that any occupancy in excess of three (3) persons who are not within the second degree of kindred to the person conducting the Short-Term Rental must be in compliance with state and local law, regulations and code. In addition, a Short-Term Rental shall not operate in the same property as a lodging house as defined by law.

2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board’s Office all documentation that the Office shall require, which shall include, but not be limited to:

- a. Any application fee, as may be determined by the Select Board.
 - b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) documentation necessary to otherwise qualify the operator for the Brookline residential tax exemption showing the current address of the Operator as the address of the STR. Additionally, Primary Residency must also be certified at the time of application and not less than once per calendar year thereafter by an affidavit in a form provided by the Town and signed by the Operator.
 - c. Where a Short-Term Rental Unit is part of a condominium association, a certification signed by the condominium association that the condominium Master Deed, By-Laws, or other governing documents expressly permit the proposed Short-Term Rental.
 - d. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town’s inspectional departments for health and/or safety or code compliance reasons.
 - e. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.
 - f. Such other information and documentation as the Select Board’s Office may determine.
 - g. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law following a public hearing, within 14 days of the issuance of any Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to adjacent abutters (property owners, residents, and tenants) of the Short-Term Rental Unit.
2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant’s compliance with applicable federal, state and local law, including this By-Law.

3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.
4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.
5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.
6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.
7. Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or arising from any violation of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

Section 5.11.5 INSPECTIONS

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments shall conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re- inspection fees.

Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.
3. A Short-Term Rental Operator may rent their Short-Term Rental Unit for up to 90 days per year. Upon the request of an applicant, the Select Board, following a set of criteria established by the Select Board and following a public hearing, may increase the number of rental days up to a maximum of 180 days per year under the Certificate of Registration.
4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
 - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit, as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;
 - b. A conspicuously placed binder with, at a minimum, the following information:
 - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
 - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,

- iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
 - iv. Copy of Certificate of Registration from the Select Board’s Office.
- c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
- d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and
- e. Any other documentation required by the Select Board’s Office to be distributed inside Units.
6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental’s Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on line or other listings of the Short-Term Rental Unit.
7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers’ contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board’s Office of any change in the Operator’s Primary Residence within two (2) weeks of any change.
9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
10. Commercial uses are prohibited in Short-Term Rental Units.
11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board’s Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include

requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short- Term Rental Certificate of Registration.

Section 5.11.7 REGULATIONS

The Select Board may issue regulations for the implementation of this By-law, including but not limited to, for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

Section 5.11.8 APPEALS

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

Section 5.11.9 FINES

Any person violating this By-law shall be fined in the amount of \$100 for the first violation, \$200 for the second violation, and \$300 for the third and any subsequent violations. Each day of a continuing violation during the rental period shall count as a separate violation.

Section 5.11.10 REPORTING

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, approved number of rooms and guests and any other restrictions.

Section 5.11.11 EFFECTIVE DATE

These amendments to the General By-law shall take effect on January 1, 2022.

Section 5.11.12 SEVERABILITY

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

Explanation of the Albuquerque, Dempsey, Friedman, Karon, Lynn-Jones, Pehlke, and Warren
Motion

The Short-Term Rental Warrant Articles have been the subject of considerable debate and attention on this listserv, in precinct meetings, and elsewhere. In an effort to continue to find common ground and to provide Town Meeting with clear choices, we have filed the attached replacement Motion for Dempsey/Warren, which we hope will either be the main motion or an amendment under Warrant Article 17. The provisions of this motion are intended to allow the safe operation of short-term rentals in Brookline, to prevent the operation of large numbers of investor-owned professionally managed short-term rental units, to minimize the impact of short-term rentals on the affordability of long-term residences, and to minimize any negative impact on Brookline residents.

Background

Short-Term Rentals (STRs) are a relatively new concept. Although for many decades some Brookline homeowners may have rented rooms to short-term paying guests, in recent years STRs have become more numerous and more prominent as a result of the convenience of online booking platforms. The best-known of these platforms is Airbnb, although many others exist, including VRBO, booking.com, and Homeaway. Prior to the Covid-19 pandemic, Brookline’s Department of Planning and Community Development estimated that 300–400 STRs were operating in Brookline. Subsequent data provided by the Massachusetts Department of Revenue (DOR) indicates that approximately 265 operators have registered with the DOR to operate a short-term rental in Brookline.

Presently, the operation of an STR in Brookline is prohibited because Short-Term Rental is not explicitly listed in the Zoning By-Law’s Table of Use Regulations (Table 4.07). Table 4.07 is used by the building commissioner to determine what is allowed. Enforcement is currently handled by the Building Department on a complaint-driven basis and some STRs have been shut down as a result. It is important to note that a lawsuit has been filed challenging how the building commissioner and Zoning Board of Appeals have interpreted the Zoning By-Law as it pertains to Short-Term Rentals in Brookline. If this lawsuit prevails without Brookline having Short-Term Rental regulations in place, Short-Term Rentals will become an as-of-right use in Brookline.

The November 2020 Special Town Meeting Following a year-long public process conducted by the Planning Department. The Select Board initially placed Articles that included comprehensive Short-Term Rental regulations on the Warrant for the May 2020 Annual Town Meeting. Given the number of Warrant Articles and the difficulty of holding a virtual Town Meeting, these Articles were deferred until the November 2020 Town Meeting Warrant in the form of Warrant Articles 9, 10, and 11. The Articles were substantively revised by the Advisory Committee. The Select Board, Planning Board, and Housing Advisory Board voted to recommend Favorable Action on the motions offered by the Advisory Committee. The November 2020 Town Meeting voted to refer

Articles 9, 10, and 11 to a Moderator’s Committee for further revision and resubmission to the subsequent Town Meeting. During the Town Meeting debate, several questions were raised, including how enforcement would take place if the short-term rental regulations did not pass, whether the operator of a short-term rental should be required to be present during a rental, and if the definition of a short-term rental as a rental of fewer than 31 days would inadvertently prohibit month-by-month leases, given that some months have fewer than 31 days.

The Moderator’s Committee on Short-Term Rentals

After the November 2020 Special Town Meeting voted to refer the subject matter of Articles 9, 10, and 11 to a Moderator’s Committee the Moderator appointed a committee and provided the committee with the following charge:

Your objective should be to propose a new warrant article for the 2021 ATM that will seek to establish a reasonable framework for the regulation of short-term rentals in the Town and that will assimilate the best thinking of the Advisory Committee and Planning Department and meet at least the major objections that have been raised regarding these rentals.

The committee examined how neighboring communities such as Boston, Cambridge, and Newton regulate short-term rentals. It reviewed data on the number of short-term rental units in Brookline that have been registered with the Department of Revenue. It received input from Town staff, including Deputy Town Administrator Melissa Goff, Building Commissioner Dan Bennett, Transportation Administrator Todd Kirrane, Assistant Director for Regulatory Planning Polly Selkoe, and First Assistant Town Counsel Patty Correa. The Committee expresses its sincere appreciation for the information and advice provided by these Town officials and also for the essential assistance provided by Zoning Coordinator/Planner Monique Baldwin, Kate McGillivray in the Select Board’s Office, and Devon Fields, administrative services director in the Select Board’s Office.

The committee devoted most of its time to an in-depth line-by-line review of the provisions of the Advisory Committee motions under Articles 9, 10, and 11 from the November 2020 Town Meeting. Its deliberations focused on revising some of those provisions to address potential objections so as to generate Warrant Articles that would be likely to receive widespread support at the May 2021 Annual Town Meeting. The minutes, recordings, and other documents of the Moderator’s Committee are available at: <https://www.brooklinema.gov/1863/Moderators-Committee-on-Short-Term-Renta>

The committee received much public input at its public hearing on Wednesday, January 13, 2021, and in emails from residents, STR operators, and condominium associations. Letters received by the committee can be viewed here: <https://www.brooklinema.gov/DocumentCenter/View/23561/Public-Comment-letters-to-theShort-Term-Rentals-Committee-Vol-1>

The following is summary of the concerns raised by the public and committee members:

First, there was a category of comments that focused on the impact that STRs have on quality of life. These included issues related to noise, traffic, parking violations, and diminished sense of community. Some letters and emails questioned whether the Town had sufficient enforcement resources to respond to these problems. Second, residents of condominium associations raised concerns about transient activity in their buildings, increased insurance, maintenance, and shared utility costs (e.g., from frequent washing of sheets and towels) that were borne in part by other owners. This group also urged the committee to propose regulations that would require STR operators to obtain the consent of their condominium associations before the Town issued a certificate of operation. Third, there was feedback that the proposed regulations were too restrictive, violated the constitutional rights of condominium owners, restricted access by families looking to stay in STRs, and would restrict some residents from earning supplemental income that would help them afford to continue to live in Brookline. Some letters argued that STRs created few problems or disruptions in Brookline's neighborhoods and that any such concerns could be addressed by appropriate regulations.

The Moderator's Committee recognized that short-term rentals have possible advantages and disadvantages. These are generic pros and cons and not necessarily the consequences of the regulations being proposed for Brookline by this committee.

The possible advantages of STRs include:

- Rental income that enables residents to afford the high cost of living in Brookline, including housing costs and local taxes. The homeowners who rely on STRs to supplement their income include seniors and other residents who may live on fixed incomes or have experienced reduced wages.
- Tax revenue for the Town. Brookline receives a 6% local room occupancy excise tax on short-term rentals and could impose a 3% additional community impact fee on some short-term rentals. In fiscal year 2020 short-term rental revenue was \$434,734, although the Covid-19 pandemic has almost certainly temporarily depressed revenues. The committee acknowledges that imposing fewer restrictions on short-term rentals could substantially increase the amount of revenue that the town receives. Any additional revenue is welcome at a time that the Town faces a fiscal year 2022 budget that is constrained by reduced revenues and increased costs associated with Covid-19, as well as a long-term structural budget deficit.
- Additional customers for local businesses, particularly restaurants, bars, and some retail stores. Many of these establishments have been struggling due to the Covid-19 pandemic.

The possible disadvantages of STRS include:

- Reduction in the quality of life for residents due to noise, congestion, loss of privacy, and a reduced sense of community.
- Change in the character of neighborhoods due to the reduction in the number of residential units occupied by permanent residents and the increase in the number of units occupied by short-term visitors. As more residential units have transient occupants, the sense of community

declines. Short-term visitors are also less likely to patronize businesses that cater to long-term residents, including, for example, hardware stores and dry cleaners.

- Reduction in the available housing stock due to conversion of residential units from longterm occupancy to short-term rentals. It is difficult to estimate the potential increase in rents that would result from removing residential units from the housing inventory, but a reduction in the number of residential units could increase rents in Brookline. Market forces also might drive long-term rents up to a level comparable to rents for short-term rentals. The committee considered these advantages and disadvantages and strove to offer a balanced set of recommendations.

The committee was particularly concerned about protecting Brookline’s inventory of long-term housing from being converted into STRs by investors and professional operators. The committee recognized that Brookline’s housing inventory is less likely to be reduced when a homeowner decides to rent one or more unused bedrooms as STR units. The committee thus retained the proposed zoning and general by-law amendments that would make it harder for large numbers of investor-owned STRs to operate in Brookline.

These regulations do not address lodging houses (including those that operate as bed and breakfasts and inns), that offer rooms and units on platforms such as Airbnb and HomeAway. Existing by-law provisions would apply to these establishments. include the requirement that the unit being rented is owned by the operator and that the unit is the operator’s primary residence. These provisions replicate what Boston has done to protect its long-term housing inventory from short-term rental conversion. Overall, the committee agreed that the operation of STRs should be safe, monitored, and limited in its negative externalities. The provisions of the three proposed Warrant Articles accomplish these goals by establishing regulations for appropriate certification and oversight of STRs. They also ensure that the operation of STRs will not greatly reduce the availability of long-term housing units—by prohibiting professionally managed STRs, prohibiting units restricted for below market-rate housing from operating as STRs, and allowing only owner-occupied units to operate as STRs. The product of the Moderator’s Committee was supported by five out of its six members.

Additional amendments were filed by various parties, including some members of the Moderator’s Committee, during the review process. Through extensive negotiations, most of those petitions have been consolidated into this single Motion, to provide Town Meeting with a compromise document and to declutter the voting.

This Motion is co-sponsored by Paul Warren, Chris Dempsey, Paula K Friedman, Ana Albuquerque, Sean Lynn-Jones, Linda Pehlke and Jonathan Karon and includes the same five of the six members of the Moderator’s Committee on Short-Term Rentals that produced the original Warrant Articles.

The proposed language incorporates the following provisions from an earlier Dempsey/Warren motion:

- Bans investor-owned properties.

- Requires the unit to be the primary residence of the STR host.
- Requires notification to immediate abutters.
- Requires inspections of all units before they can be certified by the Town.
- Limits STRs to 90 days per year for all hosts, but grants the Select Board the discretion to waive the 90 day Bylaw in individual cases, up to 180 days, on a case-by-case basis upon request of an applicant, and after establishing criteria for departure from the 90 day Bylaw limit.
- Occupancy is limited to the number of bedrooms multiplied by 2, up to a maximum of eight guests

The most significant change is the adoption of the Pehlke/Karon Amendment which requires that a condo association expressly permit STRs. This amendment reflects concern expressed by multiple members of the public at the Moderator’s Committee hearings and in letters to Town Meeting members from condominium dwellers about past, existing, and potential negative impacts on the safety, expenses, and quality of life of condominium neighbors arising from the operation of STRs within the same condominium association.

The 90-day Bylaw limitation is designed to minimize negative neighbor impacts and to address housing affordability by disincentivizing the use of STRs over long-term rentals, and by preventing rising prices in long-term rentals due to the high price of short-term rentals.

In addition, the language makes the following changes to an earlier Dempsey/Warren Motion:

- Eliminates the ability of the Select Board to change the number of guests.
- Eliminates the ability of the Select Board to change the number of rental days town-wide (they can only do so on a case-by-case basis as described above)

The co-sponsors believe that this Motion is in the best interest of Brookline and its residents and will help facilitate a productive debate at Town Meeting.

The policies included in this Motion are based on extensive information gathering and recommendations. This body of work includes is but not limited to

- The Select Board’s Explanation of Warrant Articles 9, 10 and 11 as found in the Article Explanations for 2020 Special Town Meeting: <https://www.brooklinema.gov/DocumentCenter/View/22481/Article-Explanations-2020-STM>.

- The Advisory Committee’s Report on Warrant Articles 9, 10 and 11 as found in the Combined Reports for 2020 Special Town Meeting: <https://www.brooklinema.gov/DocumentCenter/View/22965/Combined-Reports-November-17-2020-Special-Town-Meeting-with-supplements>
- The Moderator’s Committee on Short-Term Rentals Report on Article 14, 15 and 16 as found in the 2021 Annual Town Meeting Warrant Article Explanations: <https://www.brooklinema.gov/DocumentCenter/View/23725/2021-Annual-Town-Meeting-Article-Explanations>
- The Moderator’s Committee on Short-Term Rentals Public Hearing, Pubic Meeting, Research, Public Testimony and Deliberations as found on the committee’s website at: <https://www.brooklinema.gov/1863/Moderators-Committee-on-Short-Term-Renta>
- The Advisory Committee’s Report on Warrant Articles 14,15 and 16 as found in the 2021 Annual Town Meeting Combined Reports: <https://www.brooklinema.gov/DocumentCenter/View/24610/Combined-Reports-May-2021-Annual-Town-Meeting-with-supplements>
- Information gathering work completed by the Brookline Planning and Community Development Department and described on the departments Air-BnBs and Short-Term Rental site: <https://www.brooklinema.gov/1510/15396/Air-BnBs>
- Studies:
 - <https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/>
 - Journal of Housing Economics, volume 38 pgs. 14-24, 2017, *Is Home Sharing Driving up Rents, Evidence from AirBnB in Boston*, University of Massachusetts, Boston http://repec.umb.edu/RePEc/files/2016_03.pdf
 - The High Cost of Short-Term Rentals in New York City: <https://www.mcgill.ca/newsroom/channels/news/high-cost-short-term-rentals-new-york-city-284310>
- Impact of Short-Term Rentals on Boston’s China Town <https://psmag.com/economics/airbnb-boston-chinatown-culture-demographics-change>
- Condominium Association Size Distribution Analysis by Alan Leviton. Exhibit B\
- The Explanation for the Pehlke/Karon Amendment: Exhibit A

Exhibit A:

Explanation

Within a condominium association, ownership rights and what uses and activities are allowed or prohibited within units are spelled out in the Master Deed¹. If the association seeks to change what uses, activities, etc. are allowed or not allowed within a unit, the association must amend their

¹ M.G.L. Chapter 183A, Section 8, (Master Deeds) paragraph g) A Statement of the purposes for which the building and each of the units is intended and the restrictions, if any, as to their use.

Master Deed. For instance, in my condominium we amended the Master Deed to limit the total number of rentals allowed. We also amended again to prohibit smoking anywhere on the property. Because we wished to limit unit owner's leasing rights and restrict smoking, even within an owner's unit, we were required to amend the Master Deed.

Almost all Condominiums in Brookline were created well before the existence of digital hosting platforms for short-term rentals and therefore many sets of condominium documents will be silent on the subject of STR's. STR's were simply not contemplated when the documents were created. Many see the proposal by the Town to change the zoning to allow STR's as "superseding the condominiums' right to self-determination", by concluding that: "if the condo documents do not prohibit STR's, then unit owners are allowed to become STR operators". If the condominium association does not like this imposed change, they must endeavor to amend their condominium documents to prohibit STR's, after the fact. Amending the Master Deed, Declaration of Trust or By-laws, require a 75% beneficial interest assent to the amendment to prohibit STR's. This is a difficult situation, because the right to be an STR operator will have been already granted *by the Town*. Some owners may be unwilling to give up this right, in hopes of future revenues, regardless of the majority opinion of the owners. Imagine a situation where a strong majority of condominium unit owners within a condominium association wishes to prohibit STR's, but there are just enough holdouts (26%) to prohibit the amendment from going forward. All owners in that condominium will be granted the right to operate STR's regardless of the wishes of the majority, therefore imposing a disruptive commercial use on the entire association of unit owners. This is a gross interference by the Town in the social contract and delicate balance between rights and prohibitions that make a condominium livable. Because ownership and owner rights are embedded in the Master Deed the presumption that STR's are allowed if they are not prohibited in the condo docs is not in compliance with how condominium governance is structured. Instead it is our contention that any zoning change the Town enacts to allow STR's, is only the first step within a condominium. The next step would be to have each condominium decide for themselves whether or not they wish to allow STR's, through the necessary mechanism of amending their condominium documents to expressly allow STR's if they so choose.

Exhibit B:
Brookline Condominium Association Distribution Analysis by Alan Leviton:

Number of Residential Units Per Condo	Number of Condos	Frequency	
2	476	36.3%	36.3%
3	407	67.3%	31.0%
4	91	74.2%	6.9%
5	36	76.9%	2.7%
6	51	80.8%	3.9%
7	27	82.9%	2.1%
8	18	84.2%	1.4%
9	12	85.1%	0.9%
10	22	86.8%	1.7%
11 - 25	93	93.9%	7.1%
26 - 50	52	97.9%	4.0%
51 - 100	20	99.4%	1.5%
101 - 200	5	99.8%	0.4%
201 - 300	2	99.9%	0.2%
>300	1	100.0%	0.1%
Total	1313		

ARTICLE 17

MARKUP OF SUBSTITUTE MOTION UNDER ARTICLE 17

Substitute Motion for Warrant Article 17

Moved by Paul Warren TMM P1, Chris Dempsey TMM P6, Paula Friedman TMM P14, Ana Albuquerque TMM P1, Sean Lynn-Jones TMM P1, Linda Pehlke TMM P2, Jonathan Karon TMM P12

To see Voted: That if the Town will amend the General By-laws by adding the following article:

**ARTICLE 5.11
Short-Term Rentals**

Section 5.11.1 PURPOSE

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

Section 5.11.2 DEFINITIONS

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

Section 5.11.3 ELIGIBILITY/APPLICABILITY

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

- a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
- b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
- c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town’s General By-laws.
- d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.
- e. ~~Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law following a public hearing, O~~ccupancy (including long term renters on the property) is limited to the number of bedrooms multiplied by 2, up to a maximum of eight (8) guests provided, however, that any occupancy in excess of three (3) persons who are not within the second degree of kindred to the person conducting the Short-Term Rental must be in compliance with state and local law, regulations and code. In addition, a Short-Term Rental shall not operate in the same property as a lodging house as defined by law.

2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which shall include, but not be limited to:

a. Any application fee, as may be determined by the Select Board.

b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) documentation necessary to otherwise qualify the operator for the Brookline residential tax exemption showing the current address of the Operator as the address of the STR. Additionally, Primary Residency must also be certified at the time of application and not less than once per calendar year thereafter by an affidavit in a form provided by the Town and signed by the Operator.

c. Where a Short-Term Rental Unit is part of a condominium association, a certification signed by the condominium association that the condominium Master Deed, By-Laws, or other governing documents expressly permit the proposed Short-Term Rental. ~~proposed Short Term Rental is not prohibited by any of the condominium documents, by laws, or other governing documents.~~

d. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.

e. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.

f. Such other information and documentation as the Select Board's Office may determine.

g. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law following a public hearing, within 14 days of the issuance of any Certificate of Registration, the Select Board Office shall mail notice of the Certificate of

Registration to adjacent abutters (property owners, residents, and tenants) of the Short-Term Rental Unit.

2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.
3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.
4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.
5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.
6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.
7. Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or arising from any violation of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

Section 5.11.5 INSPECTIONS

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments shall conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re- inspection fees.

Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.
3. ~~Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By Law following a public hearing,~~ A Short-Term Rental Operator may rent their Short-Term Rental Unit for up to 90 days per year. Upon the request of an applicant, the Select Board, following a set of criteria established by the Select Board and following a public hearing, may increase the number of rental days up to a maximum of 180 days per year under the Certificate of Registration.
4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
 - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit, as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;
 - b. A conspicuously placed binder with, at a minimum, the following information:

- i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
 - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
 - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
 - iv. Copy of Certificate of Registration from the Select Board’s Office.
 - c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
 - d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and
 - e. Any other documentation required by the Select Board’s Office to be distributed inside Units.
6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental’s Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on line or other listings of the Short-Term Rental Unit.
7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers’ contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board’s Office of any change in the Operator’s Primary Residence within two (2) weeks of any change.

9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.

10. Commercial uses are prohibited in Short-Term Rental Units.

11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board’s Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short- Term Rental Certificate of Registration.

Section 5.11.7 REGULATIONS

The Select Board may issue regulations for the implementation of this By-law, including but not limited to, for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

Section 5.11.8 APPEALS

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

Section 5.11.9 FINES

Any person violating this By-law shall be fined in the amount of \$100 for the first violation, \$200 for the second violation, and \$300 for the third and any subsequent violations. Each day of a continuing violation during the rental period shall count as a separate violation.

Section 5.11.10 REPORTING

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, approved number of rooms and guests and any other restrictions.

Section 5.11.11 EFFECTIVE DATE

These amendments to the General By-law shall take effect on January 1, 2022.

Section 5.11.12 SEVERABILITY

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

| ~~Or act on anything relative thereto.~~

ARTICLE 33

**COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY
RELATIONS REPORT AND RECOMMENDATION**

The mission of the CDICR is to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (i.e. visitors, residents, employers, employees etc.) by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The CDICR reviewed the warrant article on April 21, 2021. By a vote of 12-0-0, the CDICR recommends FAVORABLE ACTION on petitioner's motion on Warrant Article 33.

DISCUSSION

The CDICR's mission to work through education, awareness, and outreach are closely aligned with Warrant Article 33's objectives. The Article aims to provide information about large-scale emergency funds received by the town outside of normal budget processes by creating quarterly reports that provide basic information about the funds received, allocated and spent in a way that is accessible to town residents. The article would also provide the public a chance to comment on how these funds are being allocated through a public hearing. As recent events have demonstrated, the receipt of emergency funds from federal and state governments can provide unique opportunities for the Town, and transparency in when these funds are received and spending decisions is at the core of removing barriers to community engagement.

Therefore, the commission voted FAVORABLE ACTION on petitioner's motion on the warrant article, by a vote of 12-0-0.

ARTICLE 34

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

RECOMMENDATION

By a vote of 13-0-14, the Advisory Committee recommends FAVORABLE ACTION on the following amended motion under WA 34:

That the Town will adopt the following Resolution (with Advisory Committee additions **underlined in bold** and deletions in ~~strikeout~~):

1. WHEREAS, the Town of Brookline has historically been a lighthouse community in our nation, with a reputation for responding with creativity and innovation to a broad range of local, national, and global challenges — in climate action, education, housing, preservation, and engaged governance;
2. WHEREAS, the COVID-19 pandemic has produced the dual financial challenges of reduced Town of Brookline revenue and significant increased need; it also presents an opportunity to create a 21st Century Vision of Brookline in a Global Context supported by ~~Town of Brookline staff~~, community volunteers, and people of means who find fulfillment providing financial support to their home community;
3. WHEREAS, The Town of Brookline has immediate needs not included in the current budget to serve the less-privileged among us, especially in the context of COVID-19, for nutritious food, urgent affordable housing repairs, access to reliable and affordable wifi services, emotional and physical safety and wellness, including additional social workers in the public schools, Innovation Funds in the K-8 schools that can address equity issues, technology-vocational training, and educational support;
4. WHEREAS, in addition to addressing immediate needs, the Town of Brookline requires long-term resources, including for comprehensive planning and zoning, to develop and realize a 21st Century Vision of Brookline in a Global Context, that will: a. Provide necessary support so that all Brookline residents, including the elderly, disabled, and disadvantaged, have food, safe housing, and basic services; b. Address racial justice and equity issues ~~89~~; c. Lead the transition from fossil fuel energy to renewable electricity for Town facilities and throughout Brookline to support a sustainable future for the world; d. Engage elders as wise counselors and inspiring mentors for younger generations; e. Provide guidance and support to meet the physical, mental, emotional, and social wellness needs of students in the Public Schools of Brookline; f. Advocate for improvements in state and national policies to better meet local needs;

5. WHEREAS, many employees of the Town of Brookline cannot afford to live in Brookline, and a Town program providing affordable housing for Town employees who want to live in Brookline could benefit the entire Brookline community;

6. WHEREAS, tax policy in the United States and in Massachusetts has skewed LESS progressive since the 1970's, with real hourly wages stagnant and the social safety net weakened, leading to growing income and wealth gaps, and those most fortunate among us now have the means to make a greater contribution to the public good of the town;

7. WHEREAS, In 2020, the wealthiest 1.13% of U.S. households had a net worth above \$10 million; **and in Brookline it is likely substantially higher;**

8. WHEREAS, an annual household voluntary contribution to **from the more wealthy among us can** help realize a 21st Century Vision of Brookline in a Global Context **and** of ~~1% of total net worth above \$10 million~~ would be of significant value to our community;

9. WHEREAS, The Town of Brookline has a Payment in Lieu of Tax (PILOT) Policy and receives voluntary contributions from tax-exempt property owners;

NOW, THEREFORE, BE IT RESOLVED that Brookline Town Meeting calls upon the Select Board to (i) adopt a Payment in Addition to Tax (PIATT) **Program;** (ii) **appoint a recommended by a Select Board appointed** committee charged with developing rules and regulations for disbursement of funds received; ~~and (ii)~~ (iii) encourage ~~contributing~~ Brookline households to make annual voluntary contributions to the Town of Brookline with a suggested guideline of 1% of household net worth above \$10 million, ~~or such other amount as Town Meeting may recommend~~ **(with other voluntary contributions gratefully accepted as well)**, pursuant to and under Massachusetts General Laws, Chapter 44, Section 53A; with these contributions to be used exclusively for public purposes and therefore be considered tax-deductible under Section 170(c)(1) of the Internal Revenue Code; and ~~(iii)~~ (iv) consider a similar program for businesses and others.

ARTICLE 40

**COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY
RELATIONS REPORT AND RECOMMENDATION**

The mission of the CDICR is to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (i.e., visitors, residents, employers, employees etc.) by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The CDICR reviewed the Warrant Article on April 14, 2021. By a unanimous vote, the CDICR recommends FAVORABLE Action on Warrant Article @40.

DISCUSSION

The Warrant Article asks for the appointment of a Select Board Committee to ensure stable funding of BIG. Bonnie Bastien and Daniel Saltzman, both BIG Board members presented the Warrant Article, providing background on the history and need for stable, ongoing funding of BIG. They also noted the amendment made by the Advisory Committee which was accepted by the petitioners.

The discussion focused on the critical importance of BIG's work and programs to the mission of CDICR. The need for CIVICBrookline.com - the Town-wide aggregated digital portal BIG is in process of developing - is an essential feature of the infrastructure needed by the Town to promote and enable robust, and broad Community Engagement. Once launched, it will become a significant feature in the Brookline Community Engagement Plan developed and monitored by the CDICR Community Engagement Committee.

The discussion also focused on the collaboration that has been developed between BIG and both the CDICR Community Engagement Committee, and BIG and several arts focused community engagement projects being developed by the housing affordability coalition, Building a Better Brookline. And continuing and strengthening the partnership between the CE Committee and BIG is one of the CE Committee's SMART outcome goals for 2021. None of these important, innovative and foundational projects would be possible without BIG's participation, technical expertise and support. Broader, more robust **Community Engagement** is at the absolute heart of CDICR's mission to increase substantive **inclusion** of Brookline's diverse, and too often underrepresented communities (e.g., BIPOC, AAPI, LGBTQ, immigrant, disabled, seniors, youth, renters, and low-income residents) in the life and decision-making processes of Brookline, and BIG is a major part of the hard and soft infrastructure needed to make that substantive inclusion a reality.

Therefore, the commission voted FAVORABLE ACTION on Warrant Article #40 by a unanimous vote of 12-0-0.

ARTICLE 40

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board's motion under Article 40 was an amendment of the Advisory Committee motion and not the original filing of the Article. The only difference was to change the word "committee" to "working group" as indicated in bold and underlined below. The motion is as follows:

MOVED: Voted that the Town adopt the following Resolution:

WHEREAS, Brookline Interactive Group (BIG) provides an invaluable service to the Town; and

WHEREAS, the transition of subscribers from traditional cable to broadband leads to a shift in the funding of public access stations; and

WHEREAS, the resources of Brookline Interactive Group could be further utilized in the Town to provide direction for information access generally;

WHEREAS, the licensing authority of the Town, for example over grants of location and the cable franchise, can be used to acquire resources for the public at low cost;

THEREFORE BE IT RESOLVED that the Select Board establish a **working group**, including representatives from BIG and members of the public, to aid in identifying potential stable funding mechanisms for BIG, reexamine the ways that grant-of-location and cable licensing could provide benefit to the Town and opportunities for future benefit, including but not limited to the uses made of Relief Funds, subscriber fees, equipment/facilities funds, dark fiber, and side agreements such as for internet access, and make a report to the Town by May 2022.

BE IT FURTHER RESOLVED that the Town explore further partnerships with the Brookline Interactive Group to utilize its resources and expertise for public benefit, for example community broadband or computer labs and internet access to underserved populations;