



# TOWN OF BROOKLINE

## *Massachusetts*

### OFFICE OF TOWN COUNSEL

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TO: Bernard Greene, Chair, Brookline Select Board  
All Other Members of the Brookline Select Board

CC: Ben Kaufman, Town Clerk  
Chas Carey, Town Administrator  
Melissa Goff, Deputy Town Administrator  
Devon Fields, Assistant Town Administrator for Operations  
John A. Moreschi, First Assistant Town Counsel  
Jonathan Simpson, Associate Town Counsel

FROM: Joe Callanan, Town Counsel

SUBJECT: Select Board Approval of the Town Counsel's Draft Local Ballot Information

DATE: April 7, 2023

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This memorandum seeks to conclude my efforts to comply with [General Laws, c. 53, §18B](#), and as a follow up to both my March 23, 2023 and April 4, 2023 memoranda.

Attached please find a final draft version for your approval.

***I respectfully request that the Select Board approve this final version of ballot information during your meeting scheduled for next Tuesday, April 11, 2023.*** G.L., c. 53, §18B(b) (first sentence).

If the Select Board were to approve the information at that meeting, then we would be able to meet the statute's mailing deadline, which I explained in my earlier memorandum.

Please feel free to contact me if you should have any questions. Thank you very much.



# Town of Brookline Massachusetts

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617)  
730-2043

Ben Kaufman, Town Clerk

April 12, 2023

«FirstName» «MiddleName» «LastName» «Suffix»  
«Address» «UnitNumber»  
«City», «State» «PostalCode»

Dear Resident,

The Town of Brookline prepared this mailing, pursuant to GL c. 53, § 18B, to provide residents information about local ballot questions at the Annual Town Election on May 2, 2023.

As provided by law, proponents and opponents of each question prepared and wrote 150-word arguments and these arguments reflect their opinions, and not the opinions of the Town of Brookline. The Town of Brookline does not endorse these arguments, nor does the Town certify the truth or accuracy of any statement made in these arguments.

Listed with each question is the identity of the advocates, and any relevant organizations, who wrote each argument. Any written comments by others, and earlier drafts about each argument, are on file in the Office of the Town Clerk and will be available to the voters at all polling places.

For information about Early Voting, Voting by Mail, Registering to Vote, and other election-related information, please visit: [brooklinema.gov/townclerk](http://brooklinema.gov/townclerk)

Questions 1 through 3 are separate questions. You may vote for or against each question independently. Each question requires a majority of those voting on that question to pass.

## **Question 1.**

Shall the Town of Brookline be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay costs of constructing a new PreK-8 School which includes renovations/addition to the existing historic Pierce School and other site improvements including reconstruction and repair of the Town Hall and Pierce School garages which are beneath the new school and the Town Park across School Street, including the payment of all costs related to designing the new school project, equipping and furnishing the school, site improvements, and all other costs incidental and related thereto?

to assess property taxes more than the levy limit's usual allowable annual increase. Typically, the levy limit may only increase at an annual rate of 2.5 percent.

Proposition 2 ½ allows a Town to raise funds for the payment of certain capital projects and for the payment of associated debt service costs. This process is called a "debt exclusion", which is a temporary tax levy increase until the Town pays off the bonds. Question 1 is a debt exclusion question.

### TOWN COUNSEL SUMMARY:

State law, commonly known as "Proposition 2 ½," limits the total amount of money that a Town can raise through property taxes by, among other things, setting a so-called levy limit. By passing an "override" or an "exclusion," Proposition 2 ½ allows the voters of a Town

If passed, this ballot question would fund the renovation of the John Pierce School in the Brookline Village neighborhood.

Proponent: Jeff Rudolph, Campaign Manager  
Lisa Sears, Treasurer  
State Representative Tommy Vitolo, Campaign Co-Chair  
School Committee Member Andy Liu, Campaign Co-Chair  
Select Board Member Mike Sandman, Campaign Co-Chair  
Yes for Brookline  
29 Greenough Street  
Brookline, Massachusetts 02445

The proposed renovation includes:

- (i) a full demolition of the Pierce School Building facing School Street, which was added in 1973, and construction of a new building in its place;
- (ii) renovations and additions to the historic Pierce School Building facing Pierce Street, which dates to 1855;
- (iii) reconstruction and repair of the park across School Street; and
- (iv) other site improvements including the reconstruction and repair of the Town Hall and Pierce School garages underneath the 1973 Pierce School Building.

Brookline desperately needs a new Pierce School. Please vote YES to build it.

The Pierce School in Brookline Village houses 700+ K-8 students in a building designed for ~550. Twelve classes (~250 kids) and the library must function daily in one multi-story open space—a difficult learning environment for easily distracted students. Kids with hearing or other physical limitations cannot fully participate—they must be reassigned to other schools. Voting YES approves a 21st Century, fossil-fuel-free, safe, accessible, and appropriately-sized school.

When complete, the new Pierce School will have the capacity to educate approximately 725 K-8 students in a four-section, fully Americans with Disability Act-compliant building. The new Pierce School will also contain three classrooms for preschoolers in the Brookline Early Education Program, known as BEEP.

With Massachusetts contributing up to \$38 million, the school will cost Brookline ~\$172 million—similar in cost to recent, comparable projects elsewhere. There is no realistic, less expensive alternative. Voting no will forfeit state funding and incur additional cost inflation. A renovation to code would cost nearly as much money and leave many problems unsolved.

A “yes” vote on this question would allow a temporary property tax increase to pay for the bonds necessary for the Pierce School Building capital project.

See for yourself—take a tour. Sign-ups, and much more information, available at: <https://yesforbrookline.com/>

A “no” vote would make no changes to the amount of property taxes the Town may raise other than what is allowed by Proposition 2 ½, so-called.

Yes \_\_\_\_\_ No \_\_\_\_\_



Opponent: Spend Smart Brookline  
Post Office Box 470664  
Brookline, Massachusetts 02447

- Pierce needs improvements, but **\$212M for one school** is outlandish - Most expensive elementary school in MA history.
- Plan is too large, too elaborate – result of flawed process, **no budget**. We need accountability.
- Lost state matching funds because too many “extras.”
- **Enrollment** has dropped – \$122 million Driscoll will open one-third empty.

- **Options** to renovate or modestly rebuild – saving tens of millions – were **cast aside**. That’s **poor planning**.
- Property **taxes and fees rose 36%** in the past five years.
- Immediate **5% tax increase** – Pierce contributes to **additional 23%** in next five years.
- Increase lasts **25 years, \$314 million** with interest.
- Town is over **half billion** dollars in **debt**.
- Revision can cost less – **No other town** is building as expensively and putting as high a **tax burden** on residents for **one elementary / middle school**.
- **Demolition** of massive concrete structure has major **climate impacts** – **Greenest approach** is re-use, not new construction.
- <https://www.SpendSmartBrookline.org/no1>



Questions 2A and 2B are separate questions. You may vote for or against each question independently. Each question requires a majority of those voting on that question to pass. If both Questions 2A and 2B pass, the question with the highest dollar amount will prevail over the other.

### Question 2A.

Shall the Town of Brookline be allowed to assess an additional \$11,983,367 in real estate and personal property taxes for the purposes of funding the costs of Brookline Public Schools (\$6,988,367) and funding the costs of additional expenditures in municipal departments (\$4,995,000) for the fiscal year beginning July 1, 2023?

#### TOWN COUNSEL SUMMARY:

State law, commonly known as “Proposition 2 ½,” limits the total amount of money that a Town can raise through property taxes by, among other things, setting a so-called levy limit. By passing an “override” or an “exclusion,” Proposition 2 ½ allows the voters of a Town to assess property taxes more than the levy limit’s usual allowable annual increase. Typically, the levy limit may only increase at an annual rate of 2.5 percent.

By passing an “override,” Proposition 2 ½ allows a Town to assess more taxes than the allowable increases for governmental expenses likely to recur or continue, although the additional funds may be used for any public purpose. An override increases the amount of property tax revenue a Town may raise in the year specified and also into future years. Question 2A is an override question.

If passed, this question would increase property taxes by \$11,983,367 gradually over the next three years. The override would fund municipal and school operations and close certain budget deficits facing Brookline. Current service levels would be maintained.

The municipal, or “Town”, portion of the override totals \$4,995,000. This part will close the deficit and pay for additional streetscape and roadway maintenance, vehicle replacement, facilities maintenance, employee recruitment and retention, rodent control, Planning Department studies, forestry management, and other Town initiatives. The school portion of the override totals \$6,988,367. This part will close that department’s deficit and achieve the staffing levels, class sizes, caseloads, and programming the Public Schools of Brookline has requested.

Question 2A, and the following Question 2B, both request authorization to assess additional property taxes. Question 2A does not include all the requested increases in property taxes that Question 2B does.

Any question with a majority of votes passes. Questions 2A and 2B may also both fail to reach a majority of votes. But, if both questions pass, only the higher amount in question 2B will be the new higher levy limit.

A “yes” vote on this question allows a permanent \$11,983,367 Townwide property tax increase for the purposes of funding the costs of Brookline Public Schools (\$6,988,367) and funding the costs of additional expenditures in municipal departments (\$4,995,000).

A “no” vote would make no changes to the amount of property taxes the Town may raise other than what is allowed by Proposition 2 ½, so-called.

Yes \_\_\_\_\_ No \_\_\_\_\_

Proponent: Jeff Rudolph, Campaign Manager  
Lisa Sears, Treasurer  
State Representative Tommy Vitolo, Campaign Co-Chair  
School Committee Member Andy Liu, Campaign Co-Chair  
Select Board Member Mike Sandman, Campaign Co-Chair  
Yes for Brookline  
29 Greenough Street  
Brookline, Massachusetts 02445

The proposed \$12 million operating override -- by far the largest in Brookline's history -- raises annual taxes over 4%, compounded annually. Government by override is necessary only when there is no political will to close our growing operating deficit.

Voting No on Question 2A will tell our Town and School officials that fixing Brookline's structural budget deficit -- including controlling costs-- should be their highest priority. Residents deserve accountable leadership.

Massachusetts municipalities cannot raise real estate taxes more than 2-1/2% per year without a town-wide vote.

Brookline cannot be affordable when large overrides are scheduled every few years. To avoid facing yet another override 3-4 years down the road, we must say No to Question 2 now.

Brookline's expenses have risen by 4% a year or more. Every year it is more difficult to maintain roads, schools, and public safety services. Brookline is asking voters to raise taxes by \$11.98 million in three steps:

	Town	Schools
	(Million \$)	
2023-24	\$ 2.860	\$ 3.690
2024-25	\$ 1.120	\$ 1.710
2025-26	<u>\$ 1.015</u>	<u>\$ 1.580</u>
	\$ 4.995	\$ 6.980



### Question 2B.

Total by 2025-26:	\$ 11.98
% increase in taxes:	4.20%

Shall the Town of Brookline be allowed to assess an additional \$13,833,367 in real estate and personal property for the purposes of funding the costs of Brookline Public Schools (\$6,988,367), funding the costs of additional expenditures in municipal departments (\$4,995,000), and funding the costs of a municipal composting collection service (\$1,850,000) for the fiscal year beginning July 1, 2023?

The case for the override is simple: To maintain Town and School services and catch up on road and building repairs, we need more revenue.

#### TOWN COUNSEL SUMMARY:

Please vote for Question 2A even if you vote for Question 2B.

State law, commonly known as "Proposition 2 1/2," limits the total amount of money that a Town can raise through property taxes by, among other things, setting a so-called levy limit. By passing an "override" or an "exclusion," Proposition 2 1/2 allows the voters of a Town to assess property taxes more than the levy limit's usual allowable annual increase. Typically, the levy limit may only increase at an annual rate of 2.5 percent.

See where the money will go here:

<https://www.brooklinema.gov/3590/FY2024-26-Override-Central>

See the impact on the property you live in here:

<https://apps.brooklinema.gov/assessors/odesearch.asp>



By passing an "override," Proposition 2 1/2 allows a Town to assess more taxes than the allowable increases for governmental expenses likely to recur or continue, although the additional funds may be used for any public purpose. An override increases the amount of property tax revenue a Town may raise in the year specified and also into future years. Question 2B is an override question.

Opponent: A.K. Nandakumar and Roger Blood

If passed, this question would increase property taxes by \$13,833,367 gradually over the next three years. The override would fund municipal and school operations and close certain budget deficits facing Brookline. Current service levels would be maintained, and the \$13,833,367 override would provide \$1,850,000 in funding for a municipal composting collection service.

Property taxes have increased 36% in just five years. They will jump another 23% in the next five years if Questions 1 and 2 pass (inclusive of other known debt). Brookline's outstanding debt is nearly \$1/2 billion. That's 60% more than what it was only five years ago.

The municipal, or "Town", portion of the override totals \$4,995,000. This part will close the deficit and pay for additional streetscape and roadway maintenance, vehicle replacement, facilities maintenance, employee recruitment and retention, rodent control, Planning Department studies, forestry management, and other Town initiatives. The school portion of the override totals \$6,988,367. This part will close that department's deficit and achieve the staffing levels, class sizes, caseloads, and programming the Public Schools of Brookline has requested. Finally, this question also includes \$1,850,000 in funding for a municipal composting collection service.

Question 2B, and the previous Question 2A, both request authorization to assess additional property taxes. Question 2B includes the increases in property taxes from Question 2A and more—funding for municipal composting.

Any question with a majority of votes passes. Questions 2A and 2B may also both fail to reach a majority of votes. But, if both questions pass, only the higher amount in question 2B will be the new higher levy limit.

A "yes" vote on this question allows a permanent \$13,833,367 Townwide property tax increase for the purposes of funding the costs of Brookline Public Schools (\$6,988,367), funding the costs of additional expenditures in municipal departments (\$4,995,000), and funding the costs of a municipal composting collection service (\$1,850,000).

A "no" vote would make no changes to the amount of property taxes the Town may raise other than what is allowed by Proposition 2 ½, so-called.

Yes \_\_\_\_\_ No \_\_\_\_\_

Proponent: Jeff Rudolph, Campaign Manager  
Lisa Sears, Treasurer  
State Representative Tommy Vitolo, Campaign Co-Chair  
School Committee Member Andy Liu, Campaign Co-Chair  
Select Board Member Mike Sandman, Campaign Co-Chair  
Yes for Brookline  
29 Greenough Street  
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Voting "Yes" for Question 2B accepts the \$11.98 million requested in Question 2A, and adds funding for a new service, town-wide composting. Composting will reduce trash costs, reduce the rodent population, and help the environment. The additional cost for composting will add \$1.85 million, or 0.65% to our taxes.

Composting – add'l cost:	\$1.85M
% increase in taxes:	0.65%

According to the 2020 US census there are almost 27,000 households in Brookline. Based on the projection of the number that will participate, \$1.85 million will cover the Town's costs.

When you vote for Question 2B, please also vote for Question 2A. That helps ensure that funds requested in 2A win approval.

Census data here; scroll down to see the number of households:  
<https://censusreporter.org/profiles/16000US2509210-brookline-ma/>

See where the money will go:  
<https://www.brooklinema.gov/3590/FY2024-26-Override-Central>

See the tax impact where you live:  
<https://apps.brooklinema.gov/assessors/odesearch.asp>

More info here:  
<https://yesforbrookline.com/>



Opponent: Paul Hsieh, TMM pct. 4  
115 Walnut Street  
Brookline, MA 02445

Full disclosure: I am a strong supporter of townwide composting in Brookline.

I oppose Question 2B because this plan is not ready for prime time and is unlikely to achieve townwide composting.

Currently, 2000 Brookline households are paying \$120/year to compost with Black Earth. The green bin costs \$29.50.

Question 2B asks for \$1.85 million/year to offer composting with an extra undisclosed opt-in fee. In other communities, tax-funded opt-in composting without extra fees results in about 30% participation. 30% of 13,000 households with municipal service is 4000. Composting for 4000 households privately would cost \$480,000/year. Unless all 13,000 households opt in, 2B will create a tax surplus that will end up in the general fund.

No on 2B is not no on townwide composting. It is no to an unspecified tax surplus. If you want townwide composting, as I do, advocate for a more thoroughly town-vetted process.

### Question 3.

Shall the Town of Brookline adopt the following changes to the Town's General Bylaws that would limit the number of Storefront Marijuana Retailer licenses to no more than four, consistent with Warrant Article 15 of the November 2022 Special Town Meeting?

#### TOWN COUNSEL SUMMARY:

If passed, this local ballot question would limit the number of storefront marijuana retailer licenses in the Town to four or less. The November 2022 Special Town Meeting passed this proposed bylaw as Warrant Article 15. State law requires that the Town of Brookline voters decide whether to adopt this bylaw change. G.L., c. 94G, § 3(e).

The license cap will stay unchanged for all other license types. These other license types include marijuana delivery operators, social consumption retailers, and marijuana couriers. The present license cap for each license type equals 20% of the number of liquor licenses for off-premises alcohol consumption that the Select Board has issued. Today, the cap is five.

A "yes" vote on this question would limit the number of storefront marijuana retailer licenses in the Town to four or less.

A "no" vote would make no changes to the number of storefront marijuana retailer licenses in the Town.

#### TEXT OF THE BYLAW:

Section 8.37.4 Caps on the Number Select Board Licenses for Marijuana Retailers

The Select Board shall not issue more Marijuana Establishment licenses in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, §15, as rounded up to the nearest whole number in the event the number is a fraction: a) Marijuana Delivery Operators, b) Social Consumption Retailers, and c) Marijuana Couriers.

The Select Board shall not issue more than four Storefront Marijuana Retailer licenses.

Yes \_\_\_\_\_ No \_\_\_\_\_

Proponent: Susan Park, President  
Parents for Yes on 3  
Post Office Box 786  
Brookline, Massachusetts 02446  
[www.yesonthree.org](http://www.yesonthree.org)

Town Meeting recently approved a limit on cannabis storefronts to the existing four. State law requires a YES vote on Q3 to finish the process of

adopting this limit. Vote **Yes to Keep the Cannabis Cap**. Otherwise, 1-3 more stores are likely.

In Brookline, cannabis storefronts outnumber supermarkets and hardware stores. A YES vote allows different businesses to flourish while maintaining access to cannabis at four dispensaries.

Recent state law changes dramatically decreased the revenue towns collect from cannabis. Revenue from our existing shops will remain.

Brookline has 8 unused social equity licenses for warehouses and couriers. These could enable individuals from underrepresented communities to participate in the cannabis industry. Those 8 social equity licenses will remain available regardless of the Q3 outcome.

By **voting YES to confirm the bylaw**, we also help parents to navigate the footprint of the industry in Brookline, while ensuring continued access to cannabis.



Opponent: For Brookline PAX  
Marty Rosenthal, Co-chair, TMM pct. 9, 62 Columbia Street, Brookline, Massachusetts  
Neil Gordon, Co-chair, TMM pct. 1, 87 Ivy Street, Brookline, Massachusetts  
Donelle O'Neal, Sr., Board Member, TMM pct. 4, 68 Village Way, Brookline, Massachusetts

Question 3 is the latest effort of persistent, vocal, well-intentioned (but we believe misguided) anti-cannabis activists to limit legal cannabis sales in Brookline. After Brookline voted 61-39% (a state ballot question) to legalize cannabis, Town Meeting consistently voted against unreasonable restrictions. Question 3 proponents argue that Town Meeting voted to restrict licenses, but many Town Meeting Members thought only that voters should decide this. Brookline has granted four of its five authorized licenses, and with a new Cannabis Equity Policy will likely reserve the other for Social Equity applicants, partially mitigating adverse, racially tinged impacts on populations disproportionately harmed by neo-Prohibition, from 1936's *Reefer Madness* through Nixon's *War on Drugs*, and beyond. Limiting licenses won't reduce cannabis consumption, including by teens for whom it is risky. It would foreclose a Social Equity license, and shift some purchases to non-Brookline dispensaries, reducing much-needed Town tax revenue. Please Vote NO on Question 3.