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June 30, 2020

**Jonathan D. Witten**  
jdwitten@k-plaw.com

BY ELECTRONIC MAIL (lb@valleycdc.com)  
AND FIRST CLASS MAIL

Ms. Laura Baker  
Real Estate Project Manager  
Valley Community Development Corporation  
256 Pleasant Street, Suite A  
Northampton, MA 01060

Re: Valley Community Development Corporation, 132 Northampton Road, Amherst  
Comprehensive Permit Application, Decision of the Amherst Board of Appeals  
Invoking “Safe Harbor” Pursuant to G.L. c.40B, s.20 and 760 CMR 56.03

Dear Ms. Baker:

At a scheduled public hearing held on June 25, 2020 in regard to the above noted matter at which you were present, the Amherst Board of Appeals voted to declare that the Town of Amherst is “consistent with local needs” as that phrase is defined by G.L. c.40B, s.20 and 760 CMR 56.00 et seq. due to the fact that the Town of Amherst has greater than ten percent (10%) of its year round housing stock defined as “low or moderate income” housing.

Based upon the Department of Housing and Community Development’s (“DHCD”) “subsidized housing inventory” (“SHI”), the Town of Amherst has 12.59% of its year round housing stock defined as subsidized and meeting the definition for inclusion in the Town’s SHI. *See Attachment 1.* Accordingly, the Board of Appeals voted to assert the so-called “safe harbor” provisions as found in 760 CMR 56.03.

This letter and attachments are provided to you and the Department of Housing and Community Development in accordance with 760 CMR 56.03(8) but in doing so, the Board does not waive its objections to various provisions of 760 CMR 56.03 et seq. as being inconsistent with G.L. c.40B, s.20-23 and entirely *ultra vires*.

Ms. Laura Baker  
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Please feel free to contact me with any questions.

On behalf of the Amherst Board of Appeals,



Jonathan D. Witten

JDW/lmk

Enc.

cc: Amherst Board of Appeals  
Phillip DeMartino, (by electronic mail and first class mail)

724605/00800/0174

# **ATTACHMENT NO. 1**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY**

**Amherst**

<b>DHCD ID #</b>	<b>Project Name</b>	<b>Address</b>	<b>Type</b>	<b>Total SHI Units</b>	<b>Affordability Expires</b>	<b>Built w/ Comp. Permit?</b>	<b>Subsidizing Agency</b>
72	Watson Farm	693 Main Street	Rental	15	Perp	Yes	HUD
73	Ann Whalen Apartments	33 Kellogg Ave.	Rental	80	Perp	No	DHCD
74	Chestnut Court	East Pleasant St.	Rental	30	Perp	No	DHCD
75	Jean Elder House	9 Chestnut St.	Rental	23	Perp	No	DHCD
76	Sunrise Ave	Sunrise Ave.	Rental	8	Perp	Yes	DHCD
77	John Nutting Apartments	32-36 Chestnut Court	Rental	16	Perp	No	DHCD
78	n/a	Scattered sites	Rental	16	Perp	No	DHCD
79	n/a	Jenks St.	Rental	4	Perp	No	DHCD
80	Amherst Neighborhood Homes	27 The Hollow	Rental	4	2021	No	DHCD
81	Clark House	100 Main St.	Rental	100	Perp	YES	MassHousing
83	Mill Valley Estates	New Hollister and East Hadley Rds.	Rental	148	Perp	Yes	DHCD DHCD
84	Misty Meadows	Stanley St.	Ownership	14	Perp	No	DHCD
85	Misty Meadows	Stanley Street	Rental	2	Perp	No	DHCD DHCD
87	Pomeroy Lane	34 Pomeroy Lane	Rental	25	2062	No	DHCD DHCD
89	Rolling Green-Amherst	Belchertown Rd.	Rental	204	Perp*	No	MassHousing
90	Village Park	Village Park Road	Rental	200	Perp	No	HUD

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91	Habitat for Humanity House	West Pomeroy Lane	Ownership	1	Perp	No	DHCD
92	Cherry Hill Cohousing	Pulpit Hill Rd.	Ownership	10	Perp	No	DHCD
4190	DDS Group Homes	Confidential	Rental	75	N/A	No	DDS
4536	DMH Group Homes	Confidential	Rental	5	N/A	No	DMH
7018	Palley Village	Off Old Belchertown Road	Ownership	4	perp	No	DHCD
8588	Tamarack/Keet House	Tamarack Drive and Bridge Street	Rental	8	perp	NO	HUD  MassHousing  Town of Amherst
9037	Main Street Affordable Housing	683-687 Main St	Rental	11	2058	NO	DHCD  MHP
9373	Butternut Farm	12 Longmeadow Drive	Rental	27	Perp	YES	MassHousing  DHCD
9404	Stanley Street	Stanley Street	Ownership	4	Perp	NO	DHCD
9663	Habitat for Humanity-Belchertown Road	Belchertown Road	Ownership	1	Perp	NO	DHCD
9807	Olympia Oaks	85 Olympia Drive	Rental	42	Perp	YES	DHCD
10351	East Pleasant St	East Pleasant St	Ownership	2	Perp	NO	DHCD
10352	North Pleasant Street Amherst Duplex	North Pleasant St	Ownership	2	Perp	NO	DHCD
10444	North Square at the Mill District	75 & 85 Cows Rd	Rental	130	Perp	YES	MHP

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10444	North Square at the Mill District	75 & 85 Cows Rd	Rental	130	Perp	YES	DHCD
<b>Amherst Totals</b>				1,211	<b>Census 2010 Year Round Housing Units</b>		9,621
					<b>Percent Subsidized</b>		12.59%

This data is derived from information provided to the Department of Housing and Community Development (DHCD) by individual communities and is subject to change as new information is obtained and use restrictions expire.