

June 18, 2003

Dan Wuenschel, Executive Director  
Cambridge Housing Authority  
675 Massachusetts Avenue, 2nd Floor  
Cambridge, MA 02139

***Re: Illegal activities of Cambridge Housing Authority***

Mr. Wuenschel:

As part of its ongoing construction project at 217 Western Avenue in the Riverside neighborhood, the Cambridge Housing Authority has illegally *trespassed* on our abutting property at 33 Howard Street, wantonly *destroyed* a large amount of our private property while refusing to provide restitution, and subsequently *breached* a written contract stipulating certain limited remediation to our property. The CHA simply took half of our entire backyard for its own purposes, making that land inaccessible and unusable to us for the duration of the construction project this spring, summer and fall.

As you know, the individuals directly responsible for these actions are two of your employees: Terry Lurie and Lisa King. Terry and Lisa have been personally insulting, belligerent, and deceptive throughout our multiple attempts over nearly three months to negotiate some reasonable outcome with them. Beverly Gallo, an honest and well-intentioned CHA contractor who worked in good faith and verbally committed to rectifying the CHA's illegal actions, was fired by Terry from the project and forbidden to speak with us.

The following is a detailed list of the grievances we, as residents of Cambridge, have against the CHA with respect to the impact of the construction at 217 Western Avenue:

*Trespassing and Taking of Private Property*

- CHA never asked our permission for any use of our property whatsoever.
- Upon starting the construction project, CHA erected a chain-link fence extending across the middle of our yard, and completely cutting off fully 75% of our land area.
- After we threatened to seek an injunction, CHA moved the fence to its current position, where it continues to make 40% of our backyard inaccessible and unusable. Our land was rendered unusable from March through the end of the project (currently anticipated by CHA to be in the "early fall").
- CHA drove 30-foot-long steel I-beam piles into our backyard without permission.
- CHA removed and destroyed a portion of our backyard, which is now a 10-foot-deep construction pit.
- CHA admitted that it does not have a permit to engage in construction work on 33 Howard Street property.
- CHA's contractors have routinely parked trucks in front of our driveway without our permission.

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### Property Damage

- During demolition during the last week in April, CHA completely and purposefully destroyed the fence along the side of our property without notice. We called the Cambridge police immediately to report the theft of our fence, but the responding officer (who arrived nearly three hours after we called) declined to write a report.
- A few days later, CHA then proceeded to completely destroy part of our back fence without notice.
- CHA removed the remainder of our back fence in order to replace it with a new fence that they themselves picked out (Walpole brand Homestead style board fencing) and promised us on May 2. Six weeks later, they have still not replaced any portions of the destroyed and missing fences.
- CHA removed and destroyed a portion of our backyard itself, leaving a 10-foot-deep construction pit on our property.
- CHA asked us in March to not plant or landscape our yard because they would happily do it for us after demolition and initial site preparation at no charge and according to whatever garden plans we submitted, to avoid us doing it and them destroying it during construction and then having to provide restitution later. It is now June, and CHA refuses to comply with this promise. We have missed the planting season for the year, and will not only incur much higher costs to landscape now (e.g. using sod instead of grass, replacing bushes that die because they are planted too late in the summer), but have missed out on enjoying a fully-planted green backyard until we can plant next spring.

### Lying to the Community

- In public meetings, CHA lied about the project's impact to the abutting properties:
  - During meetings throughout last winter, *CHA insisted that the abutters' property would "not even be touched"*.
  - Later, the CHA notified us that it needed to move a portion of our fence.
  - Then, the CHA completely and purposefully destroyed our side fence without our permission.
  - The CHA then put a chain-link barrier in the middle of our yard without our approval.
  - CHA destroyed part of our back fence without our permission.
  - The CHA drove piles in our backyard without our permission.
  - The CHA physically removed part of our backyard; it is now a 10-foot-deep pit.
- CHA did not notify us or anyone in the neighborhood of demolition start date as promised in public meetings.
- Despite public promises to maintain safety at the site and completely seal the site off from the surrounding properties, CHA *refused to seal off the construction pit from our property for five weeks* after demolition, and then only upon receiving a summons.
- CHA told the community that nobody would hear or feel the effects of the pile-driving process. They were very wrong; objects were falling off of counters and walls.
- Despite promising in public meetings to immediately stop pile-driving if any abutters were uncomfortable with the effects, the CHA refused to temporarily cease pile-driving when we told them things were falling off shelves.

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- The CHA said that pile-driving would be done by mid-May in the “worst case”. It was not completed until June 13. Nobody in the neighborhood was notified of the delay or the reasons for it. We have since found out from someone on the construction crew that the CHA found lead-contaminated soil on the site and could not get a permit to remove it.
- CHA lied about the process for shoring up the construction pit after removal of the existing building’s foundation. It claimed that the wall of the pit would be shored up immediately to mitigate catastrophic risk to our house; however, *the construction pit was not shored up for more than one week*, thus exposing us to an extreme risk of that our home would collapse, as described in detail by CHA itself.
- CHA promised in public meetings that it would start work at 7:30am for the duration of the project. Extremely noisy and disturbing work consistently starts at 7am.

#### Civil Rights Infringement

- CHA’s occupation of our property and destruction of our property interferes with our rights to the quiet enjoyment of our own property.
- Furthermore, the CHA has made it explicitly clear that it feels entitled to take our land in the manner that it has *precisely because of the neighborhood we live in*:
  - When we questioned Lisa King during a meeting as to whether the CHA would act like this in a lushly-landscaped backyard on A von Hill, she responded, “of course not!”. She informed us that the CHA’s normal course of action is to request permission of the land-owner for use of their property, to only use a very small portion of any abutting property, and to fully remediate all damage to the landscaping resulting from such use. When we asked her why CHA did not do any of these things for our property, she replied that they “didn’t think it was necessary.”
  - Lisa further divulged that our “alley” (as she disparagingly describes our backyard) and fence didn’t “look like much” to begin with, so she didn’t feel it was a problem to unilaterally and independently order their demolition. Bill Ewal and Terry Lurie both echoed this same opinion when it was put forth at a meeting on May 13.
  - On May 2, Beverly Gallo and Lisa King acknowledged that CHA had purposefully destroyed all our fencing. When we asked why destruction of private property had been ordered by CHA, Lisa King flippantly said that CHA “didn’t think [we] would mind,” since she thought the yard didn’t look very nice to begin with, and because she planned to replace the fence. Of course, CHA has not replaced it to date, and they are fighting a bitter and personal battle to avoid doing so.

#### Breach of Contract

- After all of the above occurred, we realized that the CHA was not trustworthy, and that we needed the CHA to commit to writing the verbal promises that had been made regarding its use of our property. On May 13, Terry and Lisa finally made room in their schedules to meet with us late in the evening. CHA was unwilling to put in writing much of what had been promised to us. Furthermore, they coerced us into signing a hastily- and loosely-written contract without a lawyer present. Knowing we were leaving for a two-week vacation in two days, they told us we could either sign the pared-down version of their promises they put before us, or wait until we returned from vacation to resume

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the negotiations, thereby delaying any remediation work by at least the length of our vacation. We signed it, with their affirmation that they also intended to comply with all the additional verbal promises they made to us at the same time.

- *CHA has breached this written, legally-binding May 13 contract in six separate ways:*
  - The back fence was not installed by the June 2 deadline specified in the contract. It has still not been installed.
  - A gate to the sidewalk was installed on June 6, 24 days after the deadline specified in the May 13 contract (and the day after CHA received a summons).
  - The May 13 contract states that we would be named as additional insured parties on CHA's liability insurance, to cover liability arising from construction work being done (against our will) on our property. We did not receive a copy of such an insurance policy until June 6, 22 days after the date required in the contract (and the day after CHA received a summons).
  - The contract specifies that a temporary fence abiding by "accepted best residential construction practices" would be installed. *The quality of the actual installation was a joke:* the gate in the fence could not be opened because it smashed into the slope of our yard, the latch was defective and therefore the gate cannot be closed, the entire fence is unstable and wobbles back and forth with a light touch, 3-inch-long nails were sticking out into our yard, and there was a 6-inch-high gap below the gate through which our puppy could escape. CHA refused to fix these items for one month, and finally fixed some of them the day after receiving a court summons on this matter.
  - The May 13 contract specifies installation of a railroad tie retaining wall along our back property line.
  - On several days since the contract was written, the project clerk did not call us with a daily construction schedule update as is clearly specified in the contract.
- CHA's primary strategy for trying to back out of the fence-replacement clause in our written contract relates to its preposterous insistence that because the contract refers casually to a "stockade" fence, they cannot install the Walpole brand Homestead style fence that the signed contract is actually based on. Apparently, since writing the contract, they have since changed their minds and now say that this Homestead fence can only be referred to as a "board" fence. CHA selected the Homestead fence for the 217 Western project, obtained our approval of the quality and style as an adequate replacement of our own destroyed property, and presented a photo of it thereafter at all project meetings. In addition to the fact that there are more than eight witnesses to CHA's declared intention to install this Homestead fence, *the Walpole website in fact defines as "board fence" several types of fencing that CHA has based its legal case on defining as "stockade."* We are utterly confused as to why CHA would spend so much time and effort attempting to breach a binding contract with such illogical and inaccurate claims regarding vocabulary.

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- There were many verbal promises made to us by Terry Lurie, Lisa King, Beverly Gallo, Bob Ellis (project clerk), and Jim Martin (construction contractor) that CHA refused to include in the May 13 written contract, yet insisted they would complete. They have fulfilled none of these promises to date. These promises constitute the intent and spirit of the May 13 contract, which is what the law would recognize as enforceable in a civil lawsuit. These include: (a) replacing our exterior water spigot in exchange for us giving the contractors free use of water from the spigot for several weeks; (b) repairing gaps in the fence on the other side of our property and checking the entire boundary for gaps in which a small puppy could get caught; (c) landscaping and planting our entire yard; (d) providing real-time copies of all cost estimates, specifications and proposals submitted to CHA's approval board by its contractors for work on our property; and (e) providing full indemnification to us for all site work.

In addition to the above criminal acts and civil law violations, CHA has now added two counts of perjury to its growing list of illegal activity related to the 217 Western Avenue construction project:

- Lisa King submitted an affidavit to the Superior Court of Middlesex County that included false statements.
- On June 9, CHA's attorney, Sue Cohen, informed Judge Judith Fabricant at a hearing regarding our request for an injunction against the project, that CHA was "in the process" of installing a replacement fence. We have since found out that no fence had been ordered as late as June 13. We have still had no confirmation that the CHA has moved forward at all with procuring a fence that complies with our written agreement.

While the above is a lengthy list of illegal and irresponsible actions by the CHA, it does not begin to describe the extreme personal impacts those actions have had on us and on our lives. An indicative list of these impacts includes: (a) lost wages from time off work to meet with CHA; (b) inability to work from home due to lack of notification of pile-driving schedule; (c) court fees; (d) legal fees; (e) change fees and family disruption to change our vacation schedule in order to communicate with CHA; (f) large international phone bills; (g) inability to take delivery of items we ordered for our backyard due to its reduced size; (h) inability to receive delivery packages due to obstruction of side gate to our house; and (i) inability to exercise our dog in our own yard due to its restricted size.

What makes all of the above injustices even more unfathomable is that we were the strongest neighborhood supporters of the CHA's 217 Western Avenue project at the outset. At CHA's request, we contacted our neighbors to encourage them to attend CHA project meetings, we attended every single meeting the CHA held, we helped the CHA explain the project to other members of the community who were not as supportive of public housing, we agreed to not preemptively hire a lawyer when the CHA swore its word would be binding, we agreeably let the CHA's contractors use our water when they couldn't get water on their construction site, and we trusted the CHA to follow the law and to abide by its promises.

As Beverly Gallo said to us many times before being fired from her position, we have "bent over backwards to support the project." *We are the last people whose rights should have been trampled by CHA, the last people who should have been repeatedly personally insulted by CHA, the last people towards whom CHA should have any reason to not behave in good faith.* As a

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newlywed couple who chose to move from Chicago after our wedding last fall and make Cambridge our new home, we are outraged at the situation we now find ourselves in. We searched the city of Cambridge for what would be our first home, and chose the one at 33 Howard Street specifically because of its large yard; now we have only half of that yard (minus a fence), and an agency of the very city in which we live is battling fiercely to deny us restitution for its unauthorized and illegal actions on our property. To date, we have had two hearings in Middlesex County Superior Court seeking an injunction to stop the project, we have repeatedly tried and been met with silence in negotiating a settlement of this matter with the CHA, we have asked the CHA without success to agree to mediation, and we are now gearing up for a several-months'-long civil lawsuit as our only apparent remaining recourse in this matter.

As you are well aware, the CHA depends on good relations with the community to enable its construction projects to be approved, accepted and to move forward smoothly. We are therefore confused by the irrational, fraudulent, and wasteful behavior we see at the CHA. It seems that certain individuals at the CHA would rather spend taxpayer money on dozens of hours of expensive outside legal counsel than expend a small amount of effort and a smaller sum of money to rectify in a timely manner the blatant destruction of private property and disruption of lives that they authorized.

Given the egregious nature of these actions, we understand that you will likely wish to take disciplinary action against the individuals involved, and therefore hope that this summary of events proves useful. In the meantime, we continue to pursue legal action against the CHA until it decides to rectify its actions on our property.

Sincerely,

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Enclosure: *Cambridge Chronicle* article, June 18, 2003

cc:

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**Communication #1**

A communication was received from Eric and Laura Chung, regarding the construction project at 217 Western Avenue by the Cambridge Housing Authority.

**In City Council June 23, 2003**

**REFERRED TO CITY MANAGER**