

Article 37: AC Oral comments

MMe Moderator,

This article raises questions that have an intuitive appeal. If a town meeting action in response to a property owner's request creates value, shouldn't this be captured in the assessed value for the property as new growth? Our reaction to this article, however, has evolved over time.

At the January 13 AC meeting held in this hall and televised by lexMedia, Steve Foster, formerly a member of the Board of Assessors, provided a detailed presentation on commercial property assessment. Based on that presentation, the AC is confident that Lexington Assessors are properly executing current DOR guidelines and regulations. It appeared to be clear that the DOR does not have current guidelines or regulations that cover the scenario described in this motion.

On March 14, the AC formally considered this motion for the first time. In addition to the lack of clear regulations, it was also clear that there are few instances of the kind of "upzoning" being considered. Lexington's experience is necessarily limited and it was felt that an appeal to the DOR was in order for only they had visibility into statewide practices and they could determine if a "problem" – that is, a cause for issuing new regulations-- exists. At that meeting we took a preliminary straw poll of 7-2 in favor, but tabled action on the motion pending a reaction from the Planning Board regarding that portion of the resolution.

On March 17, the AC again considered the question and at this meeting there was increasing concern about creating a well-formed request to the DOR. Questions arose as to from whom the request should originate. Two members changed their position on the article, and the committee then stood 5-4 in favor.

Over the following weekend, the committee became privy to an e-mail exchange between the DOR and Representative Kaufman. In this exchange, it became clear that the DOR had previous contact with the proponent of this motion and that they were not disposed to act favorably on this request. The resolution brought forth to Town Meeting does not add any information to what had previously been discussed with the DOR and there should be little expectation of a different reaction should TM approve the resolution. Consequently, on March 22 the AC again changed its vote to 4-4-1.

As we prepared for the article to reach the floor, we again considered the vote and the abstaining member voted against the motion (we then stood at 4-5). As a member of the minority, I was asked to prepare the AC oral comments on this motion, but as I worked on the discussion, I found myself unable to sustain my affirmative vote. I do favor posing this request

to the DOR, but in a way that is likely to be received well. I do not believe that simply adding Town Meeting's imprimatur to the request made by the proponent as a citizen is likely to yield a different result. Given that there are few instances of this scenario – and none on the immediate horizon causing us haste, I can no longer advocate support for this resolution. The remaining members of the minority remain in favor of sending this request to the DOR.

The AC, by a vote of 3-6 recommends disapproval of Article 37.