

**ADAM J. BRODSKY**

Attorney at Law

COPY

October 17, 2003

VIA CERTIFIED MAIL/ RETURN RECEIPT REQUESTED

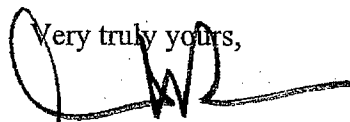
Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, MA 02211

**RE: In the Matter of Northland Residential Corporation  
Appeal of Sewer System Connection Permits**

Dear Sir or Madam:

Enclosed for filing please find the following documents: (1) copy of Notice of Claim for Adjudicatory Hearing; (2) Notice of Appearance; (3) Fee Transmittal Form; and (4) Check in the amount of \$100.00. Please acknowledge receipt by date stamping the enclosed copy of this letter and returning it to me in the self-addressed stamped envelope. Thank you.

Very truly yours,



Adam J. Brodsky

/mfp

Enclosures

cc: Deneen M. Simpson, Docket Clerk (via hand delivery)  
John Zajac, Bureau of Resource Protection (via certified mail)  
John C. Dawley, Northland Residential Corporation (via certified mail)  
Thomas G. Gatzunis, P.E., Dir. of Community Development (via certified mail)  
Carl H. Leone, Massachusetts Water Resources Authority (via certified mail)  
Brona Simon, State Archaeologist (via certified mail)  
Sean McDonnell, Architectural Heritage Foundation, Inc. (via certified mail)  
Belmont Citizens Forum, Attn: Suzanne Bass, Vice President

BelmontLockboxFilingLetter.doc

TEL: (781) 340-6900  
FAX: (781) 340-6902  
E-MAIL: adam@brodskylaw.com  
www.brodskylaw.com

72 SHARP STREET  
UNIT A9  
HINGHAM, MASSACHUSETTS 02043

**Fee Transmittal Form**  
**Request for Adjudicatory Appeal**  
**Department of Environmental Protection**

<b>Person/Party Making Request:</b> (If appropriate, name group representative)	<b>Applicant (if applicable):</b>
Name: Adam J. Brodsky, Esq., as attorney for Petitioners	Name:
Street: 72 Sharp Street, Unit A-9	Street:
City/Town: Hingham	City/Town:
State/Zip Code: MA 02043	State/Zip Code:
Phone: (781) 340-6900	
<b>Project Location:</b> Summit Road, Belmont	
<b>DEP File or ID Number:</b> Belmont – BRPWP-18	
<b>Amt. Of Filing Fee Attached:</b> \$100	

**Instructions**

1. Send this form and check or money order for \$100.00, payable to the Commonwealth of Massachusetts, to the DEP Lockbox at: Department of Environmental Protection, Box 4062, Boston, MA 02211.
2. Send a copy of this form and a copy of the check or money order with the Request for an Adjudicatory Appeal to: Docket Clerk, Office of Administrative Appeals, One Winter Street, Boston, MA 02108.

**Important!**

**This form is intended for fee transmittal only. The contents of a request for an adjudicatory appeal (Notice of Claim) are established at 310 CMR 1.01 (6) and the substantive statutes and regulations governing the Department's action.**

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**ADAM J. BRODSKY, ESQUIRE**  
72 SHARP STREET  
UNIT A9  
HINGHAM, MA 02043

**ROCKLAND TRUST COMPANY**  
PLYMOUTH, MA 02360  
53-447/113

3360

10/15/2003

PAY TO THE ORDER OF Commonwealth of Massachusetts

\$ \*\*100.00

One Hundred and 00/100\*\*\*\*\* DOLLARS

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
Boston, MA 02211

In the Matter of Northland Residential Corporation

MEMO

*JW*

⑆003360⑆ ⑆01304478⑆ 405510383⑆

COPY

ADAM J. BRODSKY

Attorney at Law

October 17, 2003

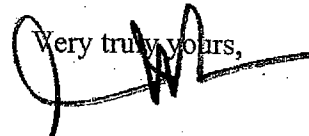
**VIA HAND DELIVERY**

Deneen M. Simpson, Docket Clerk  
DEP – Office of the Administrative Appeals  
One Winter Street, 3<sup>rd</sup> Floor  
Boston, MA 02108

RE: **In the Matter of Northland Residential Corporation**  
**DEP Docket No.**  
**Appeal of Sewer Permit Nos. W033671 and W033672**

Dear Ms. Simpson:

Enclosed for filing please find the following documents: (1) Notice of Claim for Adjudicatory Hearing; (2) Notice of Appearance; (3) copy of Fee Transmittal Form; and (4) copy of check in the amount of \$100.00. Please acknowledge receipt by date stamping the enclosed copy of this letter and returning it to me in the self-addressed stamped envelope. Thank you.

Very truly yours,  


Adam J. Brodsky

/mfp

Enclosures

cc: Belmont Citizens Forum, Attn: Suzanne Bass, Vice President  
Service List

Belmont SewerDEPFilingLetter.doc

TEL: (781) 340-6900  
FAX: (781) 340-6902  
E-MAIL: adam@brodskylaw.com  
www.brodskylaw.com

72 SHARP STREET  
UNIT A9  
HINGHAM, MASSACHUSETTS 02043

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF	)	
	)	Appeal of Sewer Connection
	)	Permits Nos.
NORTHLAND RESIDENTIAL CORPORATION.	)	W033671 and W033672
	)	Belmont – BRPWP-18

**NOTICE OF CLAIM FOR  
ADJUDICATORY HEARING**

Petitioners Suzanne R. Bass, Henry Bass, James Graves, Ann C. Sifneos, Nora Devlin, James Sloman, Jr., Lauren Shaw, Barbara Passero, Sarah M. Terry, Jeff Buster, Antoine Boghossian, Audrey J. Lenk, Robert J. Pelletier, Ida J. Pelletier, J. Grant Monahon and Mark M. D’Andrea, Jr. (collectively, “Petitioners”), pursuant to 310 CMR 2.08 and 310 CMR 1.01(6), hereby submit this Notice of Claim for an Adjudicatory Hearing (the “Claim”).

**SEWER  
CONNECTION**

**PERMIT NOS.:** W033671 and W033672  
Belmont – BRPWP-18

**PROJECT NAME:** The Woodlands at Belmont Hill,  
Belmont, MA

**LOCATION:** Summit Road, Belmont, MA

**PETITIONERS:** Suzanne R. Bass, *et al.*, as more fully set forth in the attached Authorizations

Counsel:  
Adam J. Brodsky  
72 Sharp Street, Unit A9  
Hingham, MA 02043  
Tel.: (781) 340-6900  
Fax: (781) 340-6902

**OTHER PARTIES**

**(INCLUDING  
INTERESTED PARTIES):**

Property Owner:  
John C. Dawley  
Northland Residential Corporation  
2150 Washington Street  
Newton, MA

Counsel:  
Not known.

Thomas G. Gatzunis, P.E.  
Director of Community Development  
Town of Belmont  
455 Concord Street  
Belmont, MA 02478

Counsel:  
Not known.

Carl H. Leone  
Massachusetts Water Resources Authority  
Charlestown Navy Yard  
100 First Avenue (Bldg 39-3)  
Boston, MA 02129

Counsel:  
Not known.

Brona Simon, State Archaeologist  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02125

Counsel:  
Not known.

Sean McDonnell, President  
Architectural Heritage Foundation, Inc.  
Old City Hall  
45 School Street  
Boston, MA 02108

Counsel:  
Not known.

**PERSONS AGGRIEVED:**

One of the Petitioners is an owner of land abutting the proposed project and at least one Petitioner is an owner of land abutting the sewer system located at Summit Road in Belmont; both are proper parties pursuant G.L. c. 30A, §§1. These Petitioners, together with the other Petitioners, are also not less than ten persons who are parties pursuant to G.L. c. 30A, §1, 10A.

**GROUNDS FOR PROCEEDING:**

On or about May 23, 2003, the Owner filed its Applications for Permit for Sewer System Extension or Connection with the Department of Environmental Protection (the "Department"). On or about June 3, 2003, the Department issued a Public Notice soliciting comments and requests for a public hearing on the Applications. On or about July 18, 2003, the Architectural Heritage Foundation, Inc. and the Belmont Citizens Forum, representing several of the Petitioners among others, submitted comments to the Department and requested a public hearing. On or about September 18, 2003, the Department issued Sewer Connection Permit Nos. W033671 and W033672 without conducting a public hearing.

The Department's decision to issue the Permits without a public hearing is in error because the public interest clearly mandates such action pursuant to 314 CMR 2.07.

Further, the Department's decision to issue the Permits will result in discharges of wastewater which will result in a hazard to the public health or safety in violation of 314 CMR 7.06. The present sewer system serving Belmont and Cambridge is overloaded with combined sewer overflow. The sewer trunkline in Belmont crosses Wellington Brook and joins the main sewer trunkline in Cambridge. This sewer trunkline presently overflows into, among other areas, Alewife Brook. Additionally, the trunkline near Wellington Brook in Belmont is too flat and too close to the surface. As a result, under present conditions, the trunkline overflows causing

flooding and wastewater backups in basements in Belmont, particularly along Hittinger Street and in the Winn Brook neighborhood. The introduction of additional volume into this already overloaded system will cause even further damage to property and the environment.

While the Owner has committed to remove Infiltration/ Inflow ("I/I") at a ratio of 5 to 1 or contribute funds to ongoing municipal programs to remove I/I at this ratio, the Petitioners calculate that this I/I ratio is insufficient. The Petitioners assert that the Owner would need to commit to at least an I/I ratio of 11:1, if not higher, to mitigate for the increased wastewater volume caused by this project. Additionally, the Owner should be required to remove I/I and not simply contribute funds to the ongoing municipal programs because there is no guaranty that the municipalities will remove I/I in a timely fashion.

Lastly, the Memorandum of Agreement among the Massachusetts Historical Commission, the Department and the McLean Hospital Corporation is insufficient to protect historic resources, particularly with respect to the four historic cottages on the site.

The further factual grounds are set forth in the prior comments submitted to the Department which are incorporated herein by reference.

#### **OBJECTIONS TO SUPERSEDING ORDER:**

The Department erred by, among other things:

1. Failing to conduct a public hearing pursuant to 314 CMR 2.07;
2. Failing to adequately protect public health or safety in violation of 314 CMR 7.06 by, among other things, failing to require adequate I/I removal;
3. Failing to obligate the Owner to remove I/I as opposed to contributing funds to ongoing municipal programs to remove I/I; and
4. Failing to protect historic resources.

**REQUEST FOR RELIEF:**

Petitioners request that the Department (i) conduct an adjudicatory hearing, (ii) reverse its decision to grant Sewer Connection Permits to the Owner and/or remand the matter to the Department for a public hearing, and (iii) grant the Petitioners such other relief as is just.

SUZANNE R. BASS, ET AL.

By their attorneys,



Adam J. Brodsky (BBO #548018)  
72 Sharp Street, Unit A9  
Hingham, MA 02043  
(781) 340-6900

Dated: October 17, 2003

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served by hand and/or first-class mail, certified, postage prepaid, on October 17, 2003, upon the following parties:

Deneen M. Simpson, Docket Clerk  
DEP – Office of the Administrative Appeals  
One Winter Street, 3<sup>rd</sup> Floor  
Boston, MA 02108

John Zajac  
Bureau of Resource Protection  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master LockBox  
P.O. Box 4062  
Boston, MA 02211

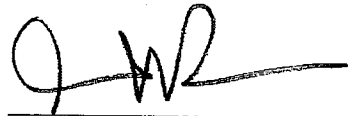
Northland Residential Corporation.  
C/o John C. Dawley  
2150 Washington Street  
Newton, MA 02461

Thomas G. Gatzunis, P.E.  
Director of Community Development  
Town of Belmont  
455 Concord Street  
Belmont, MA 02478

Carl H. Leone  
Massachusetts Water Resources Authority  
Charlestown Navy Yard  
100 First Avenue (Bldg 39-3)  
Boston, MA 02129

Brona Simon, State Archaeologist  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02125

Sean McDonnell, President  
Architectural Heritage Foundation, Inc.  
Old City Hall  
45 School Street  
Boston, MA 02108



Adam J. Brodsky

BelmontSewerNoticeofClaim.doc

AUTHORIZATION

We hereby certify that that we have retained Adam J. Brodsky, Esq. of 72 Sharp Street, Unit A-9, Hingham, MA 02043, to represent us in the appeal of the Sewer System Connection Permits Nos. W033671 and W033672 issued to Northland Residential Corporation; that he is authorized to file this Notice of Adjudicatory Claim on our behalf; and he is otherwise authorized to execute on our behalf all documents relating to this matter, including administrative filings.

Suzanne R Bass

Name: Suzanne R Bass

Address: 530 Concord Ave, Belmont, MA 02478

Henry Bass

Name: Henry Bass

Address: 530 CONCORD AVE  
BELMONT, MA 02478

Jim Graves

Name: JIM GRAVES

Address: 593 PLEASANT STREET  
BELMONT, MA 02478

Ann E. Spinners

Name: ANN E SPINERS

Address: 692 PLEASANT ST  
BELMONT, MA 02475

Nora Devlin

Name: NORA DEVLIN

Address: 68 OLD CONCORD  
BELMONT MA 02478

James Sloman Jr

Name: James Sloman Jr

Address: 68 Old Concord Rd  
Belmont MA 02478

Laura Shaw

Name: Laura Shaw

Address: 30 Old Concord Rd.  
Belmont, Ma. 02478

**AUTHORIZATION**

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Barbara Fassew

Name:

Address:

31 Grant Ave  
Belmont, MA  
02478

AUTHORIZATION

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*Sarah M. Terry*

Name: SARAH M. TERRY  
Address: 396 MARSH ST, BELMONT MA. 02478-1108

*JEFF BUSTER*

Name: JEFF BUSTER  
Address: 586 TRAPELO RD BELMONT MA 02478.

*Antoine Boghossian*

Name: Antoine Boghossian  
Address: 410 Pleasant St Belmont MA 02478

*Audrey J. Lenk*

Name: AUDREY J. LENK  
Address: 145 Sherman St, Belmont, MA 02478  
by Mark M. D'Andrea with permission from Audrey J. Lenk. (writing hand in case 10-13-03)

*Robert J. Pelletier* ROBERT J. PELLETIER

Name: 111 Waverley St BELMONT, MA, 02478  
Address:

*Ida J. Pelletier* IDA J. PELLETIER

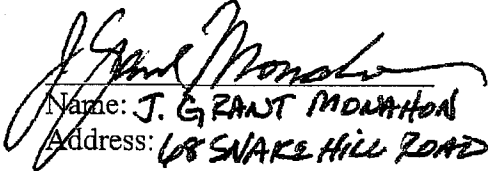
Name:  
Address: 111 Waverley Street BELMONT, MA. 02478

*Mark M. D'Andrea*

Name: Mark M. D'Andrea, Jr  
Address: 97 Waverley St, Belmont, MA 02478

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Name: J. GRANT MONAHAN  
Address: 68 SNAKE HILL ROAD  
BELMONT, MA -  
02478

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF  NORTHLAND RESIDENTIAL CORPORATION.	) ) ) ) )	Appeal of Sewer Connection Permits Nos. W033671 and W033672 Belmont – BRPWP-18
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**NOTICE OF APPEARANCE**

1. Full name of party filing this Notice: Suzanne R. Bass, et al.
2. Status of party filing this Notice: Petitioners and Ten Citizen Group.
3. If you have an authorized representative in this appeal, or if you are the authorized representative of the party above:

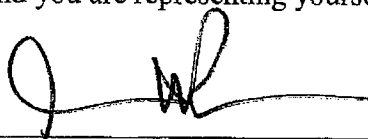
Name of authorized representative: Adam J. Brodsky, Esq.

Address: 72 Sharp Street, Unit A-9, Hingham, MA 02043

Tel No.: (781) 340-6900 Fax No.: (781) 340-6902

4. If you have no authorized representative and you are representing yourself:  
Not applicable.

Dated: October 17, 2003

Signature:   
 Adam J. Brodsky (BBO #548018)

CERTIFICATE OF SERVICE

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Brona Simon, State Archaeologist  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02125

Sean McDonnell, President  
Architectural Heritage Foundation, Inc.  
Old City Hall  
45 School Street  
Boston, MA 02108

A handwritten signature in black ink, appearing to read 'JWB', with a long horizontal line extending to the right from the end of the signature.

Adam J. Brodsky

BelmontNoticeofAppearance.doc