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Mintz: Massachusetts Land Court Ruling Results in Green Light for Hyde Park Residential Project

In a case that will resonate with many developers, MQMF Hyde Park LLC secured court-ordered approval for a 204-unit apartment complex at 990 American Legion Highway in Boston's Hyde Park neighborhood following years of resistance by the Boston Planning and Development Agency (BPDA). The land, owned by Jubilee Christian Church International, sits in a zoning district that permits multi-family housing "as of right."

Nevertheless, the Boston Planning and Development Agency (BPDA) twice denied approval of the project, citing impact concerns and requesting a full redesign of the project. Following more than a year of unsuccessful negotiations with the BPDA, the developer sought relief from the Land Court, asking for a declaration that the BPDA must approve the project even though Article 80 of Boston's Zoning Code states that the BPDA can "disapprove" a project unless/until it incorporates the BPDA's requested changes.

The Land Court agreed with the developer and ruled that the BPDA cannot reject a zoning-compliant project or require design changes that would force the developer to seek zoning relief. The Court explained that BPDA's role under Article 80 is instead akin to site plan review - meaning that the BPDA may deny approval of a zoning-compliant project only if it presents an unsolvable problem that no form of reasonable conditions can address. Accordingly, the Court ordered the BPDA to complete its Article 80 review and issue approval of the project in an expeditious manner.

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