

ARTICLE 9

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Submitted by: Wendy MacMillan, TMM4; David Lescohier, TMM11; Deborah Brown, TMM1

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to authorize the Town to levy a real estate transfer tax, which will be considered in the legislative session opening on the first Wednesday in January in the year 2020, provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition.

WHEREAS Brookline is one of the state's wealthiest towns with a median household income, of \$111,289 one of the highest in Boston's inner-core and the median for married couples with dependent children is approximately \$260,756. Elderly women living alone earn \$32,519 per year.

WHEREAS Brookline has the highest median home price of any community in the Commonwealth, at \$892,959 and the average market rent is approximately \$3,435.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS in view of limits on Brookline revenue growth, there is likely insufficient funding from existing sources for affordable housing purposes after meeting the Town's existing operational and infrastructure maintenance commitments.

WHEREAS the Town of Brookline's Land Bank Study Committee has researched a real estate transfer fee to expand Brookline affordable housing, among the possible purposes. Since the State House, however, will be considering transfer fee legislation for Somerville and Cambridge beginning in January 2020, it is urgent that the Town file its petition at the beginning of this upcoming legislative session so that Brookline may join this official conversation prior the scheduling of the session's hearings.

WHEREAS the Real Estate Transfer Fee, as recommended, to fund the Brookline affordable housing trust fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a real estate transfer fee would be in line with the direction neighboring communities including Concord, Cambridge and Somerville are moving to employ a Real Estate Transfer Fee to create affordable housing.

WHEREAS this type of fee is appropriate to fund housing and clearly defined, non-recurring purposes.

WHEREAS a real estate transfer fee earmarked for the affordable housing trust is well suited to operate within the Town's organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

THEREFORE, the Town of Brookline hereby requests that the Legislature grant the Town of Brookline authority to levy a real estate transfer fee of the portion of the purchase price exceeding \$500,000 upon the transfer of the purchase price of non-exempt real estate transactions, not to exceed 1.0 % is to be paid by the seller and not to exceed 1.0% to be paid by the buyer. Any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

And that the Town shall authorize certain transfers of real property interests be exempt from the fee including: transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Brookline Housing Authority; transfers to the Brookline Improvement Corporation; transfers of real property subject to an affordable housing restriction; (transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made;; and transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for the production of affordable housing.

And the Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this in this law.

And that the Town may use existing property tax collection and billing methods. The fee shall be paid to the Town. The Town shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes. The Town may, by by-law, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act.

And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ sustainable practices which focus on increasing the efficiency of resource use — energy, water, and materials — while reducing building impacts on human health and the environment during the building's lifecycle, through better siting, design, construction, and use.

And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ mixed income and mixed-use development as characterized as pedestrian-friendly development that blend two or more residential, commercial, cultural, institutional, and/or industrial uses.

And that the Town shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by: (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described above for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fees. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Norfolk Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

And that the Town's appropriation of funds into the Municipal Affordable Housing Trust Fund under the provisions of MGL Chapter 44 Section 55 C, shall be limited to financing affordable housing and reasonable amounts for personnel and other costs.

And that the Town shall prepare and issue an annual report that: (i) identifies fee receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

and

And that this Act shall only become effective by a majority vote for a question on a Town election ballot.

or act on anything relative thereto.

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#### PETITIONER'S ARTICLE DESCRIPTION

##### Resolution to Request that the Legislature Grant the Town of Brookline Authority to Levy a Real Estate Transfer Tax Fee

The purchase and financing of a house in Brookline is increasingly difficult and near out of reach for far too many. The high cost of real estate is also a significant impediment in developing affordable housing for lower-income and working families in Brookline. A real estate transfer tax fee (RETT) would help to raise resources to create a housing stock for families, the elderly, disabled and veterans. The Town of Brookline has relied largely on the Brookline Housing Authority and MA Chapter 40B to satisfy the housing needs of those who lack the income to purchase or rent a home in Town, but that is far from enough to meet a significant current and projected housing needs.

The Town's proposed RETT would fund affordable housing and does not extend to funding schools, green space other purposes. We believe that by focusing on the Town's

most significant issue, affordable housing, the Legislature is far more likely to vote in favor of our home rule petition. The Town would be putting residents in a better position to maintain our existing housing stock. Benefits of a RETT in Brookline are as follows. We will be able to expand our current housing stock. First time home-buyers will have a better chance at home ownership. The RETT will play an essential role in providing housing for those most in need. This RETT is progressive. The proposed tax is also very low impact and inexpensive to administer.

Finally, a RETT would allow the Town through established committees and financial policies and processes to build the necessary funding to act quickly when the Town becomes aware of market opportunities. The Town would be able to anticipate opportunities and trends. It will increase the Town's capacity to adjust its priorities and manage its resources, as circumstances require. The aim of this warrant article is to introduce a new model into the mix of Brookline's means and methods for protection, creation, and preservation of Brookline's housing values.

### **Critical Timing for Approval**

The Town of Brookline's Land Bank Study Committee has researched a real estate transfer fee to expand Brookline affordable housing, among the possible purposes. Since the State House, however, will be considering transfer fee legislation for Somerville and Cambridge beginning in January 2020, it is urgent that the Town file its petition at the beginning of this upcoming legislative session so that Brookline may join this official conversation prior the scheduling of the session's hearings.

### **Background**

By way of background, Brookline has a population of 59,157 people and is the 18th largest community in Massachusetts. It is a largely white-collar town, with fully 96.76% of the workforce employed in white-collar jobs, well above the national average. Overall, Brookline is a town of professionals, managers, and sales and office workers. There are especially a lot of people living in Brookline who work in management occupations (14.98%), teaching (12.36%), and healthcare (12.13%). The per capita income in Brookline in 2010 was \$65,189, which is wealthy relative to Massachusetts and the nation. This equates to an annual income of \$260,756 for a family of four. On average Asians earn approximately \$72,500 and Whites earn \$65,668. Approximately 11.4% of the Town lives in poverty. However, Brookline contains both very wealthy and poor people as well. The Town's racial demographics are: 71.4% white, 15.7% Asian American, 5.9% Latinx, 3.9 two or more races, 3% African American, and 0.1% Native American. (SCOUT 2019)

Brookline was once a town of renters but over time – and in response to homeownership demand – the multifamily market has gradually declined to just over half of all Brookline households now renting the unit they occupy. It has approximately 24,716 residential properties that vary widely in price. The median home price is \$892,959. In 2018, there were approximately 1400 sales transactions. Approximately 38% of Brookline homes are valued at over \$1.2 million; 16% are valued between \$900,000 - \$1.2 million; and 25.5% range from \$600,000 to \$909,000. Therefore, approximately 80% of the Town's home

values far exceed over \$900,000. In terms of housing sizes they are: 2 bedrooms at 30%, 3 bedrooms at 23.2%, 4 bedrooms at 11.6% and greater than five bedrooms at 8.4%. Most of the Town's housing stock is old. Approximately 50.3% is pre 1939 housing, 25.8% was built between 1940-1969, 20% between 1970 to 1999 and 3.9% of homes were built after 2000. In terms of types of homes, 20.9% are single family homes, 22.8% are small buildings, 51.7% are apartment complexes and 4.6% are townhomes. (SCOUT 2019)

### **Financial Benefits and Tax Implications**

We appreciate that many Brookline homeowners are understandably concerned about the impact of increasing our tax burden. The RETT is not an override and will not increase property tax levy. It will not increase the automobile excise tax, the meals tax, the hotel occupancy tax, or other recurring taxes. It will not increase fees or fines. The RETT would actually shift the burden to more expensive properties, making it more progressive because it exempts at least the first \$500,000 of the sale price. Furthermore, lower income owners tend to stay put while more affluent owners move more frequently. (Sexton 2010)

Any acquisitions for commercial development would contribute to the growth of the tax base. Since assessed property values in Brookline have recently increased consistently at rates of up to 7 - 10% per year (Table 1), virtually every Brookline seller has surely realized a gain, often reaching hundreds of thousand dollars. In effect, even if the real estate transfer tax fee reduces the sale price a small fraction of 2%, the sellers still reap a very substantial benefit from having property located in a community with excellent schools, parks, services, infrastructure, walkability, and transportation.

Table 1. Brookline Real Estate Trends



Therefore, it seems fair and appropriate for sellers and buyers to return a small portion of their change in property value to support the infrastructure from which they have, or will, benefit. The RETT payment, like impact fees are often employed in other parts of the country in areas experiencing rapid development (Been 2005), represents partial compensation for the Town's contribution to increasing property value. (Bahl 2010)

For investors and developers in the business of owning, managing, and trading in properties, real estate is an asset. However, residential, owner-occupied real estate with the benefits of household occupancy is, first and foremost, a home that, in the Brookline market, happens to be very likely to appreciate and may reap tax advantages. When a home appreciates, the growth in value is generally viewed as at least partially due to the schools, the high quality public domain, a robust commercial sector, and the desirability of the location. It happens that the real estate appreciation in Brookline overwhelmingly offsets the property tax and RETT burdens. In this way, the RETT is a mechanism to return a small portion of this net change for sellers and buyers to the Town as fair compensation for services and infrastructure maintenance and investment that, clearly, has added substantially to the sale price and value of the property. (Bahl 2010)

Specifically, the empirical case studies presented indicate that there is no statistically significant impact of transfer tax rates on either home price or sales at the local level. This actually makes sense in a more rudimentary framework as well. Given that commissions, fees, closing costs, inspections, and other fees can run as high as 8% of the sales price of a property, the 0.45% increase in transfer rates on the most expensive homes is a proverbial drop in the bucket.” (Thornberg 2012)

Not all taxes are broad-based. (Capital Gains, gift, and Inheritance are examples.) Equitable taxation depends on a mix of broad-based as well as some narrower, more targeted taxes. The targeting of the RETT is equitable within a broad context as long as it does not constitute too great a proportion of the overall tax burden. The rate ceiling and exemption floor minimize any risk that the RETT will be excessive or cause significant deadweight losses (market distortion). “Our state and local tax system remains “upside-down”: low- and moderate-income households pay a larger share of their income in taxes

than do households with higher incomes. In fact, the highest-income households in Massachusetts – those in the top 1 percent – pay a smaller share of their income in state and local taxes than does any other income group. (Baxandall and Kurt Wise 2019)

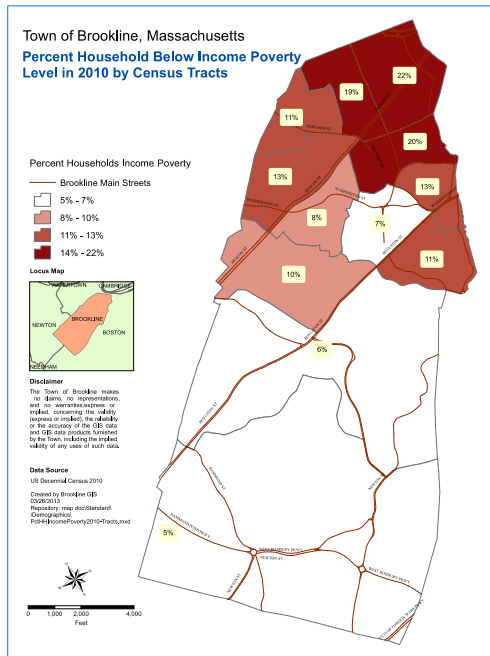
Compounding these problems, Congress enacted federal tax cuts at the end of 2017 that are skewed heavily toward the highest-income households, delivering to those in the top one percent of Massachusetts households a total cut in federal taxes of some \$2.58 billion in 2019. Nationwide, the federal revenue loss from these tax cuts is anticipated to reach \$1.9 trillion over a decade, according to the Congressional Budget Office. The lost revenues will curtail the federal government's ability to support programs in Massachusetts and throughout the nation for years to come. (Baxandall and Wise 2019)

It is usually the case that a particular tax doesn't perfectly match a taxpayer's ability to pay. Equitable taxation generally depends on a mix of taxes so that inequity in some taxes is off-set by features of others. We all support the schools, services for the elderly, and veterans through our taxes, even though a minority of households in Brookline have school age children, and many others are not elderly, or veterans or use the Town's plentiful parks and greenspace or other services, and therefore may not benefit directly from various specific services their taxes support.

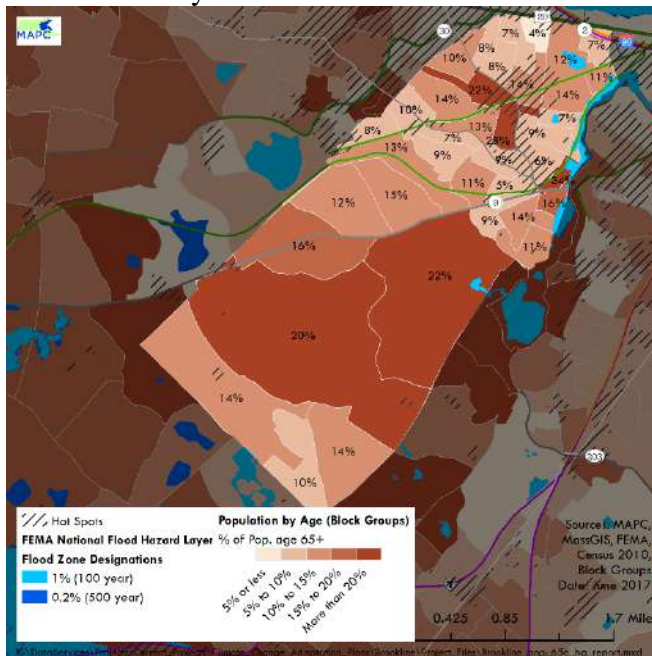
### **Homeownership and Intergenerational Wealth**

Wealth concentration is high and rising in the US, reigniting an old debate within economics about the role that intergenerational wealth transmission plays in understanding savings and wealth accumulation. ([Laura Feiveson](#) and [John Sabelhaus](#)) Moreover, there is a strong relationship between homeownership and intergenerational wealth. An Urban Land Institute study found that "having a home owning parent increases a young adult's likelihood of being a homeowner by 7 to 8 percentage points. Additionally, a 10 percent increase in parental wealth increases a young adult's likelihood of owning by 0.15 to 0.2 percentage points. For example, if parental wealth is \$200,000, the young adult would have a 50 percent likelihood of owning a home. Parental wealth includes financial assets and nonfinancial assets, such as homes and automobiles, minus any debt. Parents' tenure status and wealth explains 12 to 13 percent of the difference in homeownership between black and white young adults. Young adults are more likely to be homeowners if their parental wealth is above \$200,000. More than 50 percent of white parents and only 10 percent of black parents hold more than \$200,000 of wealth." (Jung Hyun Choi Jun Zhu Laurie Goodman) Table 2 below, highlights where the Town's most significant poverty exists. There is also a correlation between where poverty exists in Brookline and race. Moreover, our research has found that these areas are also most likely to be impacted by climate change, because they live in close proximity to flood zone. (Town of Brookline GIS)

Table 2 – Housing and Income in Brookline



## Flood Zones by Income



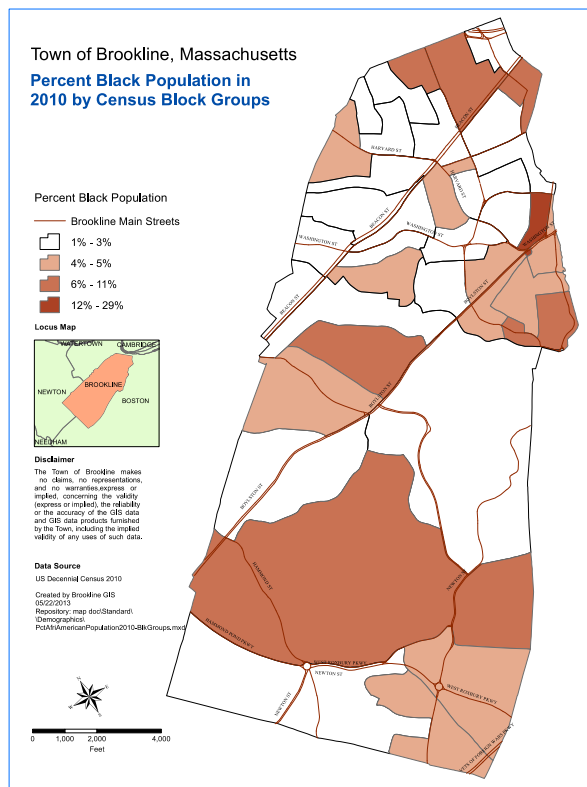
## Segregated Housing Patterns in Brookline

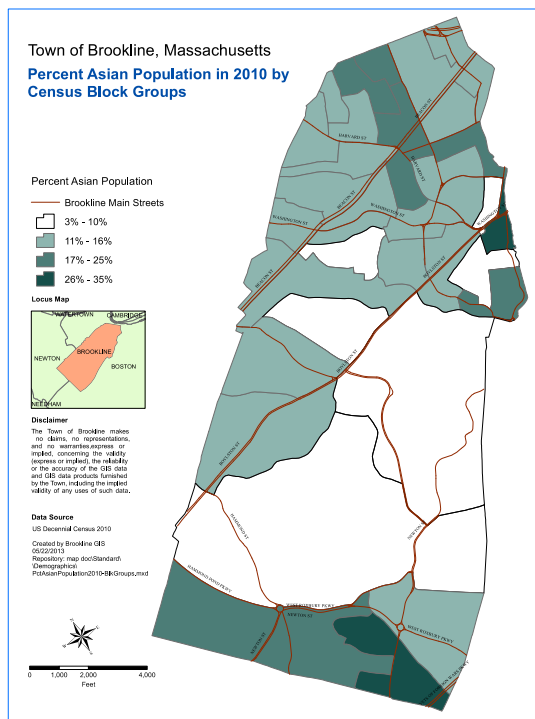
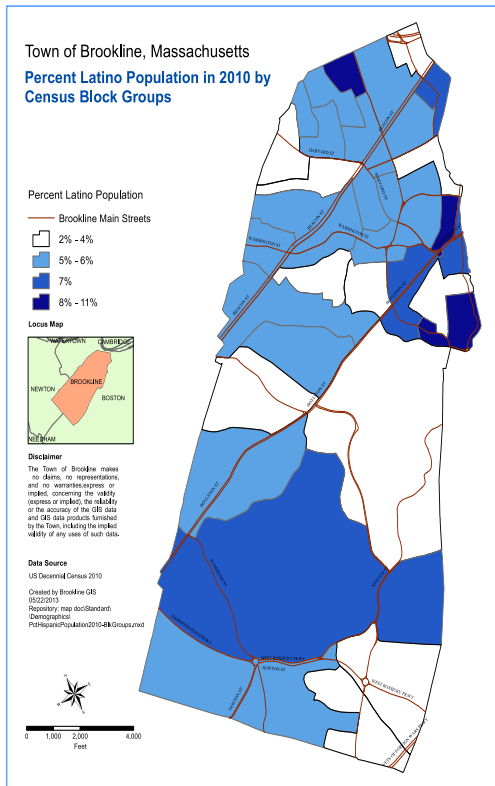
Finally, data supports that a RETT will help to minimize Brookline’s housing segregation patterns, which is also an intergenerational wealth problem as described above. A Boston Federal Reserve study found that “the typical white household in Boston is more likely than nonwhite households to own every type of liquid asset. For example, close to half of



Puerto Ricans and a quarter of U.S. blacks don't have either a savings or checking account, compared to only 7% of whites. The typical white household in Boston is more likely than nonwhite households to own every type of liquid asset. For example, close to half of Puerto Ricans and a quarter of U.S. blacks don't have either a savings or checking account, compared to only 7% of whites. Whites and nonwhites also exhibit important differences in assets that associated with homeownership, basic transportation, and retirement. Close to 80% of whites own a home, whereas only one-third of U.S. blacks, less than one-fifth of Dominicans and Puerto Ricans, and only half of Caribbean blacks are homeowners. (Ana Patricia Muñoz, Marlene Kim, Mariko Chang, Regine O. Jackson, Darrick Hamilton, and William A. Darity Jr.) And while Brookline is not Boston, we believe that these trends may be quite similar in Brookline.

Table 3 below includes maps that highlight housing segregation patterns. You will see that maps below that people of color are concentrated in particular areas of Town.





Overall, housing equity makes up about [two-thirds of all wealth](#) for the typical (median) household. In short, for median families, the racial wealth gap is primarily a housing

wealth gap. This is no accident. Besides facing discrimination in employment and wage-setting, for generations even those African-American families that did manage to earn decent incomes were barred from accessing the most important financial market for typical families: the housing market. Housing policies that prevented blacks from acquiring land, created redlining and restrictive covenants, and encouraged lending discrimination reinforced the racial wealth gap for decades. (Jones 2017)

“While much of the policy discussion around segregation looks back at the lasting impact of racially biased policies like redlining, a focus on these historic injustices risks letting us off the hook for actions taken today. *Current* practices, many of which function through local zoning codes, also serve to perpetuate residential segregation and inflate housing prices. (Luc Schuster 2019) That said, we know that “Communities that permitted more housing units appear to have experienced greater reductions in segregation between 2000 and 2017. That relationship appears to be stronger for multifamily housing than for housing production as a whole. (The Boston Foundation 2019)

## **Conclusion**

Housing is Brookline’s third rail, it can and will drive our future. While the RETT will not solve all aspects of our housing problems, it is an essential step if we are to better serve our current and future residents. For the above reasons, we believe that the RETT would benefit the entire community.

**Summary:** A resolution to see if the Town will authorize Select Board to file a petition for legislation to authorize it to levy a real estate transfer tax for affordable housing.

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Moreover, "[The Greater Boston Housing Report Card 2019: Supply, Demand and the Challenge of Local Control](#), helps explain how these dynamics work. Municipalities with zoning codes that make it difficult to build multifamily housing tend instead to produce only single-family homes accessible only to a small segment of the population—this is referred to as “exclusionary zoning.” Our mental model for “segregation” often leads us to picture urban neighborhoods of color, but some of our region’s most intense segregation is also in our affluent white suburbs. These communities have produced very little multi-family housing and instead are composed mostly of expensive single-family homes affordable only to higher-income families, most of whom tend to be white. In addition to analyzing problems with our current approach to local zoning, the Housing Report Card also analyzes which cities and towns aren’t producing their fair share of housing for lower-income residents.”

SCOUT, BROOKLINE PROFILE LIVING IN BROOKLINE,  
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SELECT BOARD'S RECOMMENDATION

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ADVISORY COMMITTEE'S RECOMMENDATION

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