



Deval L. Patrick, Governor  
Richard A. Davey, MassDOT Secretary & CEO  
Beverly A. Scott, Ph.D., General Manager  
and Rail & Transit Administrator



**Via Certified Mail and Email**

July 21, 2014

Mr. Philip Berry  
Worthen Dale Realty Corp.  
3 Depot Square  
Ayer, MA 01432  
philipberry@charter.net

**Re: Breach of Covenants, Depot Square, Ayer, Massachusetts**

Dear Mr. Berry:

The Massachusetts Bay Transportation Authority (MBTA) has become aware that Worthen Dale Realty Corp. has failed to comply with the covenants burdening your property in Depot Square, Ayer, Massachusetts. Your company's breach of its obligations is preventing the successful commencement of construction of a new nearby commuter rail parking lot. The violations are also interfering with the MBTA's routine operation, maintenance and improvement of its transit system.

Worthen Dale Realty Corp. holds title to its land subject to several covenants set forth in a deed from Boston and Maine Railroad to Ayer Development Corp., recorded with the Middlesex (Southern District) Registry of Deeds in Book 9685, Page 512. Those covenants include, among others, the obligation "to provide...and maintain without charge or cost to [Boston and Maine Railroad], its successors, assigns and patrons":

"...a waiting room having six hundred sixty-three (663) square feet; a ticket office of two hundred thirty-eight (238) square feet, and a baggage room having one hundred eighty-two (182) square feet; a toilet room with toilet facilities for men (with water thereto) and a toilet room with toilet facilities for women (with water thereto) freight handling space of one hundred thirty-eight (138) square feet and agent's office of three hundred nine (309) square feet, and heat, light and cleaning services in and to all of such facilities" and

"access on and over said [land]...and to and from the station platforms."

The MBTA, as successor in title to Boston and Maine Railroad pursuant to a deed recorded with the Middlesex (Southern District) Registry of Deeds in Book 13117, Page 113, may enforce the covenants stated in the Boston and Maine Railroad deed.

Worthen Dale Realty Corp. is not presently providing any of the railroad station facilities and services required by covenant. In addition, your company is not in compliance with your obligation to provide the MBTA and our patrons with reasonably satisfactory access from Main Street to the rail station platforms. In particular, Worthen Dale Realty Corp. has from time to

Mr. Philip Berry  
Worthen Dale Realty Corp.  
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time erected fencing and chains on its land that materially interfere with convenient station access for the MBTA's patrons. Worthen Dale Realty Corp. has also proposed to limit MBTA access to a pathway that is not directly adjacent to the rail station and is insufficient for vehicular use. Such restrictions on access do not satisfy your obligations and would significantly reduce the utility of the MBTA's access rights.

I have made multiple unreturned calls to your attorney, Mr. Roy Pastor, seeking to discuss a mutually agreeable resolution to this matter. The MBTA is amenable to discussions regarding the delineation of an access easement that satisfies public transportation needs while accommodating current and planned uses of your land. We are also prepared, if necessary, to pursue judicial enforcement of our rights.

Please call me (617) 222-3255 to discuss potential next steps. I look forward to working with you to resolve these violations as soon as possible.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark E. Boyle", with a stylized, cursive script.

Mark E. Boyle  
Assistant General Manager for Real Estate and Asset Development  
Massachusetts Bay Transportation Authority