

To: Building Commission, School Committee
From: Jonathan Simpson, Associate Town Counsel
Date: 10/28/2021
Re: 107-111 Cypress eminent domain settlement

The Town has reached a settlement with the former owner of 107-111 Cypress Street, the property taken by eminent domain in January 2018 for use in the High School Expansion. At the time of the taking, the Town made a payment to the former owner of \$15.9 million, referred to as the *pro tanto* award. The former owner brought a lawsuit, captioned 107-111 Cypress Street Realty Trust v. Town of Brookline, Norfolk Superior Court Case No. 19-0361, wherein he claimed the payment was insufficient to compensate him for the loss of his property. The Town expected this response.

Through mediation, the parties reached agreement on an amount to fully settle the former owner's claim. On October 26, 2021, the Select Board, the body authorized to settle lawsuits where the Town is a party, ratified and approved the terms of a Settlement Agreement, agreeing to pay the former owner an additional **\$4.1 million** in full and final settlement of all claims related to the taking, bringing the total cost of acquiring the property to \$20 million. There are sufficient funds in the High School project to cover the additional payment to the former owner.

The parties are drafting the documents necessary to dismiss the case, with prejudice. Affirmative votes by the Building Commission and School Committee are necessary because the payment to the former owner will come out of the budget for the High School Expansion.