

REAL ESTATE UPDATE

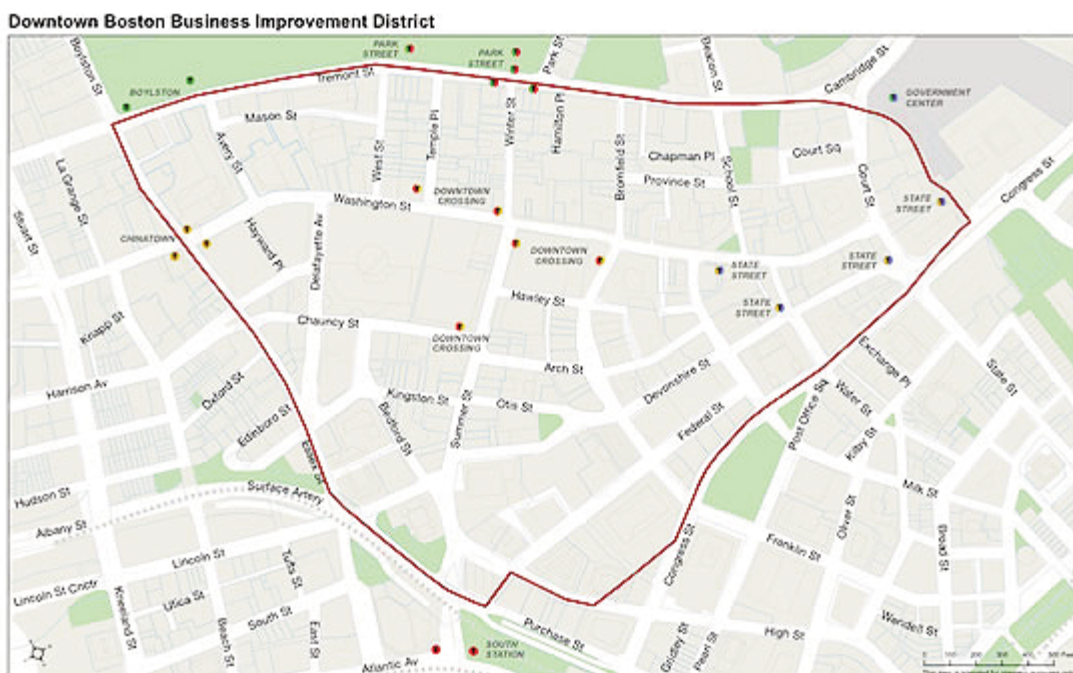
BOSTON CITY COUNCIL UNANIMOUSLY APPROVES THE “DOWNTOWN BOSTON BUSINESS IMPROVEMENT DISTRICT”

On August 4, 2010, The Boston City Council unanimously approved a petition to establish the “Downtown Boston Business Improvement District” (the “BID”); the petition to establish the BID was previously submitted to the City Council on June 29, 2010 by the BID Steering Committee consisting of property owners, the Downtown Crossing Partnership, city officials, area business owners, residents, and local institutions.

A business improvement district is a designated area in a municipality in which property owners vote to finance supplemental services above and beyond a city’s baseline municipal services through a supplemental assessment. There are currently four (4) business improvement districts in Massachusetts; Hyannis, Springfield, Westfield and Northampton.

AREA ENCOMPASSING THE BID

The approval of the BID establishes a professional organization for funding, managing and implementing improvements in an area that includes the core shopping district of Downtown Crossing on Washington and Tremont Streets, parts of the adjacent Financial District and the Theatre District with the ultimate goal of promoting business activity and enhancing property values. The approximate area encompassing the BID is shown on the plan below.



BID ACTIVITIES

A board of directors representing property owners, retailers, residents, and businesses will manage the BID, receive the assessment funds and implement district improvement plans. BID activities will be entirely controlled by the BID board of directors.

The BID will undertake a variety of activities including the following:

- **District Management Services:** The BID will establish and fund a management operation to develop and implement improvements in the commercial area.
- **Maintenance and Safety:** These services would supplement street cleaning, snow removal, landscaping, and public safety services already provided by the city, to deliver a level of services consistent with well-maintained private spaces.
- **Promotion and Marketing:** The BID will coordinate common advertising, district promotions, and special events to energize business activity in the area. The management team would consult with property owners on design improvements and business development.
- **Physical Improvements and Property Management:** The BID will upgrade and maintain street furniture, landscaping, holiday decorations and other downtown public improvements.

BID ASSESSMENTS

Certain property owners within the BID will pay an assessment that is collected by the City of Boston in connection with their collection of traditional real estate taxes. The City of Boston will transfer all BID assessments to a professional management entity controlled by the BID board of directors. The assessments are based on each property's value. The proposed assessment formula for the BID is as follows:

- For properties assessed at less than \$70 million, \$1.10 per \$1,000 of assessed valuation.
- For properties assessed at a higher value, \$1.10 per \$1,000 of assessed value up to \$70 million, plus \$.50 per \$1,000 of assessed value over \$70 million.
- For most properties, this will translate to a cost of 16 to 25 cents per square foot of building area per year.

Owner-occupied residential properties are exempt from the assessment fee, although they may choose to voluntarily participate. The fees for non-profit properties will be determined through individual participation agreements that provide for contributions of cash and/or in-kind services to the BID. Based on the current assessment formula and the service plan, approximately \$5,000,000 will be raised annually for the BID.

PROPERTY OWNERS' RIGHT TO "OPT OUT" OF THE BID

Within thirty (30) days following the declaration of the BID, a property owner within the BID may elect not to participate by notifying the Boston City Clerk in writing. Property owners should be shortly receiving notices informing them of the establishment of the BID, the amount of the initial BID assessment and the "opt out"

deadline. The notices will be sent to the same address as the address on the tax bills that the City of Boston currently sends out for real estate taxes. Notice of the BID approval will also be published in area newspapers. It is critical for a property owner to understand that if they fail to “opt out” of the BID they have no further recourse to challenge the BID assessment including, but not limited to, seeking a traditional real estate tax abatement under Massachusetts General Law Chapter 59.

Property owners should ensure that they review the BID notices well in advance of the deadline in order to determine whether they will participate. By “opting-out” a property owner is neither subject to the BID assessment nor eligible to receive any of the benefits or services provided by the BID. The BID improvement plan specifies a five-year renewal period for the BID. Every five (5) years, property owners can vote to renew the BID to continue its services or decide to disband it.

Upon the transfer of any participating BID property, the new owner shall have the option to withdraw the property from BID participation within thirty (30) days of closing; provided, however, that the new owner shall reimburse the BID for the allocable share of any debt which may have been incurred but remains unpaid prior to the date of withdrawal, as determined by the management entity.

UNDERSTAND YOUR RIGHTS

We encourage all of our clients that are property owners within the BID to review the BID notices that they receive and contact us with any questions or concerns. In addition, we encourage all of our clients that are tenants within any properties located within the BID to carefully review their leases to determine if their landlord has the legal right to pass through BID assessments to them and contact us with any questions or concerns. Finally, we encourage all of our non-profit clients to contact us if they desire assistance negotiating individual participation agreements.

If you have any additional questions regarding this Update or any other Real Estate needs, please contact any member of the Real Estate Law Group.

Noble F. Allen, Partner
 Charles B. Allott, Of Counsel
 E. Jerome Batty, Partner
 Thomas Bhisitkul, Partner
 John B. Bolton, Partner
 David Barry Connolly, Partner
 Joseph P. Curran, Partner
 Lisa J. Donovan, Partner
 Matthew P. Doring, Partner
 Diana M. Ducharme, Partner
 Kathleen E. Dugan, Associate
 Dena D. Fazio, Associate
 Alan P. Gottlieb, Partner
 Paul A. Hedstrom, Partner
 Robert C. Hinton, Partner
 Andrew H. Kara, Associate
 Kirsten E. Kenney, Associate
 Sarah M. Lombard, Partner
 David I. Lough, Partner
 Matthew T. Marcello, III, Partner
 Thomas S. Marrion, Partner
 Daniel L. Monger, Partner
 Michael J. Novaria, Associate
 John R. Pariseault, Associate
 David J. Rubin, Partner
 John H. Sokul, Partner
 David J. Tracy, Partner
 Tatiana Coulombe Wildeman, Associate

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