



The Commonwealth of Massachusetts
Office of the Inspector General

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July 11, 2008

Mr. Thomas R. Gleason
Executive Director, MassHousing
One Beacon Street
Boston, MA 02108-3110

Subject: Land Valuation – Minuteman Village, Arlington

Dear Director Gleason:

This Office has reviewed the documents provided by MassHousing that are related to the Minuteman Village Chapter 40B housing development in Arlington. Based on this review, I request that MassHousing promptly publish to all concerned parties (in particular the Town of Arlington and Santini Realty Trust, the developer of Minuteman Village) a determination of the allowable land acquisition value for the project and, further, that the land value determination reflect the appraised value as stated in the Reenstierna appraisal.

Untimely valuation determinations by MassHousing may result in adverse financial impact to one or more parties of interest in the development. Timely resolution of these issues provides opportunities for all of the parties to adjust and react to this information so as to minimize unfavorable financial consequences. Beginning in the fall of 2006 and prior to MassHousing issuing the final approval letter for this project, the Town raised numerous questions and concerns to MassHousing regarding the land appraisal for the development site. Communications between the Town and MassHousing regarding the land valuation issues have continued through the present time with no resolution. The project is nearing completion and it is imperative that all parties with a potential claim to development profits understand the basis for the value of the site that will be used in the final cost certification of the project.

Based on the documents provided, it appears that all the pertinent information necessary to make this land valuation determination has been available to MassHousing since January 2007. An as-is appraisal (prepared by T.H. Reenstierna LLC) of the land value under the zoning in place at the time of site approval was submitted to MassHousing by the Town. This as-is appraisal methodology is consistent

with the Chapter 40B land valuation/allowable acquisition cost guidelines. Although there were two additional land appraisals included in the documentation provided by MassHousing to this Office, the Reenstierna appraisal was the only one which was in compliance with the established Chapter 40B guidelines.

At the time of site approval, the subject property was zoned "industrial." The Reenstierna appraisal reflected this as-is industrial zoning when determining the \$750,000 land valuation. However, rather than utilizing the existing zoning, the other two appraisals (Lui Realty Advisors, Inc. and Bonz and Company, Inc.) included a zoning change assumption from industrial to residential. This zoning change assumption significantly increased the projected market value of the site by approximately 100% (\$1,745,000 – Lui appraisal and \$1,562,000 – Bonz appraisal). Utilizing a zoning change assumption contradicts and violates the clear Chapter 40B valuation policy statements requiring as-is valuation determinations under current/existing zoning. Further reinforcing the need to use the existing industrial zoning for valuation purposes is the town's judgment that has been repeatedly shared with MassHousing indicating that a change in zoning from industrial to residential would not be a likely outcome for this particular site.

In conclusion, this Office is of the opinion that the appropriate land valuation for the Minuteman Village development should be \$750,000 as documented in the Reenstierna appraisal. This valuation is consistent with Chapter 40B guidelines that reinforce that the land value should relate directly to the as-is value of the site under current zoning and should not be artificially inflated as a result of the extra value provided by a comprehensive permit. It is also the opinion of this Office that this valuation determination should immediately be published by MassHousing to all concerned parties. In this particular case it appears that unnecessary delays in finalizing and communicating this valuation determination may unfairly and adversely impact the developer.

In addition, as has previously been communicated, this Office would like to work in concert with MassHousing in order to identify those other Chapter 40B projects in the development pipeline that may have similar land valuation issues. As such, please provide a listing of projects that have not yet received a land value determination based on an independent "as-is" appraisal under existing zoning.

In fairness to both the developers and the municipalities it is best to address these issues as early as possible in the process. Surprises at the end of the process, during cost certification, will only lead to costly and time consuming litigation.

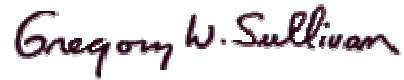
Incorporated in DHCD's recent regulatory/guideline changes is wording specific to land valuation. We note that these changes now provide for appraisals to take into account the probability of obtaining a variance, special permit, or other zoning relief. This ability to assume zoning changes without a municipality's assurance that it would concur with the assumption can lead to improperly inflated valuation determinations

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which in turn could lead to an improper financial loss to the municipality.

If you have any questions or concerns, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink that reads "Gregory W. Sullivan". The signature is written in a cursive, slightly slanted style.

Gregory W. Sullivan
Inspector General

Cc: Tina Brooks, Undersecretary, DHCD
Brian Sullivan, Arlington Town Manager
Clarissa Rowe, Chair Arlington Board of Selectmen
Joseph Tulimieri, Chair, Arlington Zoning Board of Appeals