



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. MCCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

November 18, 2008

Tina Brooks, Undersecretary
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

Dear Undersecretary Brooks,

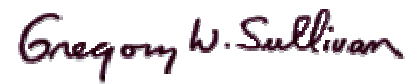
As I stated at the Senate Post Audit and Oversight hearing, my Office has continued to point out the deficiencies in the oversight of Chapter 40B, the Comprehensive Permit law. In response to my Office's identification of windfall profits improperly taken by developers, the Department of Housing and Community Development (DHCD) has increased the ability of developers to profit by:

1. Increasing the profit limit from a minimum of 15% to a minimum of 20%;
2. Increasing the density bonus from the standard of four times the density of the underlying zoning to up to 40 units per buildable acre for low rise/townhouses to up to 160 units per buildable acre for midrise developments;
3. Placing a rebuttable presumption on the municipality that it has made a development uneconomic if it reduces the scope of a project by more than five percent.

In my opinion, many of the changes that you propose to make today - and others that you have made already - require statutory changes or conversely require amendments to existing regulations including solicitation of public testimony. I have conveyed this opinion to you previously and you have chosen to follow this course of action instead, which in my opinion will further hamper the successful operation of Chapter 40B by triggering continued legal

challenges for the foreseeable future. The changes made in these guidelines should be done through legislation or regulations.

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