



Office of the Inspector General Commonwealth of Massachusetts

Massachusetts Attorney General Reaches Settlement with Braintree Chapter 40B Developers Following Inspector General Investigation, October 2009

Attorney General Martha Coakley's Office reached a \$2.275 million settlement with the Chapter 40B developers of the Turtle Crossing Condominium Complex ("Turtle Crossing") in Braintree.

Commerce Park Housing Associates, LLC ("Commerce Park") a limited liability company formed for the purpose of developing Turtle Crossing. Fish Commerce, LLC ("Fish Commerce") and Messina Commerce LLC ("Messina Commerce") jointly formed Commerce Park. In 2003, Commerce Park received a Comprehensive Permit pursuant to Chapter 40B to develop Turtle Crossing. The principals of Fish Commerce and Messina Commerce, including Edward A. Fish and Francis X. Messina, are long-term Massachusetts real estate developers.

Chapter 40B - the state's affordable housing law - encourages the development of affordable housing by granting developers waivers from zoning and other local ordinances and bylaws in return for a commitment to earn a limited development profit. Under Chapter 40B, those developers who benefit from the advantages of the law are limited to a reasonable profit on the affordable housing projects they develop.

In 2008 the Inspector General's Office initiated an independent investigation of the Turtle Crossing development. The investigation was focused on the developer's compliance with the cost reporting and profit limitation requirements of the law. The investigation highlighted concerns regarding the developer's reported costs for land acquisition and other costs related to the project such as brokerage fees and the treatment of insurance proceeds. The Inspector General referred these findings to the Attorney General's Office. The two offices worked together to further the investigation and resolve the matter.

Commerce Park agreed to pay \$2.275 million to settle any claims arising from this investigation, and claims related to the Chapter 40B cost certification process. Under the terms of the settlement, \$1.8 million of the payment was directed to the Town of Braintree. Specifically, \$1 million will be placed in Braintree's affordable housing fund and \$800,000 will be delivered to Braintree for other public uses. The remaining \$475,000 will be directed to the Commonwealth's General Fund.

A list of other office reports and recommendations related to Chapter 40B is available at [Chapter 40B Publications](#)