



The Commonwealth of Massachusetts
Office of the Inspector General

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May 21, 2008

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

Subject: Summer Woods 40B Housing Development - Harwich

Dear Director Gleason:

This Office requests that MassHousing immediately rescind the determination of Project Eligibility (Site Approval) for the Summer Woods Chapter 40B housing development in Harwich (PE-266) that was issued (January 3, 2005) to Mr. Ronald Rudnick of Harwich One LLC. In addition this Office recommends that a full investigation be conducted in order to determine the nature and extent of any false or misleading statements made by the developer to MassHousing. This Office is available to help MassHousing carry out this inquiry. It is this Office's opinion that the recent information you provided to this Office substantially changes the basis on which the determination of fundability was made. Specifically, the new appraisal commissioned by MassHousing resulted in an as-is land value of \$2,725,000, less than one-quarter of the original \$12,000,000 value submitted by the developer with the application for site approval. This is such a substantial difference that it calls into question the underlying elements of the proposed development that were relied upon in making the required finding of financial feasibility. The recorded land transaction history also belies the sincerity of the developer's professed land valuation. In order to protect the integrity of the Chapter 40B project eligibility process, it is imperative that MassHousing rescind the site approval for the proposed Summer Woods housing development.

In June 2007, Senator Robert A. O'Leary questioned the veracity of the developer's claims and requested that MassHousing conduct an independent land appraisal. The retrospective land appraisal commissioned by MassHousing was prepared and submitted (January 24, 2008) by "Appraisal Company of New England" and appears to be a thorough, fair and sound evaluation in accordance with MassHousing's as-is acquisition value policy. This Office also recognizes

MassHousing's diligence in reviewing the appraisal report as evidenced in the February 8, 2008 memo from Mr. Robert Quealy (MassHousing Appraisal & Marketing Officer). Resolution of these sensitive valuation concerns prior to actual project development provides a valuable safeguard to both the developer and the municipality by protecting the financial interests of both parties and avoiding costly and time consuming litigation at the cost certification phase of the project.

The \$2,725,000 independent land appraisal of the subject property stands in stark contrast to the inflated pro forma financial values provided by the developer, Harwich One, LLC (Rudnick) to MassHousing and the Harwich ZBA. In order to help determine the financial feasibility of the project and the required limited dividend nature of the enterprise, developers are required to submit an accurate and responsible financial pro forma estimate as part of the site eligibility application. Apparently, the Summer Woods' developer did not adhere to this standard. The inflated land valuation provided by Harwich One, LLC has the effect of significantly understating the projected profits of the project. If the pro forma financials had reflected the proper land valuation in accordance with MassHousing's acquisition value policy, then the project would clearly not have been in compliance with the limited dividend requirement. Using the as-is market appraisal results in a profit percentage for the project that approximates 60% of total development costs versus the 20% maximum limit prescribed in the Chapter 40B program guidelines. In essence, this exaggerated land valuation would have resulted in an unwarranted windfall of approximately \$6 million to the developer. This windfall profit would have been at the town's expense as it is entitled to all development profits over the 20% maximum limit.

Given the enormous disparity between the land valuation estimates and the actual site acquisition history, it is apparent that the developer did not deal in "good faith" with either MassHousing or the town of Harwich. It should be noted that on October 19, 2000 Harwich One, LLC purchased the site for \$2.25 million from Paul Cuddy Jr. who had purchased the same one hour earlier from the Allen family for \$550,000. However, as part of the site eligibility application, Harwich One, LLC reported to MassHousing a significantly higher land acquisition cost of \$12 million. The magnitude of this difference puts into question the veracity of the developer's representations.

Since the developer has not demonstrated the willingness to limit development profits in accordance with the project's limited dividend requirement and since the developer is not in compliance with MassHousing's acquisition value policy, it is appropriate that the project eligibility approval for the Summer Woods development be rescinded.

In order to help ensure this type of abuse does not happen again, this Office recommends that all submissions to subsidizing agencies (such as the project eligibility applications) be made under the pains and penalties of perjury.

Thomas Gleason

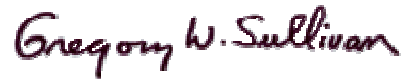
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Lastly, this Office would like to work with MassHousing in identifying those completed 40B housing projects that have not fulfilled their obligation to provide a cost certification and together determine an appropriate approach to compel performance.

Please let me know if you have any questions or concerns.

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: Robert A. O'Leary, State Senator
Tina Brooks, Undersecretary – DHCD
Dan O'Connell, Secretary – Housing and Economic Development
Doug Rubin, Chief of Staff – Governor's Office