



Office of the Inspector General Commonwealth of Massachusetts

Town of Acton Reaches an Agreement with Crossroads Development LLC, a Chapter 40B Developer, Who Will Perform Renovation Work In Lieu of Continued Litigation, January 2011

The Town of Acton has entered into an agreement with the owners of Crossroads Development, LLC, the local Chapter 40B developer of the Crossroads housing project, a twelve unit affordable housing development on Main Street in Acton. The developers agreed to perform renovation work on the town-owned Morrison Farm property in lieu of continued litigation that was initiated by the town of Acton in order to recover excess development profits owed to it by the Chapter 40B developer.

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. Profits in excess of stipulated amounts (typically 20% of development costs) are payable to the local municipality to leverage additional affordable housing opportunities. Although these Chapter 40B profits are limited, they are typically significantly greater than what a for-profit developer could expect to earn from developing housing under existing local zoning bylaws.

In May 2006, the Inspector General's Office issued a report to the town of Acton regarding its investigation of the Crossroads development. The review was primarily focused on the developer's compliance with the cost reporting and profit limitation requirements of the law. The investigation highlighted significant issues including major cost adjustments, especially with respect to related party transactions. Although the developer, through its cost certification, claimed no excess profits, this Office identified over \$750,000 that was owed by the developer to the town.

Subsequent to the issuance of the Inspector General's report, the town of Acton filed a civil suit against the developer to recover these excess profits. In September 2009 the Massachusetts Attorney General also filed a suit against Crossroads Development, LLC for alleged violation of the False Claims Act by submitting false cost certifications to the Town of Acton. The developer's agreement to perform work for the Town of Acton resulted in both the Attorney General and the town dismissing their lawsuits against the developer. For more information, see:

- [Developer Profits- Crossroads Development, LLC and an Acton M.G.L. Chapter 40B Project, Letter to Peter Ashton, Chairman, Board of Selectmen and Don P. Johnson, Town Manager May 2006](#)

- Review of Actual Site Development Costs as Reported by Crossroads Development, LLC on a Chapter 40B Project in Acton, MA, June 2008
- Massachusetts Attorney General Files Suit against 40B Developer Following Inspector General Investigation, September 2009

A list of other office reports and recommendations related to Chapter 40B is available at Chapter 40B Publications