



The Commonwealth of Massachusetts
Office of the Inspector General

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August 8, 2006

Mayor Daniel Mylott
City of Fitchburg
City Hall
718 Main St.
Fitchburg, MA 01420

Dear Mayor Mylott:

As you know, my office received a complaint regarding the removal of city-owned fill material from the City of Fitchburg's gravel pit by a local business, Ron Bouchard's Auto Sales, Inc. (Bouchard) at 299 Lunenburg Street.

This office understands that the city offered the fill material to Bouchard for free as part of a deal reached with Bouchard to refurbish a blighted area which included the demolition of a motel. The area would then be used by Bouchard to expand his automobile dealership. Bouchard was to rid the city of the motel in exchange for the receipt of fill material from the city and favorable tax treatment. The city and Bouchard did not have a written contract, only an oral agreement.

This office first analyzed whether M.G.L. c.30B, the Uniform Procurement Act was followed in the agreement. The Uniform Procurement Act establishes uniform procedures for local governments to use when contracting for supplies, equipment, services, and real property. At a dollar threshold of \$25,000, the procedures become applicable to a real property transaction such as the removal of fill material from the city's gravel pit.

You informed this office that you estimated that between \$10,000 - \$13,500 worth of fill material was removed from the city's gravel pit. Based on your estimates, Deputy General Counsel, Angela Atchue informed you that because the value of the disposition fell below the threshold, there was no M.G.L. c.30B violation.

Shortly thereafter, the office received another complaint indicating that, based on the size of the demolition site, the value of the gravel was substantially higher than \$10,000 - \$13,500. At this point, the office contacted Bouchard and requested documents. In response, you contacted us and informed us that you would provide us with whatever we needed. We did not get a response from you for several months.

You told my office that you were attempting to retrieve documents from Bouchard. However, Bouchard represented to us that no documents had been requested.

Later, Bouchard provided an undated letter from Bouchard's contractor and an invoice submitted to the contractor by the trucking company that transported the gravel to the motel site. The contractor estimated the value of the fill material to be \$16,775. The trucking firm charged a total of \$26,840 to load and transport the material from the city's gravel pit. This amount was presumably paid by Bouchard.

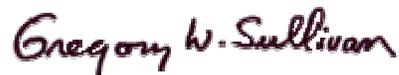
It is clear that the city did not monitor the fill removal from the gravel pit. The trucking firm had unfettered access to the city-owned property for up to two weeks. During this time, the trucking firm could freely remove city-owned material from the site. We only have the trucking firm's invoice to substantiate the amount of material removed from the site. The city has no records regarding this removal.

The city's practice of allowing a private firm unsupervised access to the city's property for a two-week period is imprudent. Moreover, it raises safety and insurance concerns.

Due to the lack of documentation, no one can say with certainty that Bouchard received an amount of fill material valued below the statutory thresholds, or even the amount ostensibly agreed to in the oral agreement for fill material. In the future, this office recommends that any such agreements be entered into in writing and include proper safeguards. In addition, the city should ensure that contract monitoring is conducted.

If you have any questions, please do not hesitate to contact 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