



The Commonwealth of Massachusetts
Office of the Inspector General

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April 11, 2007

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

Dear Director Gleason:

This Office has reviewed the documents provided by MassHousing which are related to the proposed Pine Woods housing development in Sharon. Based on this review, I request your agreement and support to withdraw the project eligibility letter previously issued (June 27, 2006) by MassHousing to Mr. Michael Intoccia, President of Pine Woods Development Corporation. The application documents provided to MassHousing by the developer through his consultant (Delphic Associates, LLC – Mr. Paul E. Cusson) are misleading at best. In order to protect the integrity of the project eligibility process it is appropriate to rescind the site approval for the proposed Pine Woods housing development.

As part of the process for issuing the project eligibility letter, MassHousing made several determinations regarding eligibility requirements. These eligibility requirements included a determination that the developer complied with MassHousing's Acquisition Value Policy and that the developer was a limited dividend organization which had agreed to limit the profit on the development to not more than 20% of the project's total development costs. In arriving at these determinations, MassHousing, in addition to performing an on-site inspection also reviewed pertinent information for the project submitted by the applicant. Some of the documents provided to MassHousing as part of the application process included a site appraisal, a purchase and sale agreement, a development narrative, a project financial pro forma, a market analysis, and a Housing Starts application.

This Office reviewed the documents referenced above along with other pertinent information. Based on this review we conclude that the developer and his consultant have provided to MassHousing faulty and misleading information. In our opinion this is an intentional and overt abuse of the Chapter 40B process.

The site appraisal originally provided by the developer concluded that the fair market value of the proposed development site was \$10,000,000 when fully developed with utilities and access roads for eighteen (18) one acre house lots. In the site approval review process, MassHousing took exception to this appraisal since the site was currently in a raw condition and not developed to accommodate the 18 assumed house lots. The developer provided a revised appraisal which reduced the appraisal value down to \$9,100,000. The \$900,000 difference in the appraisal values was attributed to the estimated cost to fully develop the site with access and utilities for 18 house lots. MassHousing accepted the revised appraisal as part of the site approval process.

Several Sharon residents, Sharon's legislative delegation (Representative Kafka and Senator Timilty), the Sharon Zoning Board of Appeals and this Office questioned the accuracy and validity of the developer provided appraisal and requested that MassHousing mandate a new independent appraisal. Problems were noted with respect to the as-is lot size requirement and the comparable site values which were used in the developer commissioned appraisal. Based on these concerns, MassHousing required that an independent appraisal be performed. This independent appraisal which was done by a MassHousing authorized appraiser (Sheehan & Company) was recently completed and reflects a significant difference in appraisal value. The independent appraisal value came in at \$2,500,000 versus the \$10,000,000 value previously submitted by the developer.

The purchase and sale agreement provided by the developer included an agreed upon purchase price of \$10,000,000 along with a dependency for a comprehensive permit as opposed to the as-is site density. The full purchase price of \$10,000,000 was based on a plan for constructing 78 market rate units on the site. Through extrapolation, if the approved build are only 18 market rate units the prorated purchase price for the parcel would be \$2,307,690 versus the stated \$10,000,000. The contingencies reflected in the purchase and sale agreement belie the veracity of the \$10,000,000 appraisal value originally claimed by the developer.

In order to help determine the financial feasibility of a project and the required limited dividend nature of the enterprise, developers are required to submit an accurate financial pro forma as part of the site eligibility application. The Pine Woods pro forma submitted to MassHousing reflects a site acquisition price of \$10,000,000. This inflated land valuation has the effect of significantly understating the projected profits of the project by approximately 300%. If the pro forma financials reflected the proper valuation of the land according to MassHousing's Acquisition Value Policy, then the project would plainly not be in compliance with the limited dividend requirement.

The Pine Woods developer clearly submitted an application to MassHousing which was not in compliance with MassHousing's Acquisition Value Policy. In addition the developer did not and has not demonstrated his willingness to limit his profits in accordance with the project's limited dividend requirement. As is reinforced in the contingencies/dependencies documented in the purchase and sale agreement

Thomas Gleason

April 11, 2007

Page 3 of 4

(including approval of a comprehensive permit for 104 units), the developer knowingly provided this false and misleading information to MassHousing.

In addition to the concerns noted above regarding the limited dividend and the land valuation, this Office noted other inconsistencies in the documents submitted by the developer as part of the site eligibility application. These inconsistencies further support the need to withdraw MassHousing's Project Eligibility for the proposed Pine Woods development.

The Housing Starts application submitted by the developer was incomplete. Questions 9 and 10 under the site information section were left blank. These questions are specific to determining whether an identity of interest exists between the seller and the buyer and also in identifying the most recent arm's length sales price. This lack of response when coupled with the construction and improvement obligations of the seller as reflected in the purchase and sale agreement raise additional concerns. The purchase and sale agreement specifies that in addition to selling the land to the developer, the seller will be hired (price to be determined in the future) by the developer to construct the roads and sidewalks, install the utilities and drainage improvements, construct a sewage package treatment plant and service lines to each condominium unit, and perform all other infrastructure work as is required to service the planned 104 condominium units. These interests that carry beyond the sale of the property if not properly understood and managed may adversely impact and run counter to the financial interests of the town.

In the application package submitted to MassHousing, the developer proposed 104 housing units with a total of 208 bedrooms (or 2 bedrooms per unit). This is in direct conflict with the residential market analysis which was also submitted by the developer at the same time. The residential market analysis is based on three bedroom units. This significant difference in planning could adversely impact the validity of the safety and environmental studies, depending on which planning assumptions are used to conduct the studies. In submitting an application a developer should ensure that all plans and assumptions are integrated, consistent, and accurate. This is not the case with this application.

Given these discrepancies it is appropriate that the project eligibility approval for the Pine Woods development be rescinded. The administration of the Chapter 40B process should be above reproach. The expectation should always be that representations made by any participant in this process are truthful and complete. Manipulation of the system should never be tolerated and participants need to be held accountable for their actions and their statements.

This Office would like to work in cooperation with MassHousing in order to determine if other Chapter 40B projects in the development pipeline have similar land valuation issues. In fairness to both the developers and the municipalities it is best to address these issues as early as possible in the process. Surprises at the end of the

Thomas Gleason

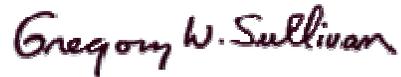
April 11, 2007

Page 4 of 4

process, during cost certification will only result in costly and time consuming litigation.

If you have any questions or concerns, please do not hesitate to call 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

Cc: Tina Brooks, Undersecretary, DHCD
Louis L. Kafka, State Representative
James E. Timilty, State Senator
Sharon Board of Selectmen
Sharon Zoning Board of Appeals