

March 19, 2014

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

RE: Project# SA-13-007 “The Commons at Weiss Farm”

Dear Director Gleason:

On behalf of the Town of Stoneham, I thank you once again for taking the time to meet with Town Counsel Bill Solomon, Attorney Jon Witten and me last Thursday at Representative Jason Lewis’ office to discuss the above referenced project eligibility application.

As promised, please find attached a chronology of relevant events demonstrating that the applicant did not meet with the Town prior to filing the project eligibility application with MassHousing, as required by MassHousing’s policies and practices, and as further set out as in MassHousing’s application form. Frankly, there is no great puzzle involved or investigation needed as to the question of whether the developer met with the Town. They did not. It would seem sufficient to know that at no time did the Town ever receive any information, written or otherwise, from the developer as to any material aspect of site design, including the number or size of buildings, or the layout thereof, prior to the application to MassHousing, forwarded on October 2, 2013. It is in that light that the e-mails regarding the failed last minute attempt by the developer to set up a meeting with the Town days before its submission to MassHousing should be read. Even in that context, the e-mails speak volumes regarding the failure of the developer to meet with the Town and its lack of interest therein.

That MassHousing itself, through policies and requirements, has recognized the importance of developer outreach by a developer with the municipality prior to submission of its application for site eligibility, underscores its importance. The tenor, tone and substantive nature of the discussion at last Thursday’s meeting give the Town reason to believe that you understand the significance of this requirement and will rectify

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the failure of the developer, John M. Corcoran and Company, to fulfill and comply with it.

As discussed last Thursday, we do not see the developer's failure to meet with us to be a simple technicality or an irrelevant oversight. Rather, had the applicant met with the Town and its officials prior to submitting its project eligibility application, the applicant—and the resulting project—would have benefited from Town officials' extensive knowledge of the locus. The resulting knowledge, we are confident, would have led to a very different application for project eligibility approval. For example, we would have informed the applicant of the well-documented stormwater and related flooding issues on and off the locus; such knowledge would have led to a better and more logical development design in harmony with the parcel's development constraints. We would also have informed the applicant that their proposed unit design—monolithic structures sitting on 4 to 5 feet of fill— was clearly incompatible with the surrounding neighborhood and the Town as a whole.

A suggestion that these matters can be “explored” during the Board of Appeals' hearings, wrongly overlooks the developer's failure to comply with this MassHousing's own requirements and policy, and the detrimental consequences that have arisen as a result. MassHousing's policy is based on the sound principle, supported by a wealth of experience in planning and development, that it is at the beginning of the process, when development concepts are being considered and reviewed, and other fundamental decisions are made, that input is most needed and effective. The failure of the developer to follow this process led to a “cookie-cutter” proposal seriously lacking in almost every respect. MassHousing, by requiring the developer to engage the Town as required by its policy, will provide, as intended, a process by which the development proposal is reviewed in an orderly process, and at a time when input is most needed and can be effectively acted upon and incorporated by the developer. In other words, a sound planning approach, as envisioned by MassHousing's policy and requirements. In this regard we ask that you again read the thoughtful comments contained in the letter of town planner, Glenn Gibbs (who serves in that capacity in the Town of Ipwich), attached to the Board of Selectmen's letter of February 18, 2014.

There is an opportunity now for initially conceptualizing and shaping the proposed development of the property in a way that will serve the interests of all parties, including the developer and MassHousing. By having a meaningful discussion of the fundamental development challenges, needs and concerns at this sensitive location in the Town, not only can better development decisions be made, but such decisions can be made in a more timely manner. Rather than causing delay, unnecessary efforts and delays can be prevented. This benefit of good planning and initial discussions is both self evident and supported by everyday planning experiences. We assume it is the primary reason for MassHousing's policy. I have confidence in your knowledge of this principle and your sensitivity to the Town's specific concerns in this particular case.

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Additionally, requiring the developer's compliance with your policy, will also demonstrates MassHousing's commitment to the process itself, thereby strengthening the legitimacy of its actions and the respect therefore. As noted at the meeting, this is a goal to which the Town of Stoneham, and other governmental and public institutions, strives for each day. By insisting that established procedures based on both substantive benefits and fairness are upheld, the public is best assured and reminded that government, whether at the state or local level, holds itself to a high standard, which is as it should be. Our meeting with you only confirmed our belief that MassHousing approaches its public obligations with great seriousness, a sense of fairness, and, of course, with integrity.

In conclusion, we ask that MassHousing require compliance with its policy and what we believe the Town and its residents are entitled to—that is—opportunity to work with a project eligibility applicant in a meaningful way. We do not seek to delay this project, nor do we intend to delve into specific details that are not yet ripe for discussion. Rather, we ask that MassHousing require the applicant to meet with us, after first determining how to reconceptualize or make other changes to its proposal, based on the process and information to date, as is the accepted practice of every successful developer and housing development. We think this requirement is in everyone's best interest, most notably the future occupants of the housing to be constructed. We are confident that the end result of this process will benefit the Town, the applicant and MassHousing's role which is, as you noted, the gatekeeper of project eligibility approval.

While I am both hopeful and confident that you will concur with our recommendation above, I would respectfully request that if this is not the case, that the Town would have the opportunity, prior to any issuance of a Site Eligibility approval, to provide a follow-up letter to you, setting out some limited, but very important, conditions in the event of approval.

On behalf of the Town of Stoneham, thank you very much for the time that you and your staff have taken to review our concerns to date, and I look forward to hearing from you as to your decision on how this matter will proceed. Please feel free to call me anytime.

Thank you again.

Very truly yours,

David Ragucci
Town Administrator

cc: Representative Jason Lewis

Chronology of Meetings with John Corcoran and Company and The Town of Stoneham

- May 9, 2013: Meeting with Attorney Steven Cicatelli on behalf of John Corcoran and Company. In attendance for the Town: Town Administrator David Ragucci and Town Counsel William Solomon. The meeting, which was initiated by the Town, lasted approximately 45 minutes. No concepts, plans or details as to the developer's intent was presented at this meeting, in fact they indicated that they had they had not yet been developed. The Corcoran representative offered to meet with the Town if Corcoran decided to move ahead with a proposed development (which they stated would depend on the company's initial study and review) and once an approach and some plans and details of a project had been prepared.
- July 22, 2013: Letter from Richard High, president of John Corcoran and Company to David Ragucci, Town Administrator - no concept, design or plans of any buildings, their size or location on the site provided. Mr. High wrote, in relevant part, "[w]hen we have our preliminary plans ready, we would be happy to met with you and share our plans and receive your feedback".
- August 20, 2013: Letter from David Ragucci to Richard High responding to the letter of July 22, 2013, in relevant part, by expressing appreciation for Mr. High's expressed intention to offer many opportunities for input before the permitting process, and asking requesting that the Town Administrator and the Board be updated as the company continues its "due diligence" and planning process toward a determination as to whether to proceed and/or develop preliminary plans.
- August 28, 2013: David Ragucci e-mails Attorney Steven Cicatelli, in relevant part, as follows: "Do you have any idea as to a timeline for the project to be presented?"
- August 28, 2013: Attorney Cicatelli e-mails Dave Ragucci, in relevant part, as follows: "I do not but as soon as I have more information you will be the first person that I contact."
- September 18, 2013: Attorney Steven Cicatelli e-mails David Ragucci and asks if it would be possible asks of it is possible for he and his client to meet with me and two members of the Board of Selectmen on Thursday, September 26, 2013 "to update you and discuss the above referenced project. Let me know." The Town Administrator agrees to the above referenced September 26, 2013 meeting, but then is informed that the Town's special counsel retained for this matter, Jon Witten, is not available that day.

- September 23, 2014: Town Counsel e-mails Attorney Cicatelli, as follows:

Hello. Dave has asked that I e-mail you that the Town will have to reschedule the meeting of Thursday September 26, 2013 at 9:00AM. Attorney Jon Witten is not available at that time. Dave will forward some alternative dates and times tomorrow.

- Attorney Cicatelli e-mail Town Counsel back as follows:

The purpose of the meeting was not really to discuss the merits of the project but rather to give you an update as per Dave's request and to present to Dave the request that my client will be filing in the near future regarding project eligibility. It has always been my client's desire to keep the Board of Selectmen apprised of the status of the project. If you do not want to meet as we had planned then there will be no need to reschedule. Kindly advise if you still want to meet as agreed to.

- September 26, 2013: Letter from Richard High, president of John Corcoran and Company to David Ragucci, indicating Corcoran's "offer to meet with you to share our plans". No plans, drawings or explanation of the proposed project accompanied this letter or had been submitted to the Town as of this date and none were submitted to the Town until October 2, 2013, the date of formal submission to MassHousing. In fact,, Mr. High wrote, as follows:

When we first met in early May to discuss our plans at Weiss Farm I told you that we would return to talk to you after we had completed our due diligence and had more details to share. I reaffirmed this in my July 23rd letter to you.

It had been our intention to share our plans with you at a meeting that was scheduled for today. Although I was disappointed to hear that the Town felt it was necessary to attempt to reschedule this meeting so that their 40b counsel could be present, I would like to reiterate our offer to meet with you to share our plans. It had been our intention to share our plans. Please understand that we cannot delay our filing with MassHousing, and we plan to do so at some point next week.

We would welcome the opportunity to meet with you (with or without counsel) to review our proposal at some point in the future. I look forward to hearing back from you.

- September 27, 2013: E-mail from Richard High to Town Counsel, copy to David Ragucci: Steve [Attorney Cicatelli] is away all next week. Would either Oct. 10 or 11 work on your end? If so, we could set something tentatively on one of those two days, then confirm Steve's availability when he is back in Town."
- October 2, 2013: Application for Project Eligibility submitted to MassHousing by John Corcoran and Company. Other than the May 9, 2013 meeting noted above, there was no meeting as between Corcoran or its representatives and the Town of Stoneham or its representatives to discuss the plans submitted on October 2, 2013 to MassHousing.
- October 10, 2013: Meeting with Attorney Steven Cicatelli and representatives from John Corcoran and Company. In attendance for the Town: Town Administrator David Ragucci, Town Counsel William Solomon, special counsel Jonathan Witten, members of the Board of Selectmen and department representatives. Repeated commentary from Town officials that the applicant had not met with Town officials prior to filing for project eligibility approval with MassHousing on October 2, 2013.
- November 12, 2013: Presentation of proposed development by representatives of John Corcoran and Company. Repeated commentary from Town officials that the applicant had not met with Town officials prior to filing for project eligibility approval with MassHousing on October 2, 2013.