NEW BUSINESS

3/30/15

MIDDLEBOROUGH POLICE DEPARTMENT

99 NORTH MAIN STREET
MIDDLEBOROUGH, MA 02346
(508) 947-1212
Fax (508) 947-1009

Joseph M. Perkins
Chief of Police

TO: Jackie Shanley
Exec. Assist. to the Board of Selectmen

FROM: Irene Hudson
Admin. Assist. to the Chief

DATE: March 23, 2015

RE: Promotion

Enclosed you will find a letter from Chief Perkins to the Board recommending they promote Officer Jerry Donahue to the rank of Sergeant effective March 31, 2015. Also enclosed are the Departmental Promotional List and Departmental Promotional Certification for their signature.

Would you please put this on the March 30, 2015 agenda. If you have any questions please feel free to contact me. Thank you.

MIDDLEBOROUGH POLICE DEPARTMENT

99 NORTH MAIN STREET
MIDDLEBOROUGH, MA 02346
(508) 947-1212
Fax (508) 947-1009

Joseph M. Perkins
Chief of Police

March 19, 2015

Board of Selectmen
Town Hall
Middleborough, MA 02346

Re: Sergeant Promotion

Honorable Board:

Due to the retirement of Sergeant Stephen Verhaegen there is a need to fill his position to cover supervisor shifts.

Police Officer/K9 Officer Jerry Donahue is ranked number one on the Civil Service Promotional Requisition #01989 (see attachement). Officer Donahue is 15 year veteran and should do a credible job as a Sergeant.

I would recommend the Board vote to promote Officer Donahue to Sergeant effective March 31, 2015 and to authorize the Chairman to sign the Promotional Certification and Promotional List.

Respectfully submitted,

Joseph Perkins
Chief of Police

cc: Robert Nunes

QP Construction Company Inc.

Custom Builder and Restorations
110 Cherry Street
Middleboro, MA 02346

3/17/15

Town Office Building
346 Bedford St.
Lakeville Mass. 02347

Lakeville Board of Selectman
John Powderly Chairman

RE: 40 Main St. Lakeville Mass. 02347

John,

I, Michael A. Chiuppi president of Qp Construction Co. Inc. on the behalf of Michael Mastrangelo owner of above said property, are requesting permission from the Town of Lakeville to tie into the water source from the Town of Middleboro for his proposed restaurant/retail space that we are now pursuing. The water source is located on the north corner of the property which will make a minimum impact on the sidewalk / roadway and abutters of the property.

I have spoken to the Town of Middleboro water supervisor Joe Silva and said the he would precede with a letter of intent to his board after an approval from the Town of Lakeville. Mr Mastrangelo would be moving his business Baldes Pizza from his current location in town to this location to better serve the public. Thank you for your time concerning this matter.

Sincerely,

Michael A. Chiuppi
President
Qp Construction Co. Inc.

Telephone: 508-947-5895 Fax: 508-923-0778
qpconstuctioninc@gmail.com Established. 1982

Town of Lakeville

Town Office Building

346 Bedford Street

Lakeville, Massachusetts 02347

OFFICE OF
SELECTMEN
TELEPHONE 508-946-8803
FAX 508-946-0112

March 23, 2015

Michael Mastrangelo
Baldies Pizza and Subs
78 Main Street
Lakeville, MA 02347

RE: Request to tie into Town of Middleborough
Water Line – 40 Main Street, Lakeville, MA

Dear Mike:

At their March 23, 2015 meeting, the Board of Selectmen reviewed your request to tie into the Town of Middleborough's water line in front of the property located at 40 Main Street, Lakeville, MA.

After a brief discussion, the Board voted to approve your request to tie into the Town of Middleborough's water line, subject to the approval by the Town of Middleborough.

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

Sincerely,

Rita A. Garbitt

Rita A. Garbitt
Town Administrator

Baldies Pizza and Subs

78 Main Sti

Lakeville Mass. 02347

3/17/15

Town Office Building
346 Bedford St.
Lakeville Mass. 02347

Lakeville Board of Selectman
John Powderly Chairman

RE: 40 Main St. Lakeville Mass. 02347

John,

I, Michael Mastrangelo owner of above said property, is requesting permission from the Town of Lakeville to tie into the water source from the Town of Middleboro for my proposed restaurant/retail space that I am now pursuing. The water source is located on the north corner of the property which will make a minimum impact on the sidewalk / roadway and abutters of the property.

I have spoken to the Town of Middleboro water supervisor Joe Silva and said the he would precede with a letter of intent to his board after an approval from the Town of Lakeville. I will be moving my business Baldies Pizza 78 Main St from its current location to this location to better serve the public. Thank you for your time concerning this matter.

Sincerely,

Michael Mastrangelo

Michael Mastrangelo
201 Hemlock Shore Rd
Lakeville, mass 02347

BOS

AMORY ENGINEERS, P.C.

WATER WORKS • WATER RESOURCES • CIVIL WORKS

25 DEPOT STREET, P.O. BOX 1768
DUXBURY, MASSACHUSETTS 02331-1768

TEL.: 781-934-0178 • FAX: 781-934-6499
WWW.AMORYENGINEERS.COM

March 11, 2015

Mr. Robert G. Nunes, Town Manager
Town Hall, 10 Nickerson Avenue
Middleborough, MA 02346

Subject: **East Grove Street Well / Coke Aerator Roof Replacement / Installation**

Dear Mr. Noones:

As directed by Mr. Silva, this letter is to advise that sealed bids for the subject contract were opened on February 19, 2015. Three bids were received and are summarized on the enclosed Bid Tabulation. Dankris Builders Corp., Plainville, MA, submitted the low bid for both bid alternatives. Their bid was in the total amount of $231,800 for Alternate A – Aluminum Geodesic Domes and $254,500 Alternate B – Fiberglass (FRP) Domes. We recommend award of the contract on the basis of Alternate A – the aluminum geodesic option due to the lower overall cost and the longer expected service life.

We are satisfied that Dankris Builders Corp. has the experience and capability to complete the contract. We therefore recommend award of this contract to Dankris Builders Corp. We have enclosed a copy of Bid and Bid Bond for Dankris Builders Corp. as well as original Bids and Bid Bonds of the other three bidders for your files.

Also enclosed is a Notice of Award form. After award of the contract, please forward a signed copy of the Notice to Dankris Builders Corp. for acknowledgement.

Upon notification of award and instruction from the Town, we will forward copies of the appropriate sections of the Contract Documents to Dankris Builders Corp. for completion.

Please call if you have any question.

Very truly yours,

AMORY ENGINEERS, P.C.

By:

Richard S. Johnson, P.E.

rsj:RSJ
enc.
cc: Joseph Silva

BID SUMMARY

EAST GROVE STREET WELL / COKE AERATOR ROOF REPLACEMENT / INSTALLATION

MIDDLEBOROUGH, MA

Bid Opening: February 19, 2015

Bidder	Bid Alternate A (Aluminum Geodesic) Amount	Bid Alternate B (Fiberglass FRP) Amount
Dankris Builders Corp 6 High Street, Unit 1 Plainville, MA 02762	$231,800.00	$254,500.00
MECO Environmental Services, Inc. 1119 Washington Street Weymouth, MA 02189	$280,000.00	$288,000.00
Bay Steate Contracting Company, LLC 38 Washington Street Pembroke, MA 02359	$319,000.00	$357,000.00

SECTION 00440
NOTICE OF AWARD

TO: Dankris Builders Corp.

6 High Street, Unit 1

Plainville, MA 02762

Project Description: **EAST GROVE STREET WELL / COKE AERATOR ROOF REPLACEMENT / INSTALLATION, MIDDLEBOROUGH, MA**

The OWNER has considered the Bid submitted by you on February 19, 2015, for the above described Work in response to its Advertisement for Bid and Information for Bidders.

You are hereby notified that your Bid has been accepted for **Alternate A (Aluminum Geodesic)** the **TOTAL SUM PRICE** of $ **$231,800.00**

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance Bond, Labor and Materials Bonds and certificates of insurance within *fourteen (14)* calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said Bonds within the *fourteen (14)* calendar days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your Bid as abandoned and as a forfeiture of your Bid Security. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged ACCEPTANCE OF NOTICE to the OWNER.

Dated this _____ day of _____, 2015.

FOR THE OWNER:

_____

Town Manager
Middleborough, MA

ACCEPTANCE OF NOTICE

Receipt of the Notice of Award is hereby acknowledged by:

_____

this the _____ day of _____, 2015.

By _____

Title _____

END OF SECTION

TOWN OF CARVER

Office of Planning & Community Development

108 Main Street
Carver, MA 02330

Phone: (508) 866-3450
Fax: (508) 866-3430
E-mail:jack.hunter@carverma.org

March 17, 2015

Joe Silva, Superintendent
Town of Middleborough Water Department
48 Wareham Street
Middleborough, MA 02346

RE: REQUEST FOR WATER FOR NORTH CARVER WATER DISTRICT

Dear Mr. Silva:

As you know the North Carver Water District has needed to expand their storage capacity for some time now and has entered into a contract with M.E. Smith to construct 40,000 gallons of clear well storage.

In doing so, we will need to shut down the wells for approximately seven (7) days; therefore we are requesting Middleborough to provide water to the NCWD during that time. We anticipate this will occur most likely in the first week of May, 2015 and once we get definitive dates I will immediately inform you.

We appreciate your consideration of this request and please contact me if you should have any questions.

Sincerely,

Jack F. Hunter
Director of Planning and Community Development

Cc: NCWD

March 25,2015

Board of Selectmen
Town of Middleborough

This is to inform you of my immediate resignation as a member of the School Building Committee as a Representative of Office Authorized by Law to Construct School Buildings.

I resigned earlier this evening as the Chair of the Middleborough School Committee.

Richard C. Gillis

Cc: Robert Desrosiers, Chair School Building Committee
Allison Ferreira, Town Clerk

CRANBERRY CAPITAL
OF THE WORLD

Phone: 508-946-2405
Fax: 508-946-0058

Town of Middleborough

Massachusetts

Board of Selectmen

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 3\20\2015
NAME OF **APPLICANT** Bill Seckinger
ADDRESS OF APPLICANT 13 Harding Street Lakeville
ASSESSORS MAP & LOT
DAYTIME TELEPHONE 508-923-0505

NAME OF **BUSINESS** Mucker's Liquors
OWNER OF PROPERTY TO BE LICENSED Bill Seckinger
ADDRESS OF PROPERTY TO BE LICENSED 200 Oak Point Drive
ASSESSORS MAP & LOT

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand ____
Class I Automobile Dealer License____
Class II Automobile Dealer License ____
Class III Automobile Dealer License ____
Entertainment____

WRPD____
Earth Removal Permit____
Liquor License X
Other Fuel

Anticipated Start Date for Business: April 11th 2015
Days & Hours of Operation: 6 PM to 11 PM
Days/Hours/Description for Entertainment
Dinner Dance for Lions Club
Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:
Yes 200 Oak Point Drive

Signature Bill Seckinger

DATE OF HEARING:_____ APPROVED/DENIED

Do not write below line: To be Completed by Treasurer/Collector:

Please inform this department as to whether or not the above listed property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges that remain unpaid for more than one year.

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? N/a

MASSHOUSING

Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1091
VP: 866.758.1435 | www.masshousing.com

March 17, 2015

Allin Frawley, Chairman
Board of Selectmen
Town Hall
10 Nickerson Avenue
Middleborough MA 02346

Dear Chairman Frawley:

Enclosed please find MassHousing's draft report regarding the cost examination for the Keith Place Condominiums development built pursuant to M.G.L. c. 40B ("Chapter 40B"). This report is based on our analysis of Keith Street Development, LLC's cost examination (the "Cost Examination") dated January 8, 2015 and received by MassHousing on January 21, 2015 with additional information (as requested by MassHousing) received through March 11, 2015. We have undertaken this analysis pursuant to our responsibilities as the Subsidizing Agency (defined under the provisions of 760 CMR 56.02) for certain Chapter 40B programs; specifically the New England Fund program. It is our responsibility to determine whether the Cost Examination complies with applicable accounting and reporting standards, as well as legal requirements and published guidelines for the preparation of these examinations.

Prior to MassHousing issuing a final report regarding the Cost Examination for Keith Place Condominiums, we would like to offer you, as the Chief Elected Official of the Town of Middleborough, an opportunity to comment on this draft report, identify any issues that you might have with the content, or raise any questions that you believe should be addressed. I would appreciate it if all comments could be sent to us by April 21, 2015 so that we may consider them prior to the issuance of our final cost examination report for this development. Comments should be sent to Jennifer Wierl, Comprehensive Permit Programs. Ms. Wierl can be reached at (617) 854-1136 or jwierl@masshousing.com should you have any questions.

Very truly yours,

Gregory P. Watson
Manager, Comprehensive Permit Programs

Enclosure

cc: James A. Pavlik, Keith Street Development, LLC
Bruce Benoit, CPA, Bridgwood, Benoit & Company, P.C.
Bruce G. Atwood, Chairman, Middleborough Zoning Board of Appeals
Carolyn Dymond, DHCD
Carl Nagy-Koechlin, South Shore Housing Development Corporation

Charles D. Baker, *Governor* | Ronald A. Homer, *Chairman* | Thomas R. Gleason, *Executive Director*
Karyn E. Polito, *Lt. Governor* | Michael J. Dirrane, *Vice Chair*

MASSHOUSING

Report on MassHousing's Analysis of the Cost Examination Dated January 8, 2015 and Received by MassHousing on January 21, 2015 with additional information (as requested by MassHousing) received through March 11, 2015

Submitted By
Keith Street Development, LLC

Keith Place Condominiums
a M.G.L. Chapter 40B Development
PE-347

Date of Report: March 17, 2015

DRAFT

Executive Summary

On January 21, 2015, MassHousing received an Independent Accountants' Report dated January 8, 2015 (with additional information, as requested by MassHousing, received through March 11, 2015) for the Keith Place Condominiums housing development (the "Project") located in Middleborough, Massachusetts (the "Town"). In said Independent Accountants' Report, Bridgwood, Benoit & Company, P.C. (the "CPA") stated that they have examined the Schedule of Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs (the "Cost Examination") of Keith Street Development, LLC (the "Developer"), and that in their opinion the Cost Examination presents fairly, in all material respects, the Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs of the Developer as of December 29, 2014, in conformity with guidelines prescribed by the Department of Housing and Community Development ("DHCD") and MassHousing.

MassHousing, acting as the Subsidizing Agency (formerly, "Project Administrator") for this development, conducted an analysis of this Cost Examination to ensure that it was in compliance with applicable accounting standards, reporting standards, legal requirements and applicable Chapter 40B guidelines.

MassHousing has completed its analysis and has prepared this report (the "Report"). In the process, we have reached two conclusions:

1. Certain adjustments, which are identified below, should be made to the information contained in the Cost Examination to be consistent with then-existing guidelines and practices.

2. Notwithstanding these adjustments, MassHousing believes that the Developer has not exceeded the maximum profit allowed to be earned on this development as indicated in the Regulatory Agreement.

The following schedule, more fully described in Appendix A, reflects the final profit calculation as adjusted for project sales and cost findings noted in this Report:

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Executive Summary (continued)

Description	*Per Cost Examination*	*Proposed Adjustments*	*Ref.*	*Final Per MassHousing*
Total Project Sales/Revenue	$ 3,445,867	$ 1,500	A	$ 3,447,367
Project Costs:				
Site Acquisition	$ 450,000	$ (346,300)	B	$ 103,700
Hard Costs	2,463,717	-		2,463,717
Soft Costs	582,642	(9,200)	C	573,442
Total Project Costs	$ 3,496,359	$ (355,500)		$ 3,140,859
Computed Profit (Loss) from Sales/Revenue	$ (50,492)	$ 357,000		$ 306,508
Profit (Loss) Percentage	-1.44%			9.76%
Excess Profit Due to Municipality	$ -			$ -

A. This adjustment represents an increase to rental income received as more fully described in Section III below.

B. This adjustment represents our "worst case" scenario for land acquisition as more fully described in Section V, Part A below.

C. This adjustment represents the portion of commissions/advertising/lottery fees paid for affordable units that are being disallowed as more fully described in Section V, Part C.2 below.

After taking into account the proposed adjustments noted above, we conclude that the Cost Examination is free of material mathematical errors, reflects project sales revenue from all units, reflects project costs that appear to be reasonable and/or consistent with then-existing policy, and reflects the number of units in the Project as agreed to in the Regulatory Agreement. The Notes to Schedules appear to cover the full scope and time frame of the Project.

Depending on the timing of a project, different projects will be governed by different sets of rules. The MHP Guidelines (defined in Section I below), published in November 2005, are one such set of rules. It is important to note that this Project straddles the MHP Guidelines. Prior to the issuance of the MHP Guidelines, the standard for reviewing project costs (other than land acquisition) was one of "commercial reasonableness." For those aspects of the Project that occurred before the MHP Guidelines were in effect, MassHousing will not apply the MHP Guidelines retroactively. We will, however, apply the MHP Guidelines to those aspects of the Project that occurred after the MHP Guidelines were in effect and that relate to matters within the Developer's control.

Executive Summary (continued)

More specifically, our criteria for applying the MHP Guidelines are that (i) a project was built when the MHP Guidelines were in effect, and (ii) the specific project cost had not yet been committed to when the MHP Guidelines took effect. In this case, we believe that all project costs (other than land acquisition) were committed to by the Developer after the MHP Guidelines took effect. Our conclusion is based on the date the Regulatory Agreement was executed (May 14, 2007).

MassHousing published its cost certification guidance in August 2007 ("MassHousing Guidance"). In February 2008, DHCD issued Chapter 40B regulations at 760 CMR 56.00 (most recently amended April 2012) and the associated guidelines (most recently revised in December 2014). These regulations and guidelines (the "Guidelines") along with MassHousing Guidance provided much needed additional guidance to Developers, CPAs, Subsidizing Agencies and municipalities. In this case, the Developer and its CPA had the benefit of such guidance.

Note to Report:
MassHousing notes that the Developer began construction, pulled building permits, sold market rate and affordable units, and paid off the New England Fund construction loan, without receiving final approval from MassHousing. This is not consistent with MassHousing requirements, is prohibited by the Guidelines, and should not happen in the ordinary course of obtaining final approval. Activities such as the ones referenced above necessarily may impact any future site approval applications by principals of the development team. While there were irregularities that occurred during the final approval review, on balance, the applicant has complied with important programmatic requirements including, but not limited to this Cost Examination.

DRAFT

I. Overview

According to the Cost Examination, Keith Street Development, LLC was formed on May 4, 2005, to acquire, develop and sell 16 units of residential housing, including 5 units (31.25% of the total) for qualifying income eligible individuals and households in Middleborough, Massachusetts.

On August 1, 2005, MassHousing issued a project eligibility letter evidencing fundability of the Project under both the "*Housing Starts*" and the "*New England Fund*" ("NEF") programs.

At that time, neither the "Local 40B Review and Decision Guidelines" (the "MHP Guidelines") dated November 2005 nor MassHousing Guidance had been developed. Furthermore, DHCD had not yet promulgated the Guidelines.

On July 13, 2006, the Middleborough Zoning Board of Appeals issued a Comprehensive Permit for the Project.

MassHousing and the Developer entered into a Regulatory Agreement dated May 14, 2007 and recorded on May 17, 2007 at the Plymouth County Registry of Deeds in Book 34544, Page 133.

MassHousing and the Developer entered into a Monitoring Services Agreement (with regard to the 20% profit limitation) dated May 14, 2007 and recorded as an exhibit to the Regulatory Agreement at said Deeds in Book 34544, Page 133 ("Monitoring Services Agreement").

MassHousing, South Shore Housing Development Corporation (the "Monitoring Agent") and the Developer entered into an Monitoring Services Agreement (with regard to the affordable units) recorded as an exhibit to the Regulatory Agreement at said Deeds in Book 34544, Page 133 ("Affordability Monitoring Services Agreement").

Pursuant to the Regulatory Agreement and the Monitoring Services Agreement, MassHousing has the responsibility to determine the Developer's compliance with the allowable profit limitation through approval of total development costs.

The Cost Examination states that substantial completion of the Project occurred in March 2014, when the last of the certificates of occupancy was obtained.

II. Procedures

In connection with its responsibilities under the Regulatory Agreement and the Monitoring Services Agreement, MassHousing reviewed documentation and information related to Chapter 40B and specifically to the Project, including but not limited to the following:

- The Cost Examination, including Independent Accountants' Report, Schedule of Chapter 40B Maximum Allowable Profit from Sales and Total Project Costs, and Notes to Schedules[1].
- Developer's Certificate dated December 29, 2014, from James A. Pavlik on behalf of Keith Street Development, LLC.
- General Contractor's Certificate dated December 29, 2014, from James A. Pavlik on behalf of Keith Street Development, LLC.
- "Housing Starts Process and Guidelines."
- "Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity" (the "NEF Guidelines").
- The MHP Guidelines.
- The Guidelines.
- MassHousing Guidance.

In order to verify the contents of the Cost Examination, MassHousing obtained the "Developer's Certificate," referenced above. This certification, executed under seal and under the pains and penalties of perjury, serves as an additional safeguard in verifying the data set forth in the Cost Examination.

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[1] Throughout this report we use the term "Cost Examination" rather than "audit." For various technical reasons, a Chapter 40B cost examination report prepared by a CPA may not meet the requirements of the U.S. Auditing Standards established by the American Institute of Certified Public Accountants (AICPA). We note, however, that we require the CPA's report to be the result of an "attestation examination" and that under AICPA standards (i) the objective of an attestation examination parallels that of an audit, (ii) the required level of evidence which must be accumulated for an attestation examination parallels that of an audit, (iii) the professional requirements for performing an attestation examination parallel that of an audit, and, finally, (iv) an attestation examination is the equivalent of an audit in situations where the financial statements have been prepared based on a set of specific rules (here, the requirements of our detailed 40B Cost Certification Guidance) that do not constitute accounting principles generally accepted in the United States ("GAAP").

III. Project Sales/Revenue

MassHousing reviewed documentation for all sixteen (16) unit sales.

Sales Revenue from all 16 units	*Amount*
Affordable Unit Sales Per Cost Examination - 5 units	$ 800,000
Market Rate Unit Sales Per Cost Examination - 9 units	2,150,200
Related Party Unit Sales Per Cost Examination - 2 units	459,917
Rental Income as adjusted by MassHousing	37,250
Total Sales Revenue Per Cost Examination	$ 3,447,367

Our analysis included reviewing HUD-1 Settlement Statements for all unit sales at Keith Place Condominiums. The average unit sales price for an affordable unit was $160,000 while the average unit sales price for a market rate unit was approximately $238,911.

There are certain restrictions imposed on the resale of any affordable unit under Chapter 40B. It is the responsibility of the Monitoring Agent to review and approve on MassHousing's behalf the subsequent sale of all affordable units.

Rental Income of $35,750 was reported in the Cost Examination. Rental income represents income received in 2014 for renting units #54 and #56, which were ultimately sold to related parties. The Related Party Sales are analyzed in Section IV below.

As a result of our analysis of rental income, MassHousing noted a $1,500 variance between the transaction detail and the general ledger balance. Accordingly, MassHousing made an upward adjustment of $1,500 to Project revenue to account for the accounting error.

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IV. Related Party: Sale of Units

The Cost Examination states that two (2) market rate units were sold to related parties. Unit #54 was sold for $217,000 and unit #56 was sold for $230,000, for a total of $447,000.

MassHousing Guidance states that when a unit is sold to a related party, the amount of revenue to be included for such sales shall be the greater of the actual sales price and the average sales price of the highest three arm's-length sales of comparable units.

The Developer took into consideration MassHousing Guidance and as a result increased the total sales revenue by $12,917 to arrive at the reported amount in the Identity of Interest (related party sales) line item of $459,917 in the Cost Examination.

When sales are made to related parties, an additional level of scrutiny is performed. This further analysis is carried out to ensure that a valid comparison of sales exists and that an accurate adjustment is made, if applicable.

In order to evaluate the reported total related party sales amount of $459,917, MassHousing performed an independent analysis of the average sales price of the highest three[2] arm's length sales of comparable units, net of commissions paid, as shown below.

Unit #	*Related Party Sales Price*	*Average Price for Comparable Units*	*Difference*
56	$ 237,467	$ 225,768	$ 11,699
54	222,450	212,453	9,998
	$ 459,917	$ 438,221	$ 21,696

Amount calculated using highest, comparable units	$ 438,221
Amount included in the Developer's Cost Examination	459,917
Difference	$ (21,696)
No adjustment to Cost Examination	-

As a result of our analysis, the related party sales amount reported in the Cost Examination appears reasonable based on MassHousing Guidance.

We note for the record that no brokerage commission on the sale of the unit to a related party was included in the Cost Examination. MassHousing believes this approach to be consistent with our understanding of market practice.

[2] Unit #54 is a middle unit in a building with 4 total units. There are only 2 comparable market rate units that are middle units, in the Project. The other middle units in the Project are affordable and cannot be used for price comparison purposes in this analysis. Therefore, only 2 market unit sales prices were used for comparison purposes for testing the reasonableness of the sales price reported in the Cost Examination for Unit #54.

V. Project Costs

A. Land

The site consists of 2.39 acres of land located off Keith Street in Middleborough, Massachusetts (the "Site").

The land value stated in the Cost Examination is $450,000.

The Site was acquired for $450,000, based on a Quitclaim Deed from Bruce Junior, Trustee of Golden Dog Trust to Keith Street Development, LLC dated May 15, 2007 and recorded on May 17, 2007 at said Deeds in Book 34544, Page 176.

The MassHousing policy (provided to the Developer with the site approval letter) for establishing land acquisition value in effect at the time was the lesser of:

- the "as is" appraised market value of the land and improvements as estimated by the MassHousing Home Ownership Division at the time of loan commitment, and subject to confirmation by a MassHousing commissioned independent appraisal prior to loan closing; Or
- the purchase price of the land and improvements in the last arm's length transaction, if any, within three years of the time of site approval, plus (i) reasonable and verifiable costs of property improvements made subsequent to the above acquisition and/or (ii) reasonable and verifiable carrying costs related to the land and improvements, such as interest, taxes and insurance.

The Developer elected to pursue NEF funding. Contrary to the above-referenced MassHousing policy, the 2003 NEF Guidelines in effect at that time maintain that the appraised land value is the appropriate method of valuing land in the Cost Examination. The NEF Guidelines specifically state in Section 17 that, "*For purposes of calculating total development costs and profit, an independent appraisal is required to determine the allowable acquisition cost. Allowable acquisition cost shall not be unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place. Economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than fair market value under existing zoning.*"

In this case, and under the NEF policy in effect at the time the project eligibility letter was issued, the appraised value is the appropriate amount to utilize as the land acquisition value in the Cost Examination.

No "as is" appraisal was submitted by the Developer to MassHousing.

As indicated in the Monitoring Services Agreement, the role of MassHousing is not to calculate the precise level of developer profit on every Chapter 40B development, but rather first to determine whether the Developer has exceeded the 20% profit limitation and then further, in cases where the limitation has been exceeded, to determine the exact amount of the excess profit.

A. Land (continued)

Therefore, while assessed value is not a proper measurement of land value for a Chapter 40B development, it may be used in a situation such as this to answer the initial question of whether the profit limitation would have been exceeded under certain "worst case" scenarios in order to avoid the expense and administrative delay that would result from ordering an appropriate "as is" appraisal. Accordingly, we utilized the assessed value in this instance, solely for the limited purpose of determining the threshold question of whether any "excess profit" could have been earned by the Developer of this Project even under a scenario where the land value was artificially understated. The results of this worst case approach are presented below:

On May 13, 2005, MassHousing received the Developer's application for project eligibility, therefore, the FY2005 land valuation of $103,700, provided by the Town of Middleborough Assessors' Office, was utilized in our "worst case" scenario analysis shown below.

Land Value	*Amount*
Land Value per Cost Examination	$ 450,000
Assessed Value per Town of Middleborough (FY05)	103,700
Difference	$ 346,300

Since the Project complied with the profit limitation requirement even with this "worst case" scenario adjustment for land value, the difference ($346,300) will be deducted from the land value line item in the Cost Examination without our reviewing in greater depth the question of whether a higher land value might have appropriately been attributed to the Project.

DRAFT

B. Hard Costs

1. RS Means

When analyzing the Cost Examinations of Chapter 40B developments, one issue which MassHousing focuses on is whether construction costs were inflated in an effort to increase developer return. For this reason, MassHousing Guidance introduced, for purposes of establishing a "safe harbor" regarding hard construction costs, RS Means data.

RS Means is recognized as an independent cost authority in the home construction business. The RS Means "Cost Data" guides provide reasonably accurate cost information to help developers, contractors and others estimate costs for new construction when only a general description of size and amenities are available. For purposes of our review we used, for comparison purposes only, new home construction cost data from the RS Means Residential Cost Data Guide 2015, 34th Annual Edition ("RS Means").

The Cost Examination results were compared to the RS Means 2015 Base Residential Cost per Square Foot, and the 23,968 total square footage of the Project was based upon information reported by the Developer. MassHousing estimates that the reported cost per square foot was $81.64, which was approximately $65.39 lower than the RS Means residential construction cost.

Since MassHousing Guidance allows for up to 110% of the RS Means residential construction cost per square foot as a safe harbor, the calculation below shows the reported cost per square foot as $80.09 lower than the safe harbor cost per square foot. See calculations below.

Total Residential Construction	$	1,956,666
Square Footage		23,968
Cost per Square Foot	$	81.64

		Calculation
RS Means Residential Construction Cost	$	147.03
Allowable Percentage Factor		110%
Allowable Cost per Square Foot		161.73
Actual Cost per Square Foot		81.64
Difference	$	80.09

As a result of our analysis, we determined that the calculated construction costs per square foot as reported in the Cost Examination did not exceed the RS Means residential construction cost, and also did not exceed the 110% safe harbor cost which would be allowed under MassHousing Guidance and the Guidelines.

2. Builder's Profit, Builder's Overhead and General Requirements

According to the Developer's Certificate, signed under the pains and penalties of perjury, the Developer was also the related party general contractor.

Related Party – Builder's Profit, Builder's Overhead and General Requirements

As noted and discussed more fully above, we are applying the MHP Guidelines to this Project as we believe that these costs were committed to by the Developer after the MHP Guidelines took effect.

The MHP Guidelines allow, for a related party general contractor, a builder's profit of 6% of construction costs, a builder's overhead of 2% of construction costs and general requirements of 6% of construction costs. It is acceptable for a particular line item to exceed the limit set forth above so long as the total of the three line items does not exceed 14%.

No builder's profit, builder's overhead or general requirements was reported in the Cost Examination.

C. Soft Costs

1. Commissions/Advertising – Market Rate Units

As noted and discussed more fully above, we are applying the MHP Guidelines to this Project as we believe that these costs were committed to by the Developer after the MHP Guidelines took effect.

According to the Developer's Certificate signed under the pains and penalties of perjury, the Project did not utilize a related party brokerage firm in connection with the sale of the market rate units.

The limit imposed by the MHP Guidelines for non-related-party broker commissions is 6% and must include advertising costs.

The Cost Examination included brokerage commissions of $108,485 or 5% of total market rate sales prices.

As a result of our analysis, we determined that the brokerage commissions/advertising costs charged to the Project did not exceed the allowable limits set forth in the MHP Guidelines.

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2. Commissions/Marketing/Lottery Costs – Affordable Units

As noted and discussed more fully above, we are applying the MHP Guidelines to this Project as we believe that these costs were committed to by the Developer after the MHP Guidelines took effect.

MHP Guidelines state that the maximum allowable commissions/marketing/lottery costs for affordable units should be the greater of $20,000 or 3% of the sum of the actual unit sales price.

The Cost Examination included commissions/marketing/lottery costs related to affordable units of $33,200 or 4.15% of actual affordable unit sales prices.

As a result of our analysis, we determined that the commissions/marketing/lottery costs charged to the Project exceeded the allowable limits set forth in the MHP Guidelines. An adjustment will be made to reduce the commissions/marketing/lottery costs by $9,200, which brings these costs in line with the 3% maximum.

D. Other Related Party Transactions

According to the Developer's Certificate, signed under the pains and penalties of perjury, Land Use Associates, a company owned by a former equity member of the Developer, was paid $1,156 for services rendered to secure the 40B permitting.

The 40B consulting fees are allowable as part of developer's overhead. The reported developer's overhead of $7,023, combined with the $1,156 paid to the related party (totaling $8,179) does not exceed the $64,000 ($4,000 x 16 units = $64,000) limitation imposed by the MHP Guidelines for a 16 unit project. MassHousing has determined that the related party fee is allowable.

E. Estimates/Accruals

According to information submitted to MassHousing by the CPA, there were no accruals or estimates recorded in the Cost Examination.

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Appendix A

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Categories	Per Cost Examination	Adjustments	Adjusted Balance
Project Sales/Revenue			
Market	$ 2,150,200	$ -	$ 2,150,200
Affordable	800,000		800,000
Identity of Interest (Market)	459,917	-	459,917
Rental Income	35,750	1,500	37,250
Total Project Sales/Revenue	$ 3,445,867	$ 1,500	$ 3,447,367
Project Costs			
Site Acquisition - Land	$ 450,000	$ (346,300)	$ 103,700
Hard Costs			
Residential construction	1,956,666		1,956,666
Site Preparation	507,051		507,051
Builder's Profit	-		-
Builder's Overhead	-		-
Gereral Requirments	-		-
Total Hard Costs	2,463,717	-	2,463,717
Soft Costs			
Surveys and Permits	12,500		12,500
Consultant	3,950		3,950
Legal	67,258		67,258
Accounting	8,411		8,411
Real estate taxes	13,920		13,920
Insurance	74,910		74,910
Construction Loan Interest	233,228		233,228
Financing/Application Fees	15,518		15,518
Utilities	4,239		4,239
Developer's Overhead	7,023		7,023
Commissions/Advertising - Affordable	33,200	(9,200)	24,000
Commissions/Advertising - Market	108,485		108,485
Total Soft Costs	582,642	(9,200)	573,442
Total Project Costs	$ 3,496,359	$ (355,500)	$ 3,140,859
Computed Profit (Loss) from Sales/Revenue	$ (50,492)	$ 357,000	$ 306,508
Profit (Loss) Percentage	-1.44%		9.76%
Maximum allowable (20% of total project costs)	$ 699,272		$ 628,172
Excess Profit Due to Municipality	$ -		$ -

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Jacqueline Shanley

From: David Cavanaugh <herringwarden@yahoo.com>
Sent: Saturday, March 21, 2015 12:40 PM
To: Bill Orphan; Tom Barron; Dave Lemmo; Sylvester Zienkiewicz; Allin Frawley; Bryant Marshall; Ron Burgess; Cyndy Mattie Gendron; Mike Bednarski; Joe Urbanski; Cory Leeson; Brad Day; Jacqueline Shanley; Executive Asst To the Board of Selectmen Tracie Craig; Patricia Cassady
Subject: Fw: Assawompset Pond Complex Legislation

Herring Comm. and Tricia: FYI ... I think we need to watch this very closely and be active at every turn.
Jackie and Traci: Not sure if the respective Boards are aware of this legislation. I think it should be brought to their attention.

On Saturday, March 21, 2015 12:29 PM, David Cavanaugh <herringwarden@yahoo.com> wrote:

With a cursory reading .... I will need MUCH MORE information before I could possibly support this bill.

1. I notice that no representatives from Mass. Fish and Wildlife (to protect the interest of inland wildlife and fish, and habitat); Mass. *MarineFisheries* (to protect the interests of marine anadroumous fish, and habitat); or local herring wardens/herring protection groups from the included communities (to protect the interest of the largest herring run in the state, and other runs in the various communities) are included in the district members.

2. The wording (and the thrust) of the bill is specifically geared toward flooding issues, not watershed management as a whole (which may have a detrimental effect on the watershed as a whole).

3. The bill does not include a REQUIREMENT to not allow building in the floodplain and REQUIREMENT of not replacing buildings in the floodplain damaged by flooding. What good is trying to assess and mitigate flooding if you don't deal with the most likely damage from flooding? If buildings were not in the floodplain, no major flood damage would occur in the first place!

4. What is the meaning of the term "implement flood control measures" ?
   What is the meaning of the term "implement river flow management improvements" ?
   What is the meaning of the term "... in the interest of the district" ?

It sounds like the "district" will have some authority to run roughshod over the interests of the individual communities.

5. Although the City of New Bedford and the City of Taunton certainly have interests within the "district", their presence is limited to water withdrawal issues and infrastructure. The city borders are not actually located within the Assawompsett Pond Complex.

Just issues to ponder after a cursory reading.
David J. Cavanaugh
Fish Warden
Chairman,
Middleborough-Lakeville
Herring Fishery Commission
herringwarden@yahoo.com

On Friday, March 20, 2015 4:10 PM, "Spittle, Jeremy (SEN)" <Jeremy.Spittle@masenate.gov> wrote:

To all interested stakeholders,
The purpose of this email is to inform you of legislation Senator Rodrigues and Representative Orrall have filed – House Bill 732 and Senate Docket 836 (see attached) – to support the communities of Freetown, Lakeville, Middleboro, New Bedford, Rochester, and Taunton by establishing the Assawompset Pond Complex (APC) Flood Management District Commission ("Commission").
This legislation serves as the next step of our collaborative efforts to pursue a regional approach to reduce and mitigate any future flooding impacts to the APC communities. HB 732 and SD 836 propose to establish and enable the APC Commission to seek ways to procure the $4.75 M bond authorization (per Chapter 286 of the Acts of 2014) for a flood management study of the APC and implementation of recommended flood management and mitigation measures.
In addition, under HB 732 and SD 836, the APC Commission will be permitted to manage and supervise the newly established APC flood management district, assess and review existing conditions, make recommendations for flood management and mitigation, implement flood control measures, maintain and manage water levels for water supply and water storage, and to protect and preserve the APC in the best interest of the neighboring communities in and around the APC.
Moving forward, it is our hope you will join us in this effort to pursue a regional approach to reduce and mitigate any future flooding impacts to the communities of the APC.
Please feel free to contact either Senator Rodrigues or Representative Orrall with any questions, comments, or concerns you may want to share.

Best,
Jeremy

Jeremy Spittle
Legislative Director
Chair, Joint Committee on Revenue
Office of State Senator Michael J. Rodrigues
P: 617-722-1114
E: jeremy.spittle@masenate.gov