


<p>Zoning Board of Appeals 148 Peck Street Rehoboth, MA 02769</p> <p>(508) 252-6891 Telephone (508) 252-5342 Facsimile</p>		<p>Roger Breault, Chairman Frank Moitozo Jerry Cadorette John Scanlon Jr. Charles DeBlois</p> <p>Susan Anderson, Assoc. Member Christopher DePalo., Assoc. Member Michael T. O'Hern, Associate Member</p>
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June 17, 2011

Board of Selectmen
Town of Rehoboth
148 Peck Street
Rehoboth, MA 02769
Certified Mail: 7010 1670 0001 4564 3083

Kathleen Conti, Town Clerk
Town of Rehoboth
148 Peck Street
Rehoboth, MA 02769
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Re: Review of Actions Concerning Massachusetts Inspector General Report to the Town of Rehoboth Zoning Board of Appeals dated May 19, 2011 and ZBA Decision in File #729.

Honorable Selectmen and Town Clerk:

On May 19, 2011, the Massachusetts Inspector General ("IG") contacted the Zoning Board of Appeals ("ZBA") reporting that Michael Costello ("Costello"), whom the IG identified as the present Chairman of the Board of Selectmen, abused the Commonwealth's Affordable Housing laws. The IG identified the house as 11 Judith Ann Circle, Rehoboth, MA. The IG finds that the house was built under provisions of G.L.c. 40B which is subject to the ZBA as the Issuing Authority. The IG provides ZBA recommendations for causes of actions against Costello.

Review of ZBA records indicate that the subject housing project was indeed constructed pursuant to ZBA decision in File #729, re. Approval of a Comprehensive Permit for Horton Farm Development Trust under G.L.c. 40B, §§20-23. The decision was filed with the Town Clerk on February 28, 2005; no appeal, pursuant to G.L.c. 40A, §17, was filed making the ZBA decision final. Roger Breault and Frank Moitozo are the only two approving members who continue to serve on the present ZBA. The Conditions of Approval in ZBA File #729, at paragraph 14, states:

"All of the dwelling units in the project shall be detached single-family condominium homes and the dwelling units shall be marketed and sold to persons 55 years of age or older and all residents of the dwellings units shall be persons 55 years of age or older. The project shall be marketed and managed in accordance with the provisions of the Federal Fair Housing Act, as from time to time amended, and in accordance with the regulations promulgated there under, as from time to time amended, as they relate to housing for persons 55 years of age or older, and also in accordance with applicable Massachusetts statutes and regulations on the subject."

Lottery for affordable housing at the Horton Estates (successors in title) development was conducted on December 7, 2005. At the time of the Lottery, Costello was a member of the Planning Board and knew, or should have known, the provisions of File #729 concerning the age restrictions. The IG concludes that Costello committed apparent deceit by making false and misleading statements to improperly acquire an affordable housing unit in Rehoboth's Horton Estates development. In doing so, Costello purchased the subject house on or about May 22, 2006, more than one (1) year after the decision in ZBA File #729. Thus, on June 16, 2011, at a noticed public hearing, the ZBA considered the IG Report of May 19, 2011.

(over)

As the Issuing Authority, the ZBA has standing to demand remedy(ies) against Costello. The members of the ZBA voted to table the consideration of the IG Report of May 19, 2011, as follows:

1. Gerry Cadorette, Michael T. O'Hern, and John Scanlon, Jr. voted to table consideration of the IG Report of May 19, 2011, with the intent not to seek remedies against Costello at this time; and
2. Roger Breault and Frank Moitozo voted against tabling the consideration of the IG Report of May 19, 2011, with the intent to seek remedies against Costello.

In light of the ZBA vote by members who did not participate in the decision of ZBA File #729, the undersigned members, Roger Breault and Frank Moitozo, now seek to protect their good names and valuable reputation by disengaging themselves from any deception, wrongdoing, or appearance of impropriety that was, or may have been, committed by Costello at the material time when Costello violated his fiduciary duty to the Town of Rehoboth and betrayed the trust of the undersigned fellow municipal officials when they approved the Comprehensive Permit for Horton Farm Development Trust in ZBA File #729. Thus, the undersigned demand fair and just resolution of this matter, including, but not limited to, that Costello: a) convey 11 Judith Ann Circle, Rehoboth, MA to an eligible affordable purchaser consistent with the intent and purpose of ZBA File #729; b) pay any and all damages and taxes due the Town of Rehoboth; and c) resign his position(s) as municipal official or agent and henceforth be barred from ever participating in any official business of the Town of Rehoboth. The ZBA further demands that the Town of Rehoboth refer this matter to the Massachusetts Attorney General and the United States Attorney for the District of Massachusetts for a determination as to whether criminal laws of the Commonwealth and/or the United States were, or continue to be, violated by Costello.


Roger Breault, Chairperson


Frank Moitozo

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