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

February 11, 2015

Joseph Knox, Chairman
Littleton Board of Selectmen
Littleton Town Office Building
37 Shattuck Street
P.O. Box 1305
Littleton, MA 01460

Dear Chairman Knox:

Enclosed please find MassHousing's draft report regarding the cost examination for The Homes at Kimloch Farm condominium development built pursuant to M.G.L. c. 40B ("Chapter 40B"). This report is based on our analysis of Kimloch Farm, LLC's cost examination (the "Cost Examination") dated July 14, 2014 and received by MassHousing on October 24, 2014 with additional information (as requested by MassHousing) received through February 6, 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 The Homes at Kimloch Farm and releasing the developer's financial surety, we would like to offer you, as the Chief Elected Official of the Town of Littleton, 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 March 17, 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

Enclosures

cc: William D. Chisholm, Kimloch Farm, LLC
George V. McKenna, CPA
Sherrill Gould, Chairman, Littleton Zoning Board of Appeals
Carolyn Dymond, DHCD
Lynne D. Sweet, LDS Consulting Group, LLC

Charles D. Baker, Jr., *Governor* | Karyn E. Polito, *Lt. Governor*
Ronald A. Homer, *Chairman* | Thomas N. O'Brien, *Vice Chair*
Thomas R. Gleason, *Executive Director*

Report on MassHousing's Analysis of the Cost Examination Dated July 14, 2014 and Received by MassHousing on October 24, 2014 with additional information (as requested by MassHousing) received through February 6, 2015

Submitted By
Kimloch Farm, LLC

Kimloch Farms
a M.G.L. Chapter 40B Development
PE-487

Date of Report: February 11, 2015

DRAFT

Executive Summary

On October 24, 2014, MassHousing received an Independent Accountant's Report dated July 14, 2014 (with additional information, as requested by MassHousing, received through February 6, 2015) for The Homes at Kimloch Farm condominium development ("Kimloch Farms" or the "Project") located in Littleton, Massachusetts (the "Town"). In said Independent Accountant's Report, George V. McKenna, CPA (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 Kimloch Farm, 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 July 2, 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 a limited dividend entity.

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:

DRAFT

Description	*Per Cost Examination*	*Proposed Adjustments*	*Ref.*	*Final Per MassHousing*
Total Project Sales/Revenue	$ 3,588,000	$ -		$ 3,588,000
Project Costs:				
Site Acquisition	$ 400,000	$ -		$ 400,000
Hard Costs	2,446,082	(170,653)	**A, B**	2,275,429
Soft Costs	400,051	54,277	**C, D**	454,328
Total Project Costs	$ 3,246,133	$ (116,376)		$ 3,129,757
Computed Profit (Loss) from Sales/Revenue	$ 341,867	$ 116,376		$ 458,243
Profit (Loss) Percentage	10.53%			14.64%
Excess Profit Due to Municipality	$ -			$ -

A. The $66,000 downward portion of this adjustment represents pre-development costs reported within residential construction that are more appropriately classified as soft costs. We note this is simply a matter of reclassifying properly allowable development costs.

B. The $104,653 downward portion of this adjustment represents related party contractor costs that are being disallowed as more fully described in Section V, Part B.2 below.

C. The $66,000 upward portion of this adjustment represents pre-development costs reported within residential construction that are more appropriately classified as soft costs. We note this is simply a matter of reclassifying properly allowable development costs.

D. The $8,483 downward portion of this adjustment represents commissions/marketing/lottery costs related to affordable units that were disallowed as more fully described in Section V, Part C.2 below.

E. The $3,240 downward portion of this adjustment represents the amount of developer's overhead that was disallowed as more fully described in Section V, Part C.3 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. 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") were in effect when this Project received its project eligibility letter from MassHousing. MassHousing will apply the Guidelines when reviewing the Cost Examination for this Project.

DRAFT

I. Overview

According to the Secretary of the Commonwealth of Massachusetts, Kimloch Farm, LLC was formed September 7, 2010. The Cost Examination states that Kimloch Farm, LLC was formed to engage in the business of, investment in, and ownership and development of real estate and interests therein. The Developer's primary purpose was to acquire, develop and sell 8 units of residential housing, including 2 units for qualifying income eligible individuals and households in Littleton, Massachusetts.

On January 26, 2009, MassHousing issued a project eligibility letter evidencing fundability of the Project under both the "*Housing Starts*" and the "*New England Fund*" ("NEF") programs.

On July 25, 2011, the Littleton Zoning Board of Appeals issued a Comprehensive Permit for the Project.

On September 24, 2012, MassHousing issued a final approval letter, pursuant to 760 CMR 56.04(7), under the NEF program.

MassHousing and the Developer entered into a Regulatory Agreement dated September 24, 2012 and recorded on October 12, 2012 at the Middlesex South Registry of Deeds in Book 60230, Page 1.

MassHousing and the Developer entered into a Limited Dividend Monitoring Services Agreement dated September 24, 2012 and recorded on October 12, 2012 at said Deeds in Book 60230, Page 1.

MassHousing, LDS Consulting Group, LLC (the "Monitoring Agent") and the Developer entered into an Affordability Monitoring Services Agreement dated September 24, 2012 and recorded on October 12, 2012 at said Deeds in Book 60230, Page 1.

Pursuant to the Regulatory Agreement and the Limited Dividend 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 December 2013, when the last of the certificates of occupancy was obtained.

DRAFT

II. Procedures

In connection with its responsibilities under the Regulatory Agreement and the Limited Dividend 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 Accountant's Report, Schedule of Chapter 40B Maximum Allowable Profit from Sales and Total Project Costs, and Notes to Schedules[1].
- Developer's Certificate dated July 14, 2014, from William D. Chisholm on behalf of Kimloch Farm, LLC.
- General Contractor's Certificate dated January 8, 2015, from William Daniel Chisholm on behalf of WD Chisholm Corp. and Stephen Marsh on behalf of Westchester Company, Inc.
- Land appraisal dated May 27, 2008, valuing the land as of May 14, 2008, prepared by F.W. Bucklin Appraisal Company and commissioned by MassHousing (the "Appraisal").
- "Housing Starts Process and Guidelines."
- The Guidelines.
- MassHousing's Cost Examination Guidance dated August 2007 ("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.

DRAFT

[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 eight (8) unit sales.

Sales Revenue from all 8 units	*Amount*	
Affordable Unit Sales Per Cost Examination - 2 units	$	416,100
Market Rate Unit Sales Per Cost Examination - 6 units		3,171,900
Total Sales Revenue Per Cost Examination	$	3,588,000

Our analysis included reviewing HUD-1 Settlement Statements for all unit sales at Kimloch Farms. The average unit sales price for an affordable unit was $208,050 while the average unit sales price for a market rate unit was approximately $528,650.

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.

IV. Related Party: Sale of Units

According to the Developer's Certificate, signed under the pains and penalties of perjury, there were no sales made to a related party.

V. Project Costs

A. Land

The site consists of 5.99 acres of land located at 116 Goldsmith Street in Littleton, Massachusetts (the "Site").

The land value stated in the Cost Examination is $400,000

Based on a Quitclaim Deed from On the Rail Farm Co., Inc. to Kimloch Farm, LLC dated May 17, 2012 and recorded on August 10, 2012 at said Deeds in Book 59734, Page 497, the Site was acquired for a nominal fee. This was a related party transaction.

The Appraisal states that the "as is" value of the Site was $400,000.

In accordance with the Guidelines, the appraised value of $400,000 is the appropriate amount to utilize as the land acquisition value in the Cost Examination.

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, the Guidelines provide, 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 2014, 33rd Annual Edition ("RS Means").

The Cost Examination results were compared to the RS Means 2014 Base Residential Cost per Square Foot, and the 22,560 total square footage of the Project was based upon information reported by the Developer. MassHousing estimates that the reported cost per square foot was $61.66, which was approximately $73.74 lower than the RS Means residential construction cost.

Since the Guidelines allow 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 $87.28 lower than the safe harbor cost per square foot. See calculations below.

Total Residential Construction	$	1,391,145
Square Footage		22,560
Cost per Square Foot	$	61.66

	Calculation
RS Means Residential Construction Cost	$ 135.40
Allowable Percentage Factor	110%
Allowable Cost per Square Foot	148.94
Actual Cost per Square Foot	61.66
Difference	$ 87.28

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.

DRAFT

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

According to the General Contractor's Certificate, signed under the pains and penalties of perjury, the Project utilized WD Chisholm Corp (related party) and Westchester Company, Inc. (not a related party) as joint general contractors.

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

The 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%. The 14% allowance requires certification that the general contractor performed all of the following tasks that are typically required of general contractors:

- Construction of building
- Supervision and coordination of work
- Job site safety
- Project scheduling
- Submission of shop drawings
- Preparation of payment requests
- Warranty of work

The Guidelines further state that *"If another entity was paid to perform any one of these functions the cost may be disallowed and adjustments shall be made to account for the greater profit."*

Given that Westchester Company, Inc. ("Westchester") was paid to perform several of the above bulleted tasks, either individually or jointly, MassHousing has disallowed $104,653 of the related party contractor's fee. The disallowed portion represents the related party contractor fees, that when combined with the $110,000 fee paid to Westchester, has exceeded the 14% overall limitation noted above and as shown in the tables below.

Total Related Party Construction Contractor Fee (Builder's Profit, Builder's OH, General Requirements)	$ 287,600
plus: Westchester Contractor Fee	110,000
Total Joint GC Fees	397,600

	Amount	*%*	*% Allowable*	*% Difference*	*$ Difference*
Total Joint GC Fees	$ 397,600	19%	14%	5%	$ (104,653)
MassHousing	$ 2,092,482				

This adjustment does not change the fact that the Developer is compliance with the profit limitation.

C. Soft Costs

1. Commissions/Advertising – Market Rate Units

The brokerage commissions/advertising costs reported for market rate units in the Cost Examination were $91,920 or 3% of total actual market sales prices.

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 Guidelines for non-related-party broker commissions is 6% and must include advertising costs.

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 Guidelines.

2. Commissions/Marketing/Lottery Costs – Affordable Units

The Cost Examination reports $20,000 for lottery costs and $8,483 for commissions/marketing costs for affordable units, for a total of $28,483 or 7% of total actual affordable unit sales prices.

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 affordable unit sales prices.

As a result of our analysis, we determined that the combined commissions/marketing/lottery costs charged to the Project exceeded the allowable limits set forth in the Guidelines by $8,483. An adjustment was made to the Cost Examination to reduce the total of these combined costs to $20,000. This adjustment does not change the fact that the Developer is in compliance with the profit limitation.

3. Developer's Overhead

The Cost Examination reports developer overhead of $32,000 and development consultant fees of $3,240 for a combined total of $35,240. (The development consultant fees of $3,240 are reported within the miscellaneous soft costs line item in the Cost Examination).

According to the Guidelines, allowable developer overhead for an eight unit project is $32,000 and should include fees paid to development consultants.

As a result of our analysis, we determined that the combined developer overhead and development consultant costs charged to the Project exceeded the allowable limits set forth in the Guidelines by $3,240. An adjustment was made to the miscellaneous soft costs line item to reduce the total of these combined costs to $32,000. This adjustment does not change the fact that the Developer is in compliance with the profit limitation.

DRAFT

D. Other Related Party Transactions

According to the Developer's Certificate, signed under the pains and penalties of perjury, a related party was paid $12,700 for bookkeeping services provided from 2004 through 2014. Bookkeeping services are typical costs incurred for construction projects and the amount does not appear unreasonable. No further investigation regarding these costs is deemed necessary to determine that the Developer is in compliance with the profit limitation.

E. Estimates/Accruals

According to the CPA, there were no accruals or estimates reported in the Cost Examination.

DRAFT

Appendix A

DRAFT

Categories	Per Cost Examination	Adjustments	Adjusted Balanc
Project Sales/Revenue			
Market	$ 3,171,900	$ -	$ 3,171,900
Affordable	416,100		416,100
Total Project Sales/Revenue	$ 3,588,000	$ -	$ 3,588,000
Project Costs			
Site Acquisition - Land	$ 400,000	$ -	$ 400,000
Hard Costs			
Residential construction	1,457,145	(66,000)	1,391,145
Site Preparation	651,762		651,762
Landscaping	49,575		49,575
Builder's Profit	123,300		123,300
Builder's Overhead	41,000		41,000
Gereral Requirments	123,300	(104,653)	18,647
Total Hard Costs	2,446,082	(170,653)	2,275,429
Soft Costs			
Architectural	57,512	(53,994)	3,518
Surveys and Permits	51,730		51,730
Pre-Development Expenses		66,000	66,000
Engineering	-	53,994	53,994
Legal	18,919		18,919
Appraisal	2,950		2,950
Accounting	15,200		15,200
Real estate taxes	36,332		36,332
Insurance	13,788		13,788
Closing Costs	6,196		6,196
Construction Loan Interest	20,932		20,932
Financing/Application Fees	11,937		11,937
Miscellaneous Soft Costs	12,152	(3,240)	8,912
Developer's Overhead	32,000		32,000
Lottery	20,000		20,000
Commissions/Advertising - Affordable	8,483	(8,483)	-
Commissions/Advertising - Market	91,920		91,920
Total Soft Costs	400,051	54,277	454,328
Total Project Costs	$ 3,246,133	$ (116,376)	$ 3,129,757
Computed Profit (Loss) from Sales/Revenue	$ 341,867	$ 116,376	$ 458,243
Profit (Loss) Percentage	10.53%		14.64%
Maximum allowable (20% of total project costs)	$ 649,227		$ 625,951
Excess Profit Due to Municipality	$ -		$ -

DRAFT