

**From:** Robert Sawyer robert@sawyerrealtygroup.com

**Subject:** Your letter Nov 9, 023 and3 Un

**Date:** November 10, 2023 at 3:17 PM

**To:** turner@mvcommission.org

**Cc:** Rich Saltzberg saltzberg@mvcommission.org, Jay Talerman jay@mtclawyers.com, Mike Sawyer mike@sawyerrealtygroup.com

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Dear Mr. Turner,

We are in receipt of your letter dated November 9, 2023 regarding our proposed project at 3 Uncas Avenue, Oak Bluffs.

Mr. Turner, we have always held you in very high esteem as one of the most effective public officials on the Vineyard and always impressed with your leadership, knowledge and professional approach. Accordingly, it is appalling to us to read this letter over your signature when very clearly you did not take the time to thoroughly review the files and documents on this matter. Every single issue you raised has been asked, discussed and answered several times at least in both writing and verbally.

Nevertheless since you have elected to step into this process, we will provide you with the background and facts.

### **1. HISTORY**

1.1 We acquired this property in 2018 from a previous owner who was overwhelmed by the state of disrepair.

1.2 For five long years we have been trying to demolish this dilapidated building without success

1.3 When we applied for a demolition permit the Oak Bluffs building department advised we must first check for Asbestos. Accordingly, we hired a licensed Asbestos investigator and they found the building was abundant with Asbestos, both interior and exterior. We hired a licensed Asbestos remediation firm to remove all the Asbestos.

1.4, We applied for approval from MassHousing for a M.G.L. c. 40B project. It was a long and expensive process but we were approved. We read this 40B approval that we were obligated to obtain approval for demolition from the Copeland District. After repeated unsuccessful attempts with the Copeland District, the attorney for MassHousing advised us that the Copeland District approval was merely a suggestion and not a requirement

1.5 We then went to ZBA for review and they predictably referred this project to the MVC in July, 2023.

1.6 We have been languishing before the MVC for four months and now you advise us our long awaited review before the full commission scheduled for November 16 will be canceled.

### **2. MISSION**

This is a ridiculously simple mission. First is to demolish a decrepit building so we can proceed to build eight new workforce housing dwelling units. Something this community desperately needs like it needs air to breathe. The Project is not in a tidal zone, has no 21E issues, wastewater is available, zoning is covered by 40B, there is no possible traffic issues. Like we said, a simple project to provide much needed housing

### **3. FINANCIAL**

While we are prepared to spend substantial funds to build these eight workforce housing units we will not spend any more funds on this project until we are assured of demolition. Gresham's Law, "*Bad Money Drives Out Good*" is strangely applicable here. We have spent so much money on this project since acquisition in 2018 (i.e. Bad Money) that we are now considering abandoning this critical important project (i.e. good Money)

The following is what we have advanced financially on this project with the dream of providing this much needed housing. We hasten to add, we have NEVER realized any income from this property.

- a. Purchase 2018 for \$489,000
  - b. Five years of real estate taxes
  - c. Five years of insurance
  - d. Boarding up building per order of OB
  - e. Asbestos Inspection
  - f. Asbestos remediation.
  - g. Substantial legal fees
  - h. Fees and myriad costs for 40B approval
  - i. Consulting fees 40B
  - j. Engineering consultant fees
  - k. Architectural fees and expenses
- AND MUCH, MUCH MORE

### **4. STATE OF PROPERTY**

This house was built over 100 years ago. Original construction methods were clearly meant to not build a quality building. It was built as a summer-only house. To the best of our knowledge it has never been occupied year-round. It does not meet the common requirements of insulation and a heating system

Three experts have determined this building is not fit for habitation and not financially feasible to try to save it and it should be demolished. The age of a building is unrelated to its condition. Why does MVC question the report of a highly regarded licensed structural engineer?

What would have been constructive by the MVC if Rich Saltzberg or anyone from MVC requested to actually view the interior of this dilapidated building. Of course this never happened

5. **YOUR ISSUES** Out of respect to you we will now address every issue in your November 9, 2023 letter.

6. **SITE PLAN** We have repeatedly provided architect prepared site plans and elevations We will not expend any further architectural expenses until we are assured of demolition (i.e. Gresham's Law). Are you really saying we do not qualify for this project because the architect failed to include a "North" arrow.

7. **WASTEWATER** We have previously provided to MVC a letter from the Wastewater Department that flow will be available. We have repeatedly advised MVC that the OB water Department has no allocation authority under 40B and allocation of flow is solely the province of ZBA. We do not know why we keep advising the MVC of this since it should be well known to MVC

8. **SPRINKLERS**

This is absurd. We have previously advised the MVC that M.G.L. c 148 § 26G provides that sprinklers are not required for a project of this size under Massachusetts law. If Oak Bluffs has some code that is more restrictive than state law we will abide by all codes and laws. As is well known, we own very many properties on MV and our reputation for compliance with all codes and laws is spotless. Why do you require us to go to the Fire Apartment about a project that will never occur of demolition is not approved. Why just sprinklers what about pumping, and electrical?

9. **NITROGEN CALCULATION** WHY? WHY? WHY? These are merely eight small workforce housing units that will be connected to Town sewer.. We will not expend any further unnecessary expenses until we are assured of demolition

10. **RESIDENTIAL UNITS**. Your queries have been asked and answered so many times. We have previously advised these will be workforce housing units and we are bound by the requirements of 40B. We have defined "workforce housing" for the MVC. FYI, workforce housing by definition is affordable housing. We have assured there will be no vacation rentals. We will manage this property as that is our business and we do it quite well. We may, at any unknown future date, convert to condominium but giving effect to our five years of costs and the huge increases in development and construction costs over this past five years, condominiums are financially not feasible at this time. What, we believe, you are requesting is a development plan. If we can't demolish this decrepit building it is a huge waste of time.

11. **WATER INTRUSION** Your letter is the very first notice we have ever received from anyone that windows are open. We will address that. We suspect someone was able to gain access for sleeping. Perhaps you have heard we have a housing crisis on MV. Other than your identifying two open windows we have no knowledge of any water intrusion

12. **MVC INVOICE FOR \$7,400** This is truly shocking. Notwithstanding our repeated requests we have not received a breakdown or itemization of these charges. \$7,400 is a lot of money. Rich Saltzberg has said part of these charges were for an outside consultant to review our licensed structural engineer's report. How can you justify hiring an unlicensed person to review the report of a highly esteemed licensed structural engineer. It is analogous to your hiring a non-lawyer to review the legal opinion of a very credible attorney and expecting us to pay for it.

Section 4.2 of MVC DRI Procedures states "A cost estimate will be provided to the Applicant before the Commission proceeds to retain any outside consultants". This was not done. You cite sections 2 and 3 of the Martha's Vineyard Commission Act and we find no reference that that you are legally allowed to charge us for services we neither approved or were aware of..

13. **SUMMARY** When the ZBA referred this project to the MVC we were pleased because we believed the MVC shared our passion for affordable housing and would work with us to get this much needed housing done. That was four months ago. It appears we were tragically mistaken. Our posture now is if the MVC is not disposed to work with us to make this affordable housing happen then we are inclined to walk away, take our losses and the community will be deprived of this much needed affordable housing because of the bureaucracys of Marthas Vineyard

Please advise us what we can expect from the MVC and feel free to provide a copy of this email to every member of the Commission.

Thank you and we eagerly look forward your response.

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