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MEMORANDUM

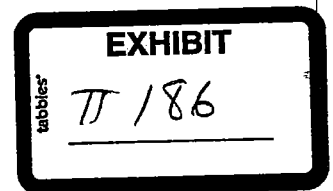
TO: Ipswich School Committee
FROM: Mitch Feldman, Mark Leff and Clark Ziegler
RE: Findings on Feoffees/tenants settlement
DATE: May 20, 2010

Thank you for this opportunity to provide additional feedback on the December 24, 2009 settlement between the Feoffees of the Grammar School and the Little Neck Legal Action Committee ("tenants"). As noted in our previous report, our ad hoc committee has been asked to critically evaluate the condominium structure proposed in the settlement. We have not been asked to determine what disposition of the land at Little Neck would derive the highest value for the Ipswich Public Schools, to evaluate the reasonableness of the purchase price reflected in the settlement, or to consider other alternatives.

Since we reported our initial findings on February 25 to a joint meeting of the School Committee, Finance Committee and Selectmen our committee requested additional information from the tenants and Feoffees in a written request dated April 23. We subsequently met to discuss that information at a meeting on April 28 at which several tenant leaders and the Feoffees legal counsel and accountant were present. Based upon that review we offer the following observations.

ECONOMIC FEASIBILITY

- As we noted previously, the conversion of Little Neck to a condominium appears to be practical and achievable. Long-term operating projections for the proposed condominium provided to us by the tenants appear to be sound and in line with current costs at Little Neck and fees that are typical for condo associations.
- Purchase and sale agreements have reportedly been executed by 164 out of the 167 current tenants, which significantly exceeds the minimum threshold in the settlement agreement and obliges the Feoffees to create a condominium if the settlement is approved.
- Of the 167 current tenants, 105 indicated in a survey that it was their intention to obtain private mortgage financing and only 13 indicated their intention to use seller financing available from the Feoffees as part of the settlement. It is very difficult – especially under current market conditions -- to evaluate the likelihood of private financing being made available on terms equal or better than what would be available from the Feoffees.



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- Approximately 17 tenants have loans secured by their cottages that must be paid off or subordinated before they would be able to purchase their lots. The Feoffees counsel has represented to us that most of these liens are held by local banks and that all but seven are resolved or in process of resolution.
- If more than about 15 tenants are unwilling or unable to purchase then it would require "balance of purchase" financing that exceeds the amount the Feoffees have indicated their willingness to provide. In that event that such a large balance of purchase loan is required -- which to us appears unlikely -- either the tenants would have to obtain private financing to enable the condominium association to purchase those lots or else creation of a condominium would become infeasible.
- The purchase prices established in the settlement agreement appear to result in a low loan-to-value ratios and cost burdens not significantly greater than current rents. If so, that increases the potential for private mortgage financing and reduces the risks of loss on seller financing that might be provided by the Feoffees.
- While serious questions have been raised about the Feoffees' potential role as a mortgage lender (addressed in more detail below), the availability of seller financing as a backup at a time when conventional credit markets are impaired strikes us as part of the "glue" that would make any condominium agreement possible.
- We have paid particular attention to what we call a "maximum stress" pro forma provided by the Feoffees showing balance sheets and cash flows assuming maximum utilization of seller-financing (\$23.9 million in mortgages and \$2.7 million in balance-of-purchase financing) and utilization of third-party loan servicing. We believe that this scenario is manageable subject to the caveats listed below.

RISKS AND RISK MITIGATION

Cash proceeds from the sale of lots are vastly preferable to mortgages receivable secured by the same lots. Even if the dollar amounts are the same, cash and mortgages do not have equivalent value, in our view. Mortgages always entail servicing and collection costs and mortgages always involve some potential loss of principal. One complication in evaluating the proposed settlement is that any increase in purchase price for the benefit of the Ipswich Public Schools, if such an increase is supported by an appraisal, would also have the effect of shifting more of the sales proceeds from cash to mortgages.

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If the School Committee ultimately agrees to a condominium disposition at Little Neck, we would recommend the following conditions be included to mitigate risks to the schools:

- Complete reconstitution of the Feoffees into a board with the requisite skills and experience to ensure that the real estate value of Little Neck is maximized and the interests of the Ipswich Public Schools are adequately protected. It is worth noting that while all of our committee communications have been directed to the Feoffees, and not to their attorney, not once has any current member of the Feoffees responded to our inquiries or attended our meetings.
- Significant internal controls and public oversight over the reconstituted Feoffees, which might best be accomplished by affirming that the Feoffees are a public body. This would reestablish the Feoffees' status as a tax-exempt organization while increasing public oversight through the Public Records Act, Open Meeting Law, and municipal finance statutes.
- A fiduciary obligation of the newly constituted Feoffees to realize maximum value on behalf of the Ipswich Public Schools in the process of loan collection without regard to other considerations.
- A binding commitment by the Feoffees to engage an experienced outside firm to manage all loan servicing and collections and to monitor property tax payments and insurance coverage on individual cottages. The Feoffees attorney has indicated a willingness to do so and has presented a cost proposal for those services (except for insurance monitoring) from the Cambridge Savings Bank. We do not believe these functions can be competently performed by volunteer Feoffees or by staff hired by the Feoffees.
- Confirmation on how casualty and flood insurance coverage will be divided between the condominium association and individual condo/cottage owners. The Feoffees must be able to compel its mortgagors to obtain at least minimum coverage necessary to satisfy all outstanding mortgage amounts.
- Receipt of a satisfactory loan commitment to refinance the existing loan for the wastewater treatment system if there are insufficient cash proceeds (i.e., private condominium financing) at closing to pay off the current debt. The Feoffees' attorney has indicated that Cambridge Savings Bank is willing to provide that financing on favorable terms but our committee has not seen a loan commitment or term sheet.
- A \$3 million cap on the size of any "balance of purchase" loan made to the condominium association by the Feoffees (this amount has already been suggested as a maximum by the Feoffees' counsel).
- Review and approval of the proposed \$1.6 million in transaction costs included in the settlement.

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While it may be beyond the scope of our committee's review, we would also strongly recommend a commitment by the Feoffees to utilize a professional third party investment advisor.

We appreciate this opportunity to provide feedback to the School Committee and hope this matter can be brought to a prompt and successful resolution.