

LEVINE & ASSOCIATES, P.A.

LITIGATION CONSULTING
FORENSIC ACCOUNTING
FRAUD EXAMINATION

#20
3-2-2020

Project Examination Report

TO: Tony J. Ruggiero

FROM: Alan Levine

RE: John A. Sakon, "Shoppes at Avalon"

DATE: October 1st, 2019

This Report is being provided per our examination of the Project file for Shoppes at Avalon.

In our examination of the file for Shoppes at Avalon, we have provided several issues regarding the Project and Funding Analysis which are as follows:

Permitting

Per the review of the Building and Zoning Permits, and Construction Permits for the Shoppes at Avalon, the following determinations have been made due to communications with the Town of Glastonbury, Ct, Planning and Zoning Department, Building Official/Zoning Enforcement Officer Peter R Carey, and City Planner John Mullen.

Building and Zoning "Special Permit" – the City had issued a second renewal effective February 6th, 2018. Per my discussion with both Building Official/Zoning Enforcement Officer Peter R Carey, and City Planner John Mullen, the "Special

Permit" for the "commencement of substantial construction" expired on April 4th, 2019. The Permit has not been renewed.

The Borrower, John Sakon, has stated a position, citing Section 12.7 of the Glastonbury Zoning Regulations, regarding "Substantial completion within one year." After referencing this to both the Enforcement Officer Peter R Carey, and City Planner John Mullen, they both stated that the activity that was permitted under the "Special Permit," without the issuance of a Construction Permit in place, was restricted to Site Develop only.

As to the Site Development activity stated by the Borrower and cited as cause for the automatic continuance of the "Special Permit" beyond the April 4th, 2019 expiration date, both Enforcement Officer Peter R Carey, and City Planner John Mullen, stated that the transporting of land fill material to the site does not constitute "Site Development" and thus 12.7 does not apply and was so advised to Mr. Sakon during a discussion between John Sakon and City Planner John Mullen in May/June 2019, as Mr. Mullen advised me in today's call.

"Wetlands Permit" – In addition to the expiration of the "Special Permit" for construction, Mr. Mullen also noted that the required Wetlands Permit has also expired and requires renewal, thus eliminating the ability to facilitate any activity at the project site until this primary permit is renewed. This permit expired due to the non-activity of the site since "the summer of 2017" as stated to me in today's call with City Planner John Mullen. He also stated that this was discussed with Mr. Sakon in May/June 2019.

"Construction Permit" – to-date, a permit for construction has not been submitted for or approved for the construction of the Shoppes at Avalon. The "Special Permit" only allows for preliminary site development and not construction.

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The conclusion of my calls with both Planning and Zoning Department, Building Official/Zoning Enforcement Officer Peter R Carey, and City Planner John Mullen, are that Mr. Sakon had been advised of the Special Permit and Wetlands Permit issues since May/June of 2019, and that both permits would require re-application and that the extension/renewal of both permits not allowed.

This process, as advised by Mr. Mullen, would be somewhere between 3 to 6 months.

In addition to the aforementioned issues, are a handful of missing and inconsistent information regarding, including inconsistent information from Mr. Sakon's Personal Financial Statement. The list below is not conclusive of all missing information:

- Project Insurance – the project insurance policy uploaded to Smartsheet is not for the property known as the Shoppes at Avalon, but insuring the address of Mr. Sakon's personal residence
- Bank balances – the Asset "Cash" on the PFS is not reflected in the bank statements provided.
- The reference to a second mortgage on the proposed property.
- The lack of payoff statements for either the 1st or 2nd mortgages.
- The lack of a Construction Budget from a certified GC, which leaves in question a proper Funding Analysis for the project.
- Inconsistent mortgage balances with the amount stated in Mr. Sakon's PFS.

Preliminary Conclusion

Without the City Permits current and in place, any further examination pertaining to the requirements of Underwriting regarding the verification of Personal Financial Information, funding for the project could not be completed.

