

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

ESSEX, SS.

APPEALS COURT
SINGLE JUSTICE NO.: 2012-J-
0056

PROBATE AND FAMILY
DEPARTMENT OF THE
TRIAL COURT
No. ES09E0094QC

ALEXANDER B.C. MULHOLLAND, JR.,
PETER FOOTE, DONALD WHISTON,
JAMES FOLEY, ELIZABETH
KILCOYNE, PATRICK
J. MCNALLY, and INGRID MILES,
as they are the Feoffees of the
Grammar School in the Town of
Ipswich,

Plaintiffs,

v.
ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS,
IPSWICH SCHOOL COMMITTEE, and
RICHARD KORB, as he is
Superintendent of Schools in
the Town of Ipswich,

Defendants.

AFFIDAVIT OF RACHEL ROESLER IN SUPPORT OF INTERVENERS'/
MOTION TO STAY JUDGMENT

I, Rachel Roesler, being duly sworn depose and say as follows:

1. I am a member of the Ipswich School Committee and have been a member since May 18, 2011.
2. I make this affidavit in support of the Motion to Stay Judgment filed in the Appeals Court by the applicants for intervention.

3. I participated in all of the meetings with the School Committee's counsel regarding the pre-trial and trial phases of the above matter.

4. On January 5, 2012, I attended the School Committee meeting convened for the purpose of presenting the settlement agreement regarding the sale of Little Neck to the public.

5. The rationale for the settlement and the sale of Little Neck was presented to the public by the Chairman of the School Committee, Jeff Loeb.

6. I have recently reviewed a verbatim transcription of Mr. Loeb's presentation.

7. In addition to the comments by Mr. Loeb quoted in ¶7 of the Affidavit of Jennifer Bauman, Mr. Loeb stated:

"The Judge was leaning on counsel to have discussions."

8. On February 10, 2012, I was first made aware of the existence of two consulting reports dated November 22, 2011, prepared for counsel to the School Committee by Steven Foster of Lincoln Property Company. These reports had been obtained by Clark Ziegler, one of the interveners, through a Freedom of Information Act Request.

9. Although I was a member of the School Committee, I had not seen or been aware of the existence of either of these reports, commissioned by the School Committee's lawyer and paid for by the taxpayers.

10. In particular, I was not informed of the existence of these report in advance of the December 17, 2011 "emergency" meeting during which the School Committee was asked to support the sale of Little Neck.

11. Attached as Exhibit "A" is a true copy of Foster's "Appraisal Consulting Report" which was completed to "analyze the extracted land values from the sales of Little Neck properties."

12. The report concludes that:

"the rents charged by the Feoffees need to be higher than \$9,700 and \$10,800 in order to

adequately compensate the Feoffees and reduce prices paid for the leasehold interest to a market supported amount. . . [and] that the lot pricing contained in the Settlement Agreement is well below the market value of these lots."

13. Attached as Exhibit "B" is a true copy of Foster's "Consulting Report" completed "to provide an indication of the potential cash flows to the Feoffees assuming the continued rental of the property."

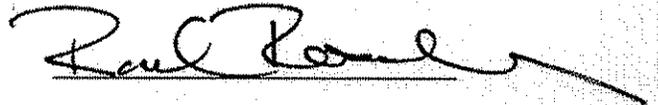
14. The report concludes that the stabilized net income to the trust if the lots continued to be rented would be \$1,670,940 per year in current dollars.

15. The most optimistic net proceeds from a sale of Little Neck is 25 million dollars.

16. Accordingly, a cash based trust after the sale of Little Neck would have to produce on average net income of 6.7% above the rate of inflation in order to generate as much income as the land based trust specified in William Payne's will.

17. It is common knowledge that over the past 50 years, inflation adjusted performance of the S&P 500, a volatile and risky pure stock index, was 1.9%.

**Signed and sworn under the pains and penalties of perjury
this 29th day of February, 2012**



Rachel Roesler

EXHIBIT A

APPRAISAL CONSULTING REPORT:

Little Neck
Ipswich, Massachusetts

PREPARED FOR:

Stephen M. Perry, Esq.
Casner & Edwards, LLP
303 Congress Street
Boston, MA 02210

PREPARED BY:

Steven R. Foster, MAI
Lincoln Property Company
225 Franklin Street, 23rd Floor
Boston, MA 02110

DATE OF REPORT:

November 22, 2011

LINCOLN
PROPERTY
COMPANY

November 22, 2011

Stephen M. Perry, Esq.
Casner & Edwards, LLP
303 Congress Street
Boston, MA 02210

RE: Little Neck, Ipswich, Massachusetts

Dear Attorney Perry:

The following appraisal consulting report has been completed to analyze the extracted land values from sales of Little Neck properties.

The purpose of a real property appraisal consulting assignment is to develop, without advocacy, an analysis, recommendation, or opinion where at least one opinion of value is a component of the analysis leading to the assignment¹. This opinion of value can originate from the consulting appraiser or from other sources. In this case, the analysis uses opinions of value and analysis from appraisals completed by Landvest, Inc., Peterson/LaChance Realty Advisors, Colliers Meredith and Grew and Lincoln Property Company. These reports are incorporated by reference. The intended users of this analysis are Casner & Edwards and the Ipswich School Committee. This analysis and the report were completed in November 2011.

The property consists of 36± acres that is improved with 167 cottages and infrastructure to support these cottages. The cottages are considered to be leasehold improvements. The Tenants, for the most part, utilize the land on a tenant-at-will basis, although several tenants have signed leases.

¹ 2010-2011 USPAP, p. U-38

Methodology

The four appraisals all utilize improved property sales and extract land values from these improved sales by deducting the estimated value of the improvements. Only the Landvest appraisal uses sales of Little Neck properties.

In my appraisal, I indicate that I did not complete this analysis for Little Neck sales because of a lack of recent sales and the impact that the ongoing litigation was having on sales activity and values. I did not consider the older sales of Little Neck properties.

It is now my understanding that the sales of Little Neck properties used in the Landvest appraisal occurred mostly prior to the settlement agreement and that these buyers, prior to purchasing their properties, agreed to sign leases with the Feoffees at annual rents of \$9,700 to \$10,800. Therefore, the buyers appear to have been fully informed and knowledgeable as to the landlord's intentions relative to rental rates for the sites prior to their purchases and the purchase prices should have reflected that the buyer would be responsible for rent of \$9,700 to \$10,800 annually. This fact, which I was not aware of at the time of my appraisal, also indicates that the market was accepting of these rent levels and if the buyers had paid a market value for the leasehold improvements, the analyses completed by Landvest and myself indicate that these buyers probably would have accepted higher rents.

The three appraisals that specifically show these adjustments use different but similar approaches to developing their estimates of the contributory value of the improvements. These are:

	<u>Landvest</u>	<u>Peterson/LaChance</u>	<u>Lincoln</u>
Replacement Cost PSF	\$140-\$200	\$160-\$180	\$180-\$200
Depreciation	20%-25%	13%-90%	10%-50%
Site Improvements	10% ⁽¹⁾	\$10,000-\$15,000 ⁽²⁾	\$25,000

⁽¹⁾ Of depreciated value of the improvements

⁽²⁾ Depreciated value

Note that there are other minor differences, such as Peterson/LaChance separately cost decks at \$50.00 per square foot and adds 3% to 5% soft cost.

Because of the relative closeness of these assumptions, it is my opinion that the appraisers would each develop different, but reasonably similar, extracted land values from these sales of Little Neck properties.

In this analysis, I have utilized the specific analysis completed in the Landvest report, as it is the only recent report that completed these analyses for the Little Neck sales. I could develop a similar analysis using the Peterson/LaChance data or my own data, but I did not complete this previously and cannot determine exactly which replacement cost or depreciation figure that Mr. LaChance would use for each of these sales.

In my opinion, the Landvest appraisal neglects to consider the fact that the purchase price is for the leasehold interest and not the fee simple interest. In order to properly complete this extraction analysis, the sales price of the comparable must be adjusted for the property rights acquired. In addition, the sales prices of these properties might have been higher if sold on a fee simple basis, which would eliminate both the impact of a land lease (which is not typical in the marketplace) and the restrictions on year round use.

In this analysis, I have considered two different adjustments for these property rights.

- (1) Capitalize the actual land rent paid under the new leases that were signed by the buyer as part of the transaction. This, in my opinion, is the rent that a fully informed and knowledgeable buyer would consider in determining a purchase price of the leasehold interest.
- (2) Utilize the purchase price of the lot contained in the settlement agreement. This, in my opinion, is likely to be the least probable consideration given the dates of sale and the date of the settlement agreement, but it is possible that there was some general understanding of this pricing before the settlement agreement was signed. And it is possible that the sellers provided information to the buyer regarding a proposed settlement.

Capitalization Rates

The Landvest and Colliers appraisals utilize 4.25% to 5.25% capitalization rates. I have utilized a capitalization rate of 4.5% in this analysis. A higher capitalization rate results in a lower value when converting income to value and results in a higher income when converting value to income.

To illustrate this point, I have used both a 4.25% and a 5.25% capitalization rate in combination with an annual rent of \$9,700 and a value of \$161,537.

$$\$9,700 \div 0.0425 = \$228,235$$

$$\$9,700 \div 0.0525 = \$184,762$$

$$\$161,537 \times 0.0425 = \$6,865$$

$$\$161,537 \times 0.0525 = \$8,481$$

The lower capitalization rate results in the higher value and the lower rent, while the higher capitalization rate results in the lower value and higher rent.

Property Rights Adjustment

- (1) The rents are assumed to be \$9,700 for all sales except 27 King's Way, which is assumed to be \$10,800 based on information provided by the Feoffees. The different rents reflect seasonal versus year round use. The property rights adjustments, using the 4.5% capitalization rate to convert income to value, are:

$$\$9,700 \div 4.5\% = \$215,556$$

$$\$10,800 \div 4.5\% = \$240,000$$

The \$9,700 contract rent is for seasonal use only. Although it could be argued that it is appropriate to use the unrestricted rent of \$10,800, I have not utilized this higher rent because the purchase price was based on seasonal use and a \$9,700 rent. It is likely that the purchase price would have been higher if the property were not restricted to seasonal use.

- (2) The lot prices contained in the settlement agreement are:

42 Middle Road	\$161,537
9 Cove Road	\$161,537
24 Plum Sound Road	\$161,537
3 King's Way	\$200,907
27 King's Way	\$161,537
26 Baycrest Road	\$161,537

Extraction Analysis

Sale A1

42 Middle Street

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$550,000	\$550,000	\$550,000
Adjustment for Property Interest	<u>\$0</u>	<u>\$215,556</u>	<u>\$161,537</u>
Adjusted Price	\$550,000	\$765,556	\$711,537
Total Value of Improvements	<u>\$227,370</u>	<u>\$227,370</u>	<u>\$227,370</u>
Extracted Land Value	\$322,630	\$538,186	\$484,167

Adjusted Lot Value Range: \$484,167 to \$538,186

Sale A2

9 Cove Road

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$339,000	\$339,000	\$339,000
Adjustment for Property Interest	<u>\$0</u>	<u>\$215,556</u>	<u>\$161,537</u>
Adjusted Price	\$339,000	\$554,556	\$500,537
Total Value of Improvements	<u>\$198,486</u>	<u>\$198,486</u>	<u>\$198,486</u>
Extracted Land Value	\$140,514	\$356,070	\$302,051

Adjusted Lot Value Range: \$302,051 to \$356,070

Sale A3

24 Plum Sound Road

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$400,000	\$400,000	\$400,000
Adjustment for Property Interest	<u>\$0</u>	<u>\$215,556</u>	<u>\$161,537</u>
Adjusted Price	\$400,000	\$615,556	\$561,537
Total Value of Improvements	<u>\$172,095</u>	<u>\$172,095</u>	<u>\$172,095</u>
Extracted Land Value	\$227,905	\$443,461	\$389,442

Adjusted Lot Value Range: \$389,442 to \$443,461

Sale A4

3 King's Way

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$465,000	\$465,000	\$465,000
Adjustment for Property Interest	<u>\$0</u>	<u>\$215,556</u>	<u>\$200,907</u>
Adjusted Price	\$465,000	\$680,556	\$665,907
Total Value of Improvements	<u>\$198,000</u>	<u>\$198,000</u>	<u>\$198,000</u>
Extracted Land Value	\$267,000	\$482,556	\$467,907

Adjusted Lot Value Range: \$467,907 to \$482,556

Sale A5

27 King's Way

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$335,000	\$335,000	\$335,000
Adjustment for Property Interest	\$0	\$240,000	\$161,537
Adjusted Price	\$335,000	\$575,000	\$496,537
Total Value of Improvements	\$125,593	\$125,593	\$125,593
Extracted Land Value	\$209,407	\$449,407	\$370,944

Adjusted Lot Value Range: \$370,944 to \$449,407

Sale A6

26 Baycrest Road

	<u>Landvest Analysis</u>	<u>Land Rent</u>	<u>Lot Price</u>
Sale Price	\$165,000	\$165,000	\$165,000
Adjustment for Property Interest	\$0	\$215,556	\$161,537
Adjusted Price	\$165,000	\$380,556	\$326,537
Total Value of Improvements	\$109,894	\$109,894	\$109,894
Extracted Land Value	\$55,106 ⁽¹⁾	\$270,662	\$216,643

Adjusted Lot Value Range: \$216,643 to \$270,662

⁽¹⁾Landvest calculates \$109,729 but this appears to be a mathematical error

This analysis shows that the extracted land values from these sales of Little Neck properties are significantly higher than is indicated in the Landvest report and higher than many of the lot values estimated by the other three appraisers before considering other adjustments.

Rent Analysis

The Landvest analysis indicates that these buyers, all of whom signed leases, paid a price that represents a premium over the market value of the leasehold improvement. These premiums, which are calculated for each property in the Landvest report, can be converted into a rent using an appropriate capitalization rate. The rent associated with the premium purchase price can be added to the actual land rent to determine a market supported land rent. I have completed this analysis using 3.5%, 4.5% and 5.5% capitalization rates to show the impact of different capitalization rates on rents.

3.5% Capitalization Rate

Sale	Premium Price	Cap Rate	Indicated Rent	Existing Rent	Indicated Market Rent
A1	\$322,630	3.5%	\$11,292	\$9,700	\$20,992
A2	\$140,514	3.5%	\$4,918	\$9,700	\$14,618
A3	\$227,905	3.5%	\$7,977	\$9,700	\$17,677
A4	\$267,000	3.5%	\$9,345	\$9,700	\$19,045
A5	\$209,407	3.5%	\$7,329	\$10,800	\$18,129
A6	\$55,106	3.5%	\$1,929	\$9,700	\$11,629

4.5% Capitalization Rate

Sale	Premium Price	Cap Rate	Indicated Rent	Existing Rent	Indicated Market Rent
A1	\$322,630	4.5%	\$14,518	\$9,700	\$24,218
A2	\$140,514	4.5%	\$6,323	\$9,700	\$16,023
A3	\$227,905	4.5%	\$10,256	\$9,700	\$19,956
A4	\$267,000	4.5%	\$12,015	\$9,700	\$21,715
A5	\$209,407	4.5%	\$9,423	\$10,800	\$20,223
A6	\$55,106	4.5%	\$2,480	\$9,700	\$12,180

5.5% Capitalization Rate

Sale	Premium Price	Cap Rate	Indicated Rent	Existing Rent	Indicated Market Rent
A1	\$322,630	5.5%	\$17,745	\$9,700	\$27,445
A2	\$140,514	5.5%	\$7,728	\$9,700	\$17,828
A3	\$227,905	5.5%	\$12,535	\$9,700	\$22,235
A4	\$267,000	5.5%	\$14,685	\$9,700	\$24,385
A5	\$209,407	5.5%	\$11,517	\$10,800	\$22,317
A6	\$55,106	5.5%	\$3,031	\$9,700	\$12,731

This rent analysis shows that the market rent for even the lowest valued lots (Sale A6 is represented by all four appraisers as lower value) has a market rent of more than \$9,700 annually and the higher value lots support land rents of over \$20,000 annually. If the market rents for the lowest value lots are over \$10,000 and the market rent for the highest value lots are over \$20,000, the average market rent would be higher than \$10,800 per lot.

Conclusions

The extracted land values, when the Little Neck sales are adjusted for the property interest acquired, indicate higher land values than is reported in the Landvest appraisal and are generally higher than the values estimated for these lots by any of the four appraisers, including myself. The analysis also indicates that the average market rent was significantly higher than \$9,700/\$10,800 as of the dates of these Little Neck sales, as these buyers both signed land leases and paid premiums for their leasehold interest.

This analysis does not include any additional adjustment for property rights which might be warranted considering that a leasehold purchase is generally considered a less desirable form of ownership than a fee simple purchase. Additionally, it does not include an adjustment which would likely be appropriate for the restricted seasonal use of five of the properties or that one sale was a foreclosure sale. Finally, I have not considered or made any other adjustments such as for changes in market conditions between sale dates and the appropriate date of value.

This may indicate, given the uniqueness of Little Neck and the scarcity of this type of property, that buyers are willing to pay a significant premium for these properties which appraisers are generally unable to measure utilizing data from outside the property.

What this analysis does indicate is that the rents charged by the Feoffees need to be higher than \$9,700 and \$10,800 in order to adequately compensate the Feoffees and reduce the prices paid for the leasehold interest to a market supported amount. It also indicates that the lot pricing contained in the settlement agreement is well below the market value of these lots.

Sincerely,

LPC COMMERCIAL SERVICES, INC.



Steven R. Foster, MAI
Senior Vice President
MA Certified General Real Estate Appraiser License #104

CERTIFICATION

I, Steven Foster, certify that, to the best of my knowledge and belief,

- 1) The statements of fact contained in this report are true and correct.
- 2) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- 3) I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- 4) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- 5) My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- 6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- 7) My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- 8) The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- 9) No one provided significant professional assistance to the persons signing this report other than those so noted in the report.
- 10) I have personally inspected the property on several occasions.
- 11) As of the preparation of this report, Steven Foster, MAI, has complied with the continuing education requirements of the Appraisal Institute.
- 12) I have provided other appraisal and consulting services on this property over the last three years.



Steven R. Foster, MAI
MA Certified General Real Estate Appraiser License #104

CURRICULUM VITAE
STEVEN R. FOSTER, MAI

Mr. Foster joined Lincoln Property Company as a Senior Vice President in 2003 and has more than 25 years of experience in the real estate appraisal and consulting field. He began his real estate career in his family-owned real estate business and joined R. M. Bradley & Co., Inc. in 1981. In 1984, he began work at Dolben Appraisal and Consulting Co., Inc. as a vice president. In 1991, he established the Appraisal Division of Lynch Murphy Walsh & Partners. In 1999, the firm was acquired by Insignia/ESG (now CB Richard Ellis/Whittier Partners) with the goal of expanding its service base in Boston and New England.

Mr. Foster is a member of the Appraisal Institute, having received the MAI designation in 1987, and is currently certified under its continuing education program. He is a past regional representative of the New England Chapter of the Appraisal Institute, a past Director and past Candidate Guidance Chairman of the Boston Chapter of the American Institute of Real Estate Appraisers. Mr. Foster has been a licensed real estate broker in Massachusetts since 1976 (license is currently classified as inactive). He is a licensed real estate appraiser in Massachusetts, and has been licensed in Rhode Island, New Hampshire, and Maine. He served for several years as a member of the Commonwealth of Massachusetts Board of Registration, Real Estate Appraisers Compliance Subcommittee.

Mr. Foster has significant experience in the evaluation of investment property in conjunction with acquisitions, sales and financing matters. In addition, he has prepared appraisals for lease renegotiations, estate and federal tax matters, property tax disputes, eminent domain actions, site contamination cases and reuse purposes. A significant amount of his practice includes litigation support involving complex valuation issues, and he has appeared as an expert witness. Mr. Foster also has broad experience in highest and best use studies, project feasibility, and re-use strategies. In many counseling assignments, he has acted as part of multi-disciplinary teams with expertise across a broad spectrum of real estate matters.

EXHIBIT B

CONSULTING REPORT:

Little Neck
Ipswich, Massachusetts

PREPARED FOR:

Stephen M. Perry, Esq.
Casner & Edwards, LLP
303 Congress Street
Boston, MA 02210

PREPARED BY:

Steven R. Foster, MAI
Lincoln Property Company
225 Franklin Street, 23rd Floor
Boston, MA 02110

DATE OF REPORT:

November 22, 2011

LINCOLN PROPERTY COMPANY

November 22, 2011

Stephen M. Perry, Esq.
Casner & Edwards, LLP
303 Congress Street
Boston, MA 02210

RE: Little Neck, Ipswich, Massachusetts

Dear Attorney Perry:

The following consulting report has been completed to provide an indication of the potential cash flows to the Feoffees assuming the continued rental of the property to the owners of the cottages under a scenario consistent with the sales of the property. Therefore, all properties could be utilized on a year round basis.

This report relies upon materials completed by Landvest, Inc. and Peterson/LaChance Realty Advisors, and the audited financial statements of the Feoffees.

Potential Gross Income

Base Rent Revenue: This, based on \$10,800 annually per lot, is \$1,803,600.

$$167 \times \$10,800 = \$1,803,600$$

This rent, based on the current leases, adjusts to market every three years, but cannot decline. This, in my opinion, should be a net rent, with the tenants paying all utilities and real estate taxes associated with their lot.

It could be argued that this is a triple net rent, with the tenants paying an association fee (condominium fee if converted to condominiums) that covers the operation of the property (common area repairs and maintenance, common area utilities, common area real estate taxes, reserves, insurance, management and administration). Additionally, there would not be any common area real estate taxes if converted to a condominium.

LINCOLN PROPERTY COMPANY
225 FRANKLIN STREET
BOSTON, MA 02110
(617) 951-4100
(617) 737-3315 FACSIMILE

Real Estate Tax Revenue: This revenue is for tenant reimbursements on the real estate taxes for their lots. This is essentially a straight pass-through of the real estate tax expense on these lots. Therefore, I have not shown any revenue or expense related to real estate taxes on the lots.

Wastewater Haulage Fees: This revenue is for wastewater haulage and is charged to the tenants based on use. Again, it is essentially a straight pass-through and, therefore, I have not shown any revenue or expenses for wastewater haulage in this analysis.

Wastewater Management Fees: This revenue is \$40.00 per month per unit and has totaled \$64,800 annually and should total \$80,160 if charged to all the tenants. The tenants, in addition to rent, real estate taxes and haulage fees, should contribute to the operation and maintenance of the sewer system. Residents in other areas of town pay sewer charges or for the construction and maintenance of private septic systems, including many tight tanks in the Great Neck area of Ipswich. I have continued to carry user fees of \$64,800, which equates to around \$30.00 per month or \$360 per unit over the 167 lots.

Interest Income: No interest income has been forecast in the analysis.

Effective Gross Income

Vacancy and Collection Loss: I have not made any deductions for vacancies or collection loss as the tenants will generally pay their rent in order to protect their leasehold interest and rights under the leases. Liens could likely be placed on the leasehold improvements with any unpaid rents collected at the time of sale.

Operating Expenses

Real Estate Taxes: As stated previously, the real estate taxes on the lots are paid by the tenants. The Feoffees pay the real estate taxes on the common areas, which are forecast at \$20,000.

Legal Fees: The legal fees prior to the current litigation were relatively low. Assuming no litigation, I have forecast annual legal fees of \$20,000.

Wastewater Haulage:	The income and expenses related to wastewater haulage has been eliminated in the analysis, as it is essentially a straight pass-through to the tenants.
Management:	This expense equates to 2.5% of effective gross income and is based on the actual fee and management fee paid recently at the property.
Utilities:	This expense is forecast at \$20,000. Much of this expense is reportedly related to the operation of the sewer system. Expenses such as this are essentially reimbursed through the \$64,800 in user fees.
Engineering Consulting:	This expense, likely related to the sewer system, is forecast at \$5,000 annually based on recent experience.
Insurance:	This expense is forecast at \$6,000 annually based on recent experience.
Police Details:	Although this expense could likely be reduced with private security, I have forecast \$6,000 annually based on recent experience.
Repairs and Maintenance:	It appears that this category included wastewater haulage fees in a couple of years. I have forecast \$30,000 annually for landscaping and road, utility and other maintenance based on past experience at the property.
Other Expenses:	The remaining expenses are relatively minor and are based on the recent experience at the property.

The total expenses of \$197,460 are relatively close to the expenses presented in the Landvest appraisal of \$285,385, which includes \$120,000 in general legal fees and nets to around \$185,385 using \$20,000 in typical legal fees, and the net of \$230,543 in the Peterson/LaChance appraisal, which reflects an adjustment of \$465,502 for real estate taxes and \$107,000 for wastewater haulage. The \$197,460 in expenses is well above the \$100,000 in operating cost, which has been represented by the Feoffees in depositions.

Inflation Rates: I have inflated both the income and the expenses at 3% annually.

Net Income Before Debt Service and Reserves: This equates to total revenues less operating expenses.

Reserves: This expense is to create a fund to pay for major repairs or replacement of the roads and utilities. This is estimated at \$30,000 annually.

Debt Services: The Feoffees have existing debt of around \$5,600,000. This debt has an interest rate of 6.75% and the annual payment is \$594,659, say \$595,000. It will be paid off as of March 7, 2026. The debt service for calendar year 2026 is \$545,000 times .18 or \$107,100, reflecting 66 days out of 365 days. The current interest rate was set in early 2011, is fixed through March 7, 2016, and represents the floor or minimum rate allowed under the mortgage. It is likely, if the tenants all signed long term leases, that the Feoffees could refinance this mortgage at a lower rate. For the purposes of this analysis, I have assumed that the mortgage will not be refinanced and that the interest rate will remain at 6.75% over the remaining term of the mortgage.

Other Cost: I have not included any expenses for litigation or erosion control. I have assumed that these expenses will be funded from the Feoffees' claim of \$2,500,000 plus interest in back rent.

Current Dollars: I have discounted the cash flows for distribution by 3.0% annually to provide an indication of the cash flows in current dollars.

The analysis has been run from January 1, 2013, assuming another year to resolve the rent issues. I have not inflated either the current rent or the current expenses to that date.

A summary of the audited financials and the 30-year cash flows are attached to this report.

Sincerely,

LPC COMMERCIAL SERVICES, INC.



Steven R. Foster, MAI
Senior Vice President
MA Certified General Real Estate Appraiser License #104

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	Stabilized
Gross Revenues								
Tenant Rents	493315	809500	847000	1001600	1006660	1006660	1023431	1803600
R E Tax Collections	475303	461448	458746	507637	414535	449971	519680	0
Other Assessment	0	115500	0	0	0	0	0	0
Wastewater Haulage Fees	0	0	0	0	0	95109	116987	0
Wastewater Maintenance Fees	0	0	0	64800	64800	64800	64440	64800
Interest	7787	5015	19284	11817	3080	834	4942	0
Total Gross Income	976405	1391463	1325030	1585854	1489075	1617374	1729480	1868400
Expenses								
Real Estate Tax Collections	493397	480220	468628	530300	432291	469165	537736	20000
Legal Fees	17243	4430	3673	251714	287901	191505	232209	20000
Wastewater Haulage Fees	0	0	0	0	0	91193	116017	0
Management	0	0	46442	73005	71068	74575	44006	46710
Utilities	0	0	6984	17781	18170	18658	19419	20000
Salaries	9600	22214	0	0	0	0	0	0
Engineering Consulting	10015	0	0	19249	37432	6490	717	5000
Insurance	6244	5495	8519	8519	6348	5668	5450	6000
Police Details	5945	9353	6075	7289	9294	5983	5688	6000
Repairs & Maintenance	45008	31677	28410	113252	95829	27310	109652	30000
Accounting	2100	2300	3000	8000	8000	10000	12000	12000
Dock Removal & Storage	1500	2380	3975	2040	2325	2057	2000	2500
Office Expense	1209	1766	1923	1622	6132	4303	4181	4000
Beach Sampling	665	760	666	728	800	450	645	750
Other Professional Fees	6856	0	9285	0	1588	10669	1000	4000
Other Inspections	0	0	0	5040	7456	6787	10080	7500
Mediation	0	0	0	2225	1600	0	0	0
Billing	0	0	0	0	0	10653	11165	12000
Misc.	743	868	1108	250	70	1570	750	1000
Total Expense	600525	561463	588688	1041014	986304	937036	1112715	197460
Adjusted Net Income	375880	830000	736342	544840	502771	680338	616765	1670940
Expenses exclude gifts to school and one time charges like alternative wastewater plan in 2004								

CERTIFICATION

I, Steven Foster, certify that, to the best of my knowledge and belief,

- 1) The statements of fact contained in this report are true and correct.
- 2) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- 3) I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- 4) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- 5) My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- 6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- 7) My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- 8) The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- 9) No one provided significant professional assistance to the persons signing this report other than those so noted in the report.
- 10) I have personally inspected the property on several occasions.
- 11) As of the preparation of this report, Steven Foster, MAI, has complied with the continuing education requirements of the Appraisal Institute.
- 12) I have provided other appraisal and consulting services on this property over the last three years.



Steven R. Foster, MAI
MA Certified General Real Estate Appraiser License #104

CURRICULUM VITAE
STEVEN R. FOSTER, MAI

Mr. Foster joined Lincoln Property Company as a Senior Vice President in 2003 and has more than 25 years of experience in the real estate appraisal and consulting field. He began his real estate career in his family-owned real estate business and joined R. M. Bradley & Co., Inc. in 1981. In 1984, he began work at Dolben Appraisal and Consulting Co., Inc. as a vice president. In 1991, he established the Appraisal Division of Lynch Murphy Walsh & Partners. In 1999, the firm was acquired by Insignia/ESG (now CB Richard Ellis/Whittier Partners) with the goal of expanding its service base in Boston and New England.

Mr. Foster is a member of the Appraisal Institute, having received the MAI designation in 1987, and is currently certified under its continuing education program. He is a past regional representative of the New England Chapter of the Appraisal Institute, a past Director and past Candidate Guidance Chairman of the Boston Chapter of the American Institute of Real Estate Appraisers. Mr. Foster has been a licensed real estate broker in Massachusetts since 1976 (license is currently classified as inactive). He is a licensed real estate appraiser in Massachusetts, and has been licensed in Rhode Island, New Hampshire, and Maine. He served for several years as a member of the Commonwealth of Massachusetts Board of Registration, Real Estate Appraisers Compliance Subcommittee.

Mr. Foster has significant experience in the evaluation of investment property in conjunction with acquisitions, sales and financing matters. In addition, he has prepared appraisals for lease renegotiations, estate and federal tax matters, property tax disputes, eminent domain actions, site contamination cases and reuse purposes. A significant amount of his practice includes litigation support involving complex valuation issues, and he has appeared as an expert witness. Mr. Foster also has broad experience in highest and best use studies, project feasibility, and re-use strategies. In many counseling assignments, he has acted as part of multi-disciplinary teams with expertise across a broad spectrum of real estate matters.