

**TOWN OF SCITUATE**  
**HOPE MILL**

**CASE HISTORY & SUMMARY**

In 2005, the Hope Mill Property (“Hope Mill”) was the subject of Scituate Plan Commission and Zoning Board of Review proceedings, culminating in a Master Plan approval issued by the Plan Commission on November 21, 2006 and a Conditional Zoning Board Decision issued in December 2006.

The Zoning Board granted conditional approval in Case #987 of the following:

- A Special Use Permit was granted for a total of 155 multi-family residential apartments within the Hope Mill structure, 10% of which are to be affordable units; and,
- A Special Use Permit for a total of 52 multi-family residential dwelling structures to be constructed in new buildings on the property. These units would be in four (4) Four-plexes, two (2) Five-plexes, four (4) Six-plexes, and two (2) single units without garages, all new buildings.

The Zoning Board’s decision contained 12 conditions that to date remain outstanding.

There are 7.5 acres of this property that are in the Town of Coventry. There has been no application to the Coventry Zoning or Planning departments for any required approvals.

When the project was initially contemplated, it was a different world. The financial collapse had not occurred, the Great Recession had not happened. These things were on the horizon and the story of Hope Mill reflected the coming and growing financial crisis.

**The Lawsuits:**

On June 28, 2007, Robert Laferriere (“Mr. Laferriere”) the owner of the Hope Mill, who was holding a \$4.2 million mortgage issued to Vincent Coccoli (“Mr. Coccoli”), filed a breach of contract and foreclosure action in Kent County Superior Court. That case number was KC08-0184 and remained pending for almost a year while Mr. Coccoli and Mr. Laferriere discussed options to cure the default.

On March 19, 2008, a State Court Receivership was filed with Jonathan Savage, Esq., appointed receiver of the Hope Mill Property. That case number was KM08-0361. Shortly thereafter, the General Assembly amended the State Historic Tax Credit Program to require a fee be paid for any qualifying tax credit applications. Because the Hope Mill was in Receivership, the fee was not paid on the pending application. There is some question as to whether there were assets to pay the fee in the Receivership estate at that time.

On August 20, 2008, a Chapter 11 bankruptcy filing was made, transferring the jurisdiction of the case from state to federal court. That was in bankruptcy case number bk-08-12568. This effectively ended the Savage-controlled Receivership and put Mr. Coccoli and his partners in control of the property as “debtors in possession.”

On March 18, 2009, Bankruptcy Court Judge Votolato, after seeing that the receivership was pending without any significant activity, ordered a Trustee be appointed and Joseph DiOrio, Esq. was appointed the Trustee of the Hope Mill Bankruptcy Estate. After a thorough investigation, Mr. DiOrio determined that there were no assets in the bankruptcy estate and on June 26, 2009, he filed a motion to convert it from a Chapter 11 to a Chapter 7, which is a liquidation bankruptcy.

In January 2010, Mr. DiOrio sold the real estate to NE Development RI, LLC, a company owned by Lawrence Labonte (“Mr. Labonte”). As a condition of that sale, Mr. DiOrio requested that the Town Council agree that the property be sold without paying the outstanding real estate taxes and the Town agreed to wait 60 days for the tax money, expected to come from a bridge loan that the owner, NE Development, LLC, was going to secure after the sale. In March 2010, the property was significantly damaged in the Flood. The property was declared unsafe and posted. The owner was directed to make immediate repairs, though none were made.

On August 10, 2010, NE Development, LLC filed a State Court Receivership under case number PM10-4650, which has been in place ever since.

Mr. Coccoli took legal action against the RI Division of Taxation for its decision to deny the development the benefits of the 2002 State Historic Tax Credit program. This case, which is awaiting a decision from Judge Stephen Isherwood, is case number AA09-203. A decision is expected before April 8, 2015. The Court will decide whether the right to the 2002 State Tax Credits is part of the current receivership.

### **The State Tax Credits:**

The General Assembly established a Historic Structure Tax Credit program to assist with re-development of old, outdated, unused buildings, several of which are old mills. Between 2006 and 2008, efforts were made to complete the submission requirements for obtaining these state tax credits. The receivership and subsequent bankruptcy interfered with the applicant’s ability to meet the submission requirements. The General Assembly suspended the program in 2008 and required any pending applicant pay a fee to guarantee the credits. The developer was unable to pay the fee at that time.

Mr. Coccoli has been selected for the 2013 State Historic Tax Credit program but must pay \$750,000 to the RI Division of Taxation before April 8, 2015 to secure the rights to these credits. These credits are worth approximately \$5 million dollars.

Only one set of State Tax Credits may be applied to a project: either the 2002 Program Credits (if a Court determines they are still available) or the 2013 Program Credits.

## **The Federal Tax Credits:**

The project may qualify for the Federal Historic Tax Credit Program for up to \$7.5 million dollars, but that application submission has not been sent to Washington.

The credits are paid to the developer upon the completion of the development project. Once paid, there is a preservation easement placed on the property that prevents any changes in the property for a set period of time.

## **Some other activities:**

Before getting into the specifics of discussions and negotiations in the context of the pending Receivership, a quick summary of what was occurring while all of these court proceedings were underway is necessary.

- Mr. Coccoli had a purchase & sale agreement for the property owned by Joseph Izzi (AP 5, Lot 107), but no longer holds an interest in that property. This property is necessary to the proposed redevelopment of the Hope Mill property. That parcel is not part of the Receivership.
- All matters pending before the Town (in either the Plan Commission or Zoning Board) have been held static.
- In 2009, Mr. Coccoli presented a totally different building configuration that was presented to the Zoning Board in 2006, but none of the updated information has ever been presented to Planning or Zoning in either Scituate or Coventry.
- Technically, the Master Plan (approved November 21, 2006) and the Extension granted by the Plan Commission expired November 2008; however, because the matter has been in court since then, everything has been stayed.
- Mr. Coccoli clear-cut a significant portion of wetland and RI DEM issued a Notice of Violation (“NOV”) and \$85,000.00 fine. These issues remain outstanding.
- In December 2010, there was a significant fire inside the Mill building. The Town’s insurer, the RI Interlocal Risk Management Trust will provide the Town with liability coverage for losses occurring at the Mill, but they will not provide property damage coverage because of the poor and degraded condition of the physical structure.
- Nearly all of the building has been stripped of wire and copper piping by vandals. Since early 2011, the property has been boarded at all first floor access points. The property has also been fenced to prevent vehicular traffic.

- It has been reported by Belfonti that the hydro-electric system (there are 2 turbines) is not repairable. It is not functional.
- If the Receiver is unable to sell the property on the open market, he could move to abandon the property, and if such a motion was granted, the Town would essentially become stuck with the property by virtue of the outstanding tax liability.

### **Outstanding taxes & other monies due:**

The Town of Scituate is owed approximately \$425,000.00 in real estate taxes. The Town of Scituate has paid \$53,000.00 over the past five (5) years to help the Receiver cover costs of the Receivership since 2010. These expenditures have all received priority position as administrative expenses with the Court and motions were presented to the Court to secure this priority status.

The Town of Coventry is owed appropriately \$40,000.00 in real estate taxes.

There are a number of creditors. It is highly unlikely that any creditor will see a return from this case. The fact is that the estate does not have an income source; there are no funds in the Receivership Estate to pay for anything; tax liability continues to accrue, and because taxes are considered a super priority lien, they are unlikely to be waived or compromised.

### **The Town's plan:**

The Town Council has decided to take control of the property so that it can direct the future of the property in a manner that is in the best interests of the Town. Whether that is to retain the property as a re-development project, for commercial, mixed-use, or residential use, or as a park and public space, that decision will ultimately be up to the Council.

Development of the Mill into commercial/industrial uses require that commercial or industrial activity locates to Hope, which is unlikely, as such activity is leaving the State. Development of the Mill into residential uses requires a sewer. There is no sewer in Hope, although the Town has 78,000 gallons-per-day of reserve capacity in the West Warwick Regional Wastewater Treatment Facility. Whether and how this reserve capacity is to be used is up to the Hope Sewer District Committee to make recommendations to the Council. That group is meeting and has met, but the issue is very complex. A sewer in Hope, if there is one at all, is at least several years away.

It is unlikely that a residential developer without sufficient assets to construct its own sewer line and then give it to the Town, will be able to access the Town's reserve capacity to use the Mill for residential purposes.

The Town needs to make sure that general tax revenue is not diverted from other needs only to subsidize a developer's aspirations for the Hope Mill. If the Mill is developed, then the

Town Council needs to make sure that sufficient tax revenue is generated to off-set the impact to Town services.

If the Town's offer is accepted by the Court, then any other developer who is ready, willing and able to purchase the property can do so by submitting a higher and better offer to the Court, that has jurisdiction over the property, in which case, the Town will recover all of its outstanding monies.

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