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March 4, 2004

MEMORANDUM

TO: D.C. ZONING COMMISSION

FROM: HOLLAND & KNIGHT, LLP

RE: REGISTERING TO DO BUSINESS IN DC

- According to DC statute (D.C. Official Code, § 29-1060) a legal entity formed in another state, such as a Delaware LLC like Monument Residential LLC, may own real property, own personal property and maintain bank accounts
- DC law expressly does not require it to register in DC to do those things
- According to § 29-1058 the fact that a Delaware LLC is not registered in DC does not impair the validity of any contract or act of the LLC.
- An LLC that is not registered in DC is subject to applicable DC taxation and DC regulation.
- The contract to buy the Hotel is assignable by Monument Residential LLC without the Seller's consent to an affiliate of Monument. This is a procedure used by most buyers of commercial real estate.
- The Watergate Hotel contract, will be assigned to an affiliate LLC prior to closing.
- That affiliate will be registered in DC at the time it buys the Hotel or undertakes any activities which would require it to be registered in DC.

ZONING COMMISSION
District of Columbia
Case 03-16
Exhibit 136

ZONING COMMISSION
District of Columbia
CASE NO.03-16
EXHIBIT NO.136

District of Columbia Code/DIVISION V LOCAL BUSINESS AFFAIRS/TITLE 29 CORPORATIONS/CHAPTER 10 LIMITED LIABILITY COMPANIES/§ 29-1060.

Transactions not constituting doing business [Formerly § 29-1360].

§ 29-1060. Transactions not constituting doing business [Formerly § 29-1360].

(a) The following activities of a foreign limited liability company, among others, do not constitute transacting business within the meaning of this chapter:

(1) Maintaining, defending, or settling any proceedings;

(2) Holding meetings of its members or carrying on any other activities concerning its internal affairs;

(3) Maintaining bank accounts;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's securities or maintaining trustees or depositaries with respect to those securities;

(5) Selling through independent contractors;

(6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the District before they become contracts;

(7) Creating or acquiring indebtedness, deeds of trust, and security interests in real or personal property;

(8) Securing or collecting debts or enforcing deeds of trust and security interests in property securing the debts;

(9) Owning, without more, real or personal property; or

(10) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.

(b) The list of activities in subsection (a) of this section is not exhaustive. This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in the District or to regulation under any other law of the District.

(1981 Ed., § 29-1360; July 23, 1994, D.C. Law 10-138, § 61, 41 DCR 3010.)

§ 29-1058. Transaction of business without registration.

(b) The failure of a foreign limited liability company to register in the District shall not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any action at law or in equity in any court of the District.