LAW OFFICES

JACK H. OLENDER
AND ASSOCIATES, P.C.

888 17TH STREET, N.W., 4TH FLOOR

WASHINGTON, D. C. 20006-3939

JACK H. OLENDER, D.C., MD., PA.
SANDRA H. ROBINSON, D.C., MD.
MELISSA RHEA, D.C., MD.
KIM M. KEENAN, D.C., VA., MD.
ELIZABETH JESUKIEWICZ FREY, R.N., D.C., MD., PA.
KAREN E. EVANS, R.N., D.C., VA., MD.
NARDA M. NEWBY, D.C., MD.

GARY S. FREEMAN (1949-2001)

TELEPHONE (202) 879-7777
FACSIMILE (202) 393-2245
E-MAIL JHOPC@OLENDER.COM
www.olender.com

OF COUNSEL
HARLOW R. CASE, D.C.
ROBERT S. CHABON, M.D., J.D.

March 1, 2004

Zoning Commission Case No. 03-16
Proposed Planned Unit Development
Modification - Watergate Hotel

STATEMENT IN OPPOSITION

BY

JACK H. OLENDER

ZONING COMMISSION
District of Columbia
Case 03-16
Exhibit 103

ZONING COMMISSION
District of Columbia
CASE NO.03-16
EXHIBIT NO.103

I, along with my wife of 41 years, Lovell R. Olender, live at Watergate East in an apartment we have owned for approximately the last 14 years. It is our sole residence. Before that, for about 12 years, we owned and occupied an apartment at Watergate West, also in the Watergate complex.

The Watergate Hotel is the hub of the Watergate community. My wife and I regularly use it, as do other residents, to house guests. My law firm uses it to house visiting witnesses and as a site to prepare them late at night and early in the morning for deposition or trial. We use the good restaurant in the Hotel. Many people use the hotel lounge for afternoon tea, and liquid and food refreshments. I sometimes have my hair cut at Zahira's Salon in the Hotel. Zahira Zahir is President George W. Bush's barber. On information and belief, President Bush has come to her salon on occasion, although she usually goes to the White House to cut his hair. She would be gone under the proposed conversion to a co-op.

The Sport and Health Club, with large swimming pool, is housed in the Hotel. It has an extraordinary staff of trainers, masseurs and masseuse, and assistants that are skilled and compassionate in helping elderly and disabled persons, of whom there are quite a few in Watergate East and the complex. Residents with serious conditions such as severe osteoarthritis, Parkinson's Disease, etc. experience the high point of their day going to the Health Club, and "working out" under the careful supervision and guidance of the excellent trainers. This would all be gone under the conversion Monument Residential is attempting to force on Watergate East. As I understand this, and as explained by a Monument Residential officer, the proposed sales agreement would

require only that exercise equipment be available to Watergate residents who use a key to access the machine area that would not be staffed. Restaurant space would be available under the proposal - but there is no reason to believe a co-op could sustain a first class restaurant comparable to the fine Hotel restaurant we now enjoy.

I believe the addition of hundreds of co-op residents to the Watergate complex would be more than the already crowded Safeway market and CVS drugstore in the Watergate complex could comfortably accommodate. The internal traffic and the street traffic would be horrendous. It would drastically change the pleasant, cohesive community for the worse.

Monument Residential, LLC., incorporated in Delaware, has already caused the residents of the Watergate complex to turn against one another with its tactics to force an unwanted sale with the concomitant requirements that Watergate East residents support a zoning change to allow the Hotel conversion. Monument Residential's and/or Monument Realty's financing of the Delaware Chancery Court action for the dissident board member plaintiffs has further disrupted collegiality and civility among Watergate residents.

Monument Residential, LLC's aggressive actions to try to get Watergate East to sell it its property which is currently under lease to the Watergate Hotel may be explained by the fact that the current lease consistently refers to the "hotel lessee" and may be fairly interpreted to disallow a transfer to a non-hotel. In addition, the lease does not allow any changes on the property costing more than $100,000 without Watergate East's approval. So, Monument Residential, LLC does not have the requested parking spaces to convert the hotel to a co-operative apartment, even if the

Commission were inclined to grant the application.

As a lawyer, I cannot help but wonder why Monument Residential, LLC, which would buy the Hotel and convert it, refuses to register to do business in the District of Columbia, has no registered agent in the District of Columbia, and under District of Columbia law, has no access to our courts as a plaintiff.

Their representative, at the recent Watergate East membership meeting, stated that they have been doing business in the District of Columbia on an ongoing construction project, despite their not being registered to do business here.

On information and belief, Monument Residential has declined to provide any financials to Watergate East. I believe the Watergate East board majority exercised excellent judgment in rejecting such a suitor.

As a resident, I feel that a hostile takeover, if allowed to succeed, will substantially lessen our quality of life, jeopardize our financial investment in our residence, and force us to seriously think about moving to a friendlier environment. On information and belief, many of our elderly residents are not financially able to take a loss on their co-op apartments and move.

Jack H. Olender
Watergate East, Apt. #1203-S
2500 Virginia Avenue, NW
Washington, DC 20037

Attachments:
1. Certificate, D.C. Department of Consumer and Regulatory Affairs
2. "Watergate residents want to preserve community," Washington Business Journal, February 27-March 4, 2004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

CERTIFICATE

THIS IS TO CERTIFY that a search of record of the Department of Consumer and Regulatory Affairs, Corporations Division, reveals that

MONUMENT RESIDENTIAL LLC

IS NOT OF RECORD as either a domestic entity organized in the District of Columbia or a foreign entity registered to transact business as of the date hereinafter mentioned.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of this office to be affixed this **26th** day of **February , 2004 .**

David Clark
DIRECTOR

John T. Drann
Administrator
Business and Professional Licensing Administration

Patricia E. Grays
Superintendent of Corporations
Corporations Division

Anthony A. Williams
Mayor

EXHIBIT
1

LETTER TO THE EDITOR

Watergate residents want to preserve community

Dear Editor:

I read with interest your front page story on attempts to buy the Watergate Hotel and convert it into co-op apartments by Monument Realty and/or Monument Residential ["Watergate may face historic holdup," Feb. 20-26]. As a longtime resident of Watergate East, and previously of Watergate West, I am opposed.

A Monument representative is given as the source for a statement in your article that most residents of Watergate East have "endorsed Monument's plan." To the contrary, the fact is, that in addition to strong opposition by the residents of Watergate West, the majority of the Board of Watergate East and the majority of owners of apartments in Watergate East voted against the sale of Watergate East's space to Monument and against the zoning change.

We oppose the zoning change that would allow the conversion of the luxury hotel, which is the social center of the Watergate community and used for housing guests, hosting events, fine dining, a fully staffed health club, etc., into another co-op bringing added density to the already overcrowded Foggy Bottom community and streets.

Despite the opposition of the majority of the Watergate East residents, four dissident Watergate Board members have filed a lawsuit in Delaware to try to compel Watergate East to sell the Monument part of Watergate East's property to be used for parking. It is admitted by one of the leaders of the attempt to force the sale that Monument is financing the lawsuit in Delaware against Watergate East and the majority of its board. I would liken the situation to an attempted hostile takeover.

The board majority and the majority of the property owners are valiantly resisting the takeover to preserve our community.

— *Jack Olender*
Washington

