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September 15, 2017

VIA IZIS

Zoning Commission for the District of Columbia
441 4th Street, NW
Suite 210S
Washington, D.C. 20001

**Re: Z.C. Case No. 02-38I - Applicant's Opposition to the Party Status Request
Submitted by the Waterfront Tower Condominium Board**

Dear Members of the Commission:

On behalf of Waterfront 375 M Street, LLC and Waterfront 425 M Street, LLC (together, the "Applicant"), we hereby submit this statement in opposition to the party status request submitted by the Waterfront Tower Condominium Board (the "Condo Board") on behalf of the Waterfront Tower ("Waterfront Tower"). The Condo Board has not met the party status criteria of Subtitle Z § 404.14 of the Zoning Regulations because they have not demonstrated that their interests will be significantly, distinctively, or uniquely affected by the subject application for approval of a second-stage planned unit development ("PUD") and a modification of significance to a previously approved first-stage PUD application (the "Application").

Pursuant to Subtitle Z § 404.14 of the Zoning Regulations, the Commission shall grant party status "only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public." 11-Z DCMR § 404.14. The Commission has followed this standard closely and requires a potential party to establish how it is more uniquely affected than the general public. *See* Z.C. Case No. 05-38, Feb. 28, 2007 Transcript at p. 11 (the Commission denied the request for party status because the request "did not deal with the critical aspect of the test for party status which is how is [the requesting party] more uniquely affected than the general public"); *see also* Z.C. Order No. 10-32, Finding of Fact ("FF") No. 6 (the Commission denied the requests for party status because "the individuals' interests were not sufficiently unique"); Z.C. Order No. 13-04, FF. No. 6 (the Commission denied the request for party status because the requesting party "failed to demonstrate that its interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public"); Z.C. Order No. 11-03A(2), FF. No. 5 (the Commission denied party status because the persons requesting party status were "not being uniquely affected by the [] PUD under the Commission's rules").

In this case, the Condo Board has not demonstrated that their interests will be more significantly, distinctively, or uniquely affected than the general public. The Condo Board generally asserts four arguments in support of the party status criteria, each of which does not meet the standard for party status.

Access and Security: The Condo Board states that the Application would decrease access and security and increase traffic on a private street (i.e., the “north-south private drive”) since there is inadequate police/fire/handicap access. Access to the project was approved as part of the First-Stage PUD, and the north-south private drive provides access to the entire project, not only the residential buildings proposed in the Application. In addition, DDOT will evaluate the project for impacts on the transportation network and the potential for vehicular and pedestrian conflicts along the surrounding streets. DDOT conducts this review to protect the interests of the general public utilizing public space in the surrounding area. Thus, impacts of the project on access, security, and traffic will not affect the Condo Board more significantly, distinctively, or uniquely than it affects the general public.

Environmental Impacts: The Condo Board states in its filing that the Application will have adverse environmental impacts as a result of inadequate setbacks on all four sides, lack of sufficient public space next to the Metro, reduced neighborhood outdoor space, and inadequate contribution to the human scale. The Applicant does not propose modifications to any of the conditions of the original PUD which approved building setbacks, the size of the Metro Plaza, and the amount of required public space. These issues were all considered and decided in the public hearings for a modification to the First-Stage PUD, which was approved in Z.C. Order No. 02-38A.

In addition, the Condo Board’s issues identified in this section of the party status request amount to general concerns with the Application, not specific issues that significantly, distinctively, or uniquely affect Waterfront Tower more than the general public. Accordingly, they do not satisfy the standard for a request for party status.

Economic Impacts: The Condo Board argues that the Application fails to meet the primary goal of creating a vibrant town center as required by the Southwest Area Plan. This issue relates to general planning goals for the District of Columbia and does not significantly, distinctively, or uniquely affect Waterfront Tower. Accordingly, the justification does not satisfy the standard for a request for party status.

Social Impacts: The Condo Board argues that no additional residential use is needed and that the Application does not provide for sufficient diversity. Again, neither of these issues significantly, distinctively, or uniquely affect Waterfront Tower. Accordingly, the justifications do not satisfy the standard for a request for party status.

As of the date of this letter, the Condo Board has not provided notice of its party status request to the Applicant, which is required pursuant to Subtitle Z § 404.7. In addition, the Condo Board did not file an affidavit of service with the Commission indicating that the request was

served on all parties to the Application as required by Subtitle Z § 404.8. Therefore, the seven day timeframe for filing an opposition to a party status request as set forth in Subtitle Z § 404.9 has not started, and this filing is timely. Until such time as the Condo Board serves the request on the Applicant and provides an affidavit of service, the request is procedurally defective.

Because the Condo Board has not demonstrated how the Application will significantly, distinctively, or uniquely impact the interests of Condo Board or the Waterfront Tower, the Applicant respectfully requests that the Commission deny the Condo Board's party status request. The Applicant will be available at the October 30, 2017, Zoning Commission meeting in the event that the Commission considers this request on that date as requested by the Condo Board.

Sincerely,

HOLLAND & KNIGHT LLP



Christine M. Shiker

cc: Joel Lawson, Office of Planning
Matt Jesick, Office of Planning

(Via US Mail and Email)
(Via US Mail and Email)

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2017, a copy of the Applicant's Opposition to the Party Status Request Submitted by Waterfront Tower Condominium Board was served on the following:

Advisory Neighborhood Commission 6D
1101 4th Street, SW
Washington, DC 20024

Via US Mail

Tiber Island Cooperative Homes, Inc.
429 N Street, SW
Washington, DC 20024
Attention: Paul Greenberg

Via US Mail

Cornish Hitchcock
Counsel for Tiber Island Cooperative Homes, Inc.
Hitchcock Law Firm PLLC
5505 Connecticut Avenue, NW
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Via US Mail

Carrollsbury Square Condominium Association
1804 T Street, NW
Suite One
Washington, DC 20009
Attention: Henry Baker

Via US Mail

Waterfront Tower Condominium Board
c/o Hara Ann Bouganim
Vice President
1101 3rd Street, SW
Unit 415
Washington, DC 20024

Via US Mail



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