



10 March 2008

Mr. Ben Lynch
Program Chief
Department of Environmental Protection
Waterways Regulations Program
One Winter Street, 6th Floor
Boston, MA 02108

RE: Waterways Application #W157755
Doc's Restaurant, Long Wharf, Boston

Dear Mr. Lynch:

The Boston Harbor Association, a non-profit, public interest organization founded in 1973 to promote a clean, alive, and accessible Boston Harbor, has reviewed the Chapter 91 License application for the proposed Doc's Restaurant, Long Wharf, Boston.

The License application states that the Boston Redevelopment Authority and its designated developer, Eat Drink Laugh Restaurant Group, will redevelop the MBTA Pavilion, a "subway tunnel emergency ventilation and egress shaft and shade pavilion" authorized in Chapter 91 License #977 issued to the MBTA at the end of Long Wharf, for a waterfront restaurant, take-out facility, and outdoor seating patio. The proponent proposes to expand the existing MBTA structure and to use some of the existing public open space for the

restaurant's patio seating area. The Boston Harbor Association strongly supports the continued activation of this section of the waterfront, especially the end of Long Wharf, and believes that a restaurant can help activate the underutilized park end of Long Wharf.

As discussed at the 25 February 2008 public hearing on the project, the Department of Environmental Protection will ensure that the original Chapter 91 License issued to the MBTA for this site is kept intact, and will not be superceded by any new license given to the Boston Redevelopment Authority and/or its designated developer. For public safety reasons, it is crucial that emergency ventilation and egress from the MBTA Blue Line Aquarium station be maintained, and that location of the restaurant, kitchen, serving areas, etc., not impact subway ventilation and/or egress functions.

Public and Private Uses of Existing Site: Under the terms of two existing Chapter 91 licenses for this site, "a shade pavilion of timber and brick construction having a length of approximately 113.3 feet" (Chapter 91 License #977 issued to MBTA) and "a new wharf surface consisting of granite cobbles around the perimeter and brick adjacent to said previously authorized pavillion (sic) may be placed and maintained atop a concrete slab and granular fill base" (Chapter 91 License #988 issued to the Boston Redevelopment Authority).

Under the terms of both existing licenses, the shade pavilion and the wharf surface are open to

the public 24 hours a day, seven days a week, without barriers and regardless of patronage. As a result, the site is popular with workers and residents who wish to view the harbor and/or to enjoy a brown-bag lunch next to the harbor, and as a location for public viewing of fireworks, Tall Ships, and other harbor celebrations.

Under the proposed project, the proponent will enclose the existing publicly-available shade pavilion for restaurant use, expand the pavilion 1,225 sq. ft. into the existing open space, and use an additional 2,586 sq. ft. of the existing open space for outdoor seasonal seating. As discussed at the public hearing, there is the important issue of the footprint size of a private, for profit restaurant/cafe, both interior and exterior, when the space is effectively reducing the useable publicly accessible area. The economics of seating capacity needs to be balanced with the public interest of having a non-intrusive restaurant/cafe within an established and actively used accessible waterfront setting.

We urge that the footprint of the commercial seasonal seating area be kept to a minimum so that the general public can continue to enjoy the expansive public space. The size of the outdoor seasonal cafe seating area should be no larger than the size of the free outdoor seasonal seating area available for the general public, regardless of patronage, to be provided by the proponent. We urge that the License state that the free seating area for the general public should be clearly

marked and signed at all times during the relevant seasons, and can not be used by the restaurant/cafe, nor for private parties or private events.

Also, extreme care should be taken to ensure that the seating areas not impede pedestrian viewing nor access to the "Norman B. Leventhal Walk to the Sea" at Long Wharf. The "Norman B. Leventhal Walk to the Sea" will be constructed in 2008, and will be an important, much-welcomed new public feature from Long Wharf to Beacon Hill. We strongly urge the Department to require that the project's seating areas be sized and located in such a manner so as to not affect public access nor public enjoyment of the "Norman B. Leventhal Walk to the Sea."

We urge that the Chapter 91 License also reference at a minimum the conditions required of the proponent by the Boston Conservation Commission at its 7 November 2007 meeting: maintenance of the existing binoculars in working condition and benches currently on this section of Long Wharf for the term of the lease and/or Chapter 91 License, whichever is longer; maintenance of the HarborWalk segment and HarborWalk signage at this location for the term of the lease and/or license, whichever is longer; and granite steps next to the restaurant available for general public use at all times, including as seating for brown bag lunches, harbor viewing, Tall Ships events, and fireworks viewing. We urge that the Chapter 91 License require public rest rooms available to the general public, regardless of patronage of Doc's and/or its take-

out facility and placement of exterior signage indicating the availability of these rest rooms for the general public regardless of patronage, similar to the "Rest Rooms Are Open to the General Public" plaque prominently displayed outside of the nearby Joe's American Bar and Grill on Commercial Street.

We further request that the project proponent be required to provide interpretive signage about Long Wharf on the side closest to the Custom House Block building, similar in quality and scale to that found at the John Joseph Moakley Federal Courthouse, Tudor Wharf, along the Fort Point Channel, Deer Island, and newly erected at Commonwealth Pier.

Furthermore, we are hopeful that this public setting will have a park-like building expression and signage, with high design standards similar to cafes found at the Park at Post Office Square and at the South Boston Maritime Park.

We are pleased that this end of Long Wharf will be activated by a restaurant, and are optimistic that it will succeed at this location. In the unlikely event, however, that circumstances preclude a financially-viable non-water dependent use at this site, we ask that there be some flexibility to allow the structure to revert back to an open shade pavilion that the general public can enjoy at all times, regardless of patronage or fee.

We urge that the public rest rooms be located in a manner similar to the placement of public rest

rooms along the HarborWalk at the John Joseph Moakley Federal Courthouse. Those rest rooms are accessible directly from the HarborWalk, regardless of whether the Daily Catch Restaurant is open, and are shared between The Daily Catch patrons and the general public using the HarborWalk and dock.

Water-Dependent Uses: At the public hearing on this project and in the License application, there was little discussion about water dependent uses of this project, other than to suggest that the restaurant will be patronized by people using the HarborWalk. While it is recognized that a facility of public accommodation such as the proposed restaurant is intended to draw people to the waterfront and promote public use at this end of the wharf, the construction of a restaurant next to the HarborWalk in and of itself does not constitute a water-dependent use. We are eager to see how the project will draw people to this end of the wharf and how it will serve the water dependent uses at Long Wharf in general.

As a requirement of this License, we urge that the proponent incorporate water-dependent uses into the project by one or more of the following means: making improvements to the infrastructure to support water-dependent uses authorized in the 1983 Chapter 91 License; construct a fish cleaning station; or construct safety ladders, similar to those found along other parts of the waterfront.

Replacement and/or Enhancement of Existing Public Amenities: Under the existing Chapter 91 Licenses,

a shade pavilion is provided for use by the general public, free of charge 24 hours, 7 days a week. During the public hearing and in the License application, the proponent did not indicate how and where these amenities would now be provided. The proponent should commit to providing shaded seating for the general public seats.

In addition, no analysis of how view corridors may be affected by proposed additions to the vent structure was included. The view through the structure will now be closed off, and the proposed addition on the north side of the structure may also limit existing views. As discussed at the public hearing, we ask that information regarding view corridors be provided.

Marine Debris: The Boston Harbor Association manages a public-private partnership to collect marine debris in Boston Harbor each summer. Thanks to funding from the Massachusetts Water Resources Authority, Massport, City of Boston's Environment Department, and Eastern Salt Company, tons of floating debris are removed every summer from Boston Harbor and its tributaries to ensure a cleaner harbor for swimmers, boaters, and marine life.

The on-water program is supplemented by extensive efforts to prevent debris from entering the Harbor. Because the end of Long Wharf can be extremely windy, the License should require an annual maintenance plan which includes emptying trash receptacles at least twice a day from Memorial Day

to Columbus Day and at least once a day other times, as well as work to ensure that trash from the restaurant's take out facility does not end up in Boston Harbor.

Also, the maintenance plan should state where trash will be stored, how it will be removed, and ensure that trash generated by users of the site does not become marine debris in Boston Harbor.

Water Quality: No vehicular traffic is proposed on the site, and the proponent indicates that stormwater from this project will consist of runoff from surfaces that are not subject to automobiles, such as rooftops, patios, and walkways.

No snow removal plan has been included, and the proponent should indicate in the maintenance plan that snow will not be dumped into Boston Harbor. Also, non-toxic de-icing materials for walkways should be included as part of the maintenance plan, as well as best management practices.

Thank you for your consideration.

Sincerely,

Vivien Li
Executive Director
The Boston Harbor
Association