



20 November 2007

Secretary Ian Bowles  
Executive Office of Energy and Environmental  
Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114  
ATT: MEPA Office

RE: EOE #14119- Environmental Notification Form, Doc's Restaurant, Long Wharf, Boston

Dear Secretary Bowles:

The Boston Harbor Association, a non-profit, public interest organization founded in 1973 by the League of Women Voters and the Boston Shipping Association to promote a clean, alive, and accessible Boston Harbor, has reviewed the Environmental Notification Form for Doc's Restaurant, Long Wharf, Boston.

In 1983, the Department of Environmental Protection issued a Chapter 91 License to the Massachusetts Bay Transportation Authority (MBTA) for the construction of a "subway tunnel emergency ventilation and egress shaft and shade pavilion at Long Wharf" (License #977), and the subsequent Chapter 91 License #988 to the Boston Redevelopment Authority for improvements to the area surrounding the pavilion, including a new wharf surface, bollards, lighting, storm drainage system, construction of piles and dolphins, and stabilization of the existing outer granite bulkhead.

During the past decade, significant public improvements have been made to this portion of Long Wharf, particularly by the Boston Redevelopment Authority and by Custom House Block Trust. The BRA completed a HarborWalk segment behind the Marriott Long Wharf Hotel, creating a significantly-improved connection between Long Wharf and Christopher Columbus Waterfront Park, the latter recently renovated and maintained by the Boston Parks and Recreation Department. In the last three years, the BRA has made substantial capital improvements to stabilize the seawall at Long Wharf, and with funding from the Executive Office of Transportation, has made the Long Wharf dock ADA-compliant. At its own initiative, the Custom

House Block Trust constructed a HarborWalk segment around its building at 66 Long Wharf. Next summer, a new dock and ticketing area will be completed next to Christopher Columbus Waterfront Park for use by visitors to the Boston Harbor Islands.

The 15 October 2007 Environmental Notification Form filed by the BSC Group on behalf of the Boston Redevelopment Authority and its designated developer, Eat Drink Laugh Restaurant Group, calls for the redevelopment of the MBTA Pavilion at the end of Long Wharf for a waterfront restaurant 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.

Our comments on the ENF submitted by the proponent follows. While we have identified a number of issues, we believe that many of them can and will be addressed during the Chapter 91 licensing process and City of Boston review, and do not believe that an environmental impact report is necessary.

Existing Chapter 91 License: The Chapter 91 License for the existing structure at the end of Long Wharf was granted to the MBTA for MBTA Blue Line ventilation, for Blue Line tunnel egress in the event of an emergency, and as a shade structure. With the multi-million dollar improvements made to the MBTA Aquarium Station in the past five years, including extension of train platforms to allow for longer MBTA cars to serve more riders, the primary purposes of the site and pavilion must continue to be for ventilation and emergency egress for MBTA passengers and workers.

The ENF filing does not adequately acknowledge the public safety importance of the existing site and structure as it relates to MBTA Blue Line usage, nor how MBTA public safety measures will be protected and/or enhanced by this project, and we assume that the Secretary's Certificate will ensure that no activities from this project will impede and/or adversely affect ventilation to the Blue Line and/or which affect emergency egress from the Blue Line tunnel beneath the site.

Clarifications: The ENF filing indicates that the existing structure will be expanded by approximately 1,225 square feet and will incorporate 530 square feet of existing open space for an outdoor restaurant patio. At the 7 November 2007 Boston Conservation Commission meeting, the project proponent indicated that the outdoor patio seating area would be more than double the size stated in the ENF. If this is the case, the ENF filing should be amended to reflect the actual dimensions of existing open space which are

proposed to be used for the patio seating area, or alternatively, the Secretary's Certificate should indicate that the actual size of the patio seating area will be established during the Chapter 91 licensing process.

Second, the ENF's Project Description section makes a number of assertions regarding enhancement of water-dependent uses: "Doc's Restaurant includes a non-water dependent facility of public accommodation on filled tidelands. The majority of the site will remain as open space and the proposed development will reinvigorate the Harborwalk for utilization of water-dependent purposes... The proposed restaurant will primarily serve people using the harbor walk (sic)- a water dependent use... The proposed plan and the purpose of the RFP process serve to promote public use of the water dependent activity on site in a clearly superior manner."

As previously noted, the Boston Redevelopment Authority's 1983 Chapter 91 License for this site provided for a number of infrastructure improvements to support water-dependent uses: stabilization and maintenance of the granite bulkhead; 35 piles around the external perimeter of the outer granite seawall; and three clusters of dolphins, each containing eight piles, to be maintained on the harbor side on the easterly end of the wharf.

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, additional clarification is needed during the Chapter 91 licensing process regarding how the proposed restaurant will enhance water-dependent activities since the construction of a restaurant next to the HarborWalk in and of itself does not constitute a water-dependent use. Besides the measures that the proponent is considering to enhance water-dependent uses on the site, we would urge consideration of improvements to the infrastructure to support water-dependent uses authorized in the 1983 license; construction of a fish cleaning station; construction of safety ladders, similar to those found along other parts of the waterfront; and possible construction of a water taxi dock.

Open Space: Under the terms of the MBTA's Chapter 91 License #977, "a shade pavilion of timber and brick construction having a length of approximately 113.3 feet and a width of approximately 29 feet may be constructed and maintained atop said ventilation shaft and section of Long Wharf." Drawing C-1 of Chapter 91 License #977 shows an open-sided pavilion available for use by the general public 24 hours a day, 7 days a week.

License #988, issued to the Boston Redevelopment Authority in 1983, allowed for existing concrete and timber decks to be removed, 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" (page 2 of License).

Under the terms of both existing Chapter 91 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.

In the October, 2007 ENF filing, consistent with the Boston Redevelopment Authority's 2006 request for proposal, the proponent proposes to enclose the previously-authorized public shade pavilion and to use part of the currently publicly-accessible wharf surface for a restaurant, take-out facility, and outdoor patio dining. Moreover, since the ENF filing, the proponent has represented at the most recent Boston Conservation Commission hearing that they propose to more than double the size of the outdoor dining patio which currently is public open space and available for use regardless of any patronage or fee.

In our discussions, there is the important issue of the footprint size of a private, for profit restaurant/café, both interior and exterior, when the space is effectively reducing the useable public park area. The filings should be clear about the available area for the interior space, and very clear about the fully public nature of the outdoor seating. The economics of indoor seating capacity needs to be balanced with the public interest of having a non-intrusive restaurant/café within an established and actively used park setting.

In that light, the outdoor seating area in the public park area should be open to the public, and not cordoned off or effectively privatized for restaurant patrons. As an example, while it is implied that the seats and tables next to the café at the Park at Post Office Square are for café patrons, there is no fence or indication that the general public isn't welcome to use the tables as well.

As part of the discussion at the 7 November 2007 Boston Conservation Commission meeting regarding the potential privatization and commercial use of currently publicly available open spaces, the project proponent agreed to the following as part of the project's Order of Conditions: maintenance of the existing binoculars and benches currently on this section of Long Wharf for the term of the lease and/or license; maintenance of the HarborWalk segment and HarborWalk signage at this location for the term of the lease and/or license; some seats and tables available to the general public, regardless of patronage of Doc's and/or its take-out facility; public rest rooms available to the general public, regardless of patronage of Doc's and/or its take-out facility; and granite steps next to the restaurant available for general public use at all times, including as seating for brown bag lunches, harbor viewing, and fireworks viewing. We urge that signage

indicating the availability of the rest rooms for the general public be prominently displayed, 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 Atlantic Avenue.

As part of the state's permitting, we ask that the project proponent provide interpretive signage about Long Wharf, 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.

In addition, as part of the Boston Redevelopment Authority review, we are hopeful that this park 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 the project proponent to locate the public rest rooms 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.

Replacement of Public Amenities: During the Chapter 91 licensing process, there will be discussion about replacing the existing useful public amenities, specifically, the existing shade and wind pavilion provided by the open vent building. The proponent should indicate how and where these amenities will be provided.

In addition, an analysis of how view corridors may be affected by proposed additions to the vent structure should be included. While the view through the structure will be closed off, the proposed addition on the north side of the structure may also limit existing views.

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 getting into the Harbor. Because the end of Long Wharf can be extremely windy, the project proponent should empty 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 its take-out facility does not end up in Boston Harbor.

The ENF filing does not clearly state where trash will be stored, nor how it will be removed from the site each night. The Secretary's Certificate should direct EOEAA agency permits to contain conditions to ensure that the 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 is included in the ENF filing, and the proponent should note that state regulations prohibit snow from being dumped into Boston Harbor. De-icing materials for walkways should be non-toxic. As part of the operations plan for this site, the proponent should incorporate best management practices.

Sustainable Development: We encourage the project proponent to strive for LEED certification, with particular attention to water conservation, recycling, and opportunities to incorporate alternative energy technologies.

Historic Resources: The project site lies within the Long Wharf National Historic Landmark District designated in 1966. At TBHA's 25 October 2007 Harbor Use Committee meeting, several members urged the project proponent to be sensitive to the landmark district designation as the proponent finalizes building materials and restaurant signage.

Committee members also suggested that Boston Redevelopment Authority interns should complete an inventory of signage on Long Wharf, including those found at commercial establishments, water transportation, cultural facilities and hotels, and that the BRA should work towards some general signage guidelines for Long Wharf.

Thank you for your consideration. We look forward to a timely review of these matters so that activation of this end of Long Wharf along Boston Harbor can be implemented by summer, 2008.

Sincerely,

Vivien Li  
Executive Director