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July 20, 2018

The Honorable Theodore C. Speliotis
24 Beacon Street, Room 20
Boston, MA 02133

The Honorable Carole Fiola
24 Beacon Street, Room 236
Boston, MA 02133

Re: H.4505, An Act authorizing Commercial Wharf East Condominium Association under the Public Trust Doctrine and preventing residents from being forced to leave

Dear Mr. Chairman Speliotis and Madam Vice Chairwoman Fiola,

On behalf of Boston Harbor Now we are writing to express our strenuous opposition to House Bill 4505, "An Act authorizing Commercial Wharf East Condominium Association under the Public Trust Doctrine and preventing residents from being forced to leave."

Boston Harbor Now is a non-profit civic organization existing for one purpose—to plan, advocate and activate a thriving waterfront, harbor, and Boston Harbor Islands National and State Park. The thoughtful and uniform application of the Massachusetts Public Waterfront Act (Chapter 91) and its implementing regulations are essential to the success of this critically important mission.

Chapter 91 is based on the pre-colonial public trust doctrine. It is the main vehicle for protecting the public's rights and access to our waterfront, including by tightly regulating development of historic Commonwealth Tidelands like those on which Commercial Wharf is constructed.

The Massachusetts Department of Environmental Protection (MassDEP) is responsible for enforcing Chapter 91 and its implementing regulations in a lawful way. These regulations and the processes for implementing them are necessarily complex. We appreciate that Commercial Wharf East Condominiums, the owner of the property that is the subject of House Bill 4505, might prefer otherwise but site-specific legislative exemptions to the rules would have catastrophic consequences for the public's rights, the orderly development of the waterfront, and be grossly unfair to the countless owners of properties on the waterfront throughout Massachusetts who have incurred considerable expense to comply with them.

A site-specific legislative exemption would be particularly controversial in this case involving over a decade of non-compliance with those rules, certain of which is the subject of pending litigation brought by the Massachusetts Attorney General.

We urge you to resist this attempt to interfere with the enforcement of a most important law by MassDEP and the Office of the Attorney General and to unfavorably report House Bill 4505 out of your Committee.

Thank you for hearing our concern.

Sincerely,



Kathy Abbott
CEO & President



Jill Valdés Horwood, JD LL.M.
Director of Policy

cc: Speaker Robert DeLeo
Representative Aaron Michlewitz
Attorney General Maura Healey
Secretary Matthew Beaton
Commissioner Martin Suuberg