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October 28, 2019

The Honorable Anne M. Gobi  
24 Beacon Street, Room 513  
Boston, MA 02133

The Honorable Smitty Pignatelli  
24 Beacon Street, Room 473F  
Boston, MA 02133

*Re: H.833, An Act confirming Commercial Wharf East Condominium Association present uses as authorized by the Downtown Waterfront-Faneuil Hall Urban Renewal Plan and Chapter 663 of the Acts of 1964 and Chapter 310 of the Acts of 1972 and preventing residents from being forced to sell their property and leave*

Dear Madam Chairwoman Gobi and Mr. Chairman Pignatelli,

On behalf of Boston Harbor Now, we are writing to express again our strenuous opposition to House Bill 833, "An Act confirming Commercial Wharf East Condominium Association present uses as authorized by the Downtown Waterfront-Faneuil Hall Urban Renewal Plan and Chapter 663 of the Acts of 1964 and Chapter 310 of the Acts of 1972 and preventing residents from being forced to sell their property and leave." We wrote a letter to the same effect dated July 20, 2018 regarding what was then listed as House Bill 4505.

Boston Harbor Now is a non-profit civic organization that plans, activates, and advocates for a thriving waterfront, harbor, and islands in Boston Harbor to ensure that it remains welcoming to all and resilient in the face of climate change and sea level rise. 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 public trust doctrine dating back to the initial settlement of the Massachusetts Bay Colony and continues to ensure the public's rights along the waterfront and tidelands of the Commonwealth today. It is the primary legal and regulatory tool for protecting the public's rights and access to our waterfront, particularly the development of historic Commonwealth Tidelands and piers 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 the Commercial Wharf East Condominium Association, and the unit owners of condominiums it represents at the property that is the subject of House Bill 833, might prefer otherwise, but site-specific legislative exemptions to the rules would have catastrophic consequences for the public's rights and the orderly development of the waterfront. It would also be grossly unfair to the countless owners of properties on the waterfront throughout Massachusetts who have incurred considerable expense to comply with them, including condominium associations and unit owners in Charlestown, East Boston, South Boston, and other waterfront neighborhoods throughout the city and region.

A site-specific legislative exemption would be particularly controversial in this case because it involves over a decade of non-compliance with those rules, certain of which matters are the subject of on-going litigation brought by the Massachusetts Attorney General on behalf of members of the public. The violations alleged are documented and long-known and have been long-unaddressed by the purported beneficiaries of this special interest legislation.

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 833 out of your Committee.

Thank you for hearing our concerns, articulated on behalf of the public in support of their use of, and access to, the Commonwealth's waterfront.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Abbott", with a stylized, cursive script.

Kathy Abbott  
President and CEO