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March 28, 2022

VIA EMAIL (Karen Kelleher — kkelleher@stow-ma.gov)

Town of Stow
Board of Appeals
380 Great Road
Stow, MA 01775-2127

RE: Appeal from Unfavorable Action (dated January 6, 2022)
Applicant: Mark D. Forgues
Property: 84-102 Great Road
Owner: Presti Family Limited Partnership

Dear Chair and Members of the Stow Zoning Board of Appeals:

As you know, we represent Richard Presti and the Presti Family Limited Partnership (hereafter “Presti”), the owner of the Property involved in this Appeal.

Following the ZBA’s hearing on March 7, 2022, and considering the ZBA’s subsequent Decision on the Presti application for a special permit, we write at this time to succinctly review the issues before the Board in this appeal, and to summarize Presti’s views on those issues.

Initially, I would like to remind the Board that I have a cataract procedure scheduled on March 31, 2022. While I anticipate being fully-recovered and able to attend and participate on April 4, 2022, in the event that I am unable to do so, Mr. Presti will request a continuance of this matter. Your understanding and courtesy in this regard are appreciated.

Mr. Presti's responses to the assorted arguments and appeals filed by Mr. Forgues have been set forth before. To briefly recap, they are as follows.

1. *Alleged 'abandonment' of the automobile use*

This particular issue was *not* raised in Mr. Forgues's January 6, 2022 appeal. It has been waived, and is therefore not before this Board. Even if considered, in its prior Decision in this case (dated December 16, 2021) this Board specifically adopted the conclusion of its earlier decision (dated December 20, 2017) that the automobile uses were *not* abandoned.

2. *Grandfathered uses as of 1968*

This issue — about what parcels were owned by the Erkkimens in 1968 — was not raised in Mr. Forgues's original enforcement request to the Building Commissioner on October 4, 2021. Thus, Mr. Ramsbottom has never considered it, reviewed it, or ruled on it. Obviously, there is no mention of this theory in the Building Commissioner's first response (by email, on October 5, 2021), or his response after remand (by letter, dated December 21, 2021). The Board should therefore strike this issue from its consideration. Furthermore, in its decision on the Presti application for a special permit for a carport on the Property, this Board has indicated that (i) its December 20, 2017 Decision found that the automobile uses covered both parcels, and (ii) in any event, this Decision is currently pending in the Land Court. See ¶ 5.3.

3. *Licenses and Vehicles on the Property*

Because the issues listed above are not before the Board in this appeal, the only issue(s) actually before the Board are Mr. Forgues's myriad attacks on the number and identity of Class II licenses on the Property, and on the total number of vehicles permitted on the Property. The Building Commissioner found that the issuance of multiple licenses "does not itself translate to an increase in use." This should be affirmed. As for the total number of vehicles permitted, Mr. Forgues has not provided any evidence — to the Building Commissioner or to this Board — of a substantial extension or increase in the number of vehicles that would constitute a change in use under the applicable legal standard.

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For all these reasons, this Board should affirm the December 21, 2021 Decision of the Building Commissioner.

Thank you for your attention and consideration of this matter.

Very truly yours,

/s/ Robert E. McLaughlin, Sr.

Robert E. McLaughlin, Sr.