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February 26, 2019

***VIA EMAIL: vdelacruz@stamfordct.gov and cpia@stamfordct.gov***

Reps. Virgil de la Cruz and Charles Pia, Jr.  
Co-Chairs  
Land Use-Urban Redevelopment Committee  
Board of Representatives  
888 Washington Boulevard, 4th Floor  
Stamford, CT 06901

Re: LU30.025 - Petition for Appeal of Amendment to the Master Plan for B&S  
Carting Site (Application MP-432)

Dear Co-Chairs de la Cruz and Pia:

This firm represents The Strand/BRC Group LLC, 5-9 Woodland Avenue LLC, Woodland Pacific LLC and Walter Wheeler Drive SPE LLC, which are the owners of certain properties known as 707 Pacific Street; 5, 9, 17, 21, 23, 25, 29, 39 and 41 Woodland Avenue and 796 Atlantic Street. As you are aware, these properties were recently the subject of an approval for a change to the Master Plan of the City of Stamford under application MP-432.

I am writing to inform you of illegal actions taken by the Board of Representatives ("Board") in violation of the City's Charter with regard to the acceptance and consideration of the petition seeking to challenge the Planning Board's approval of amendment MP-432. In particular, actions by the Board purporting to accept this invalid petition violate sections C6-30-7 and C6-30-21 of the City's Charter.

The violation of section C6-30-7 is well documented at this point. As stated in previous correspondence and testimony from other representatives of my clients, the petition falls well short of the necessary number of signatures required by this section. This fact has been confirmed by the Board's own Corporation Counsel and Legislative Officer, both of whom analyzed the petition and concluded that it did not satisfy section C6-30-7 with

regard to amendment MP-432. The committee you chair, the Land Use-Urban Redevelopment Committee of the Board of Representatives (“Committee”), wisely heeded this advice and voted unanimously in favor of rejecting the petition as to that application, only to subsequently reverse itself at a later meeting and vote instead in favor of recommending that the Board accept the petition. This action, and the subsequent vote by the Board purporting to accept the petition with respect to MP-432, violate section C6-30-7 and deprives the Board of authority and jurisdiction to consider the invalid petition.

The Board’s violation of section C6-30-21 is equally fatal to its consideration of the petition. Pursuant to section C6-30-21, “in deciding *all matters* referred to the Board of Representatives pursuant to this Chapter [referral of challenges to Planning Board decisions to the Board of Representatives], the affirmative vote of a *majority of the entire membership of said Board* shall be required.” (Emphasis added.) Because the decision of whether to accept the petition is undoubtedly covered by this section, that matter required twenty-one votes (a majority of the forty members of the Board) in favor in order to pass. However, only *seventeen* members of the Board voted in favor of accepting the petition at the meeting held on February 21, 2019, four fewer than is required under the Charter.

Therefore, although the Board has declared that it “accepted” the petition as to amendment MP-432, under the clear language of the Charter, it has not. This means the Committee and Board are without authority or jurisdiction to consider the petition, and therefore, cannot contemplate the merits of the Planning Board’s decision on amendment MP-432. *See Perretta v. City of New Britain*, 185 Conn. 88, 92 (1981) (“[A]gents of a city, including its commissions, have no source of authority beyond the charter.”) Moreover, any vote by either body on whether to approve or disapprove of the amendment would not be valid. *See, id.*

The Connecticut Supreme Court has repeatedly said that “a city’s charter is the fountainhead of municipal powers” and a municipal board, like the Board of Representatives, has “no source of authority beyond the charter.” *See, e.g., id.; Cilley v. Lamphere*, 206 Conn. 6, 12 (1988). The actions of the Board and Committee, as outlined above and in previous correspondence and testimony, are in violation of the Charter and are therefore illegal.

If the Board and Committee continue to consider the petition as to amendment MP-432, despite a clear lack of authority under the Charter to do so, my clients are prepared to pursue all appropriate legal remedies, including the immediate commencement of litigation against the Board and City seeking injunctive relief, an order of mandamus, administrative review, money damages, and attorneys’ fees and costs, among other potential remedies or relief.

Virgil de la Cruz and Charles Pia, Jr.

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February 26, 2019

Nothing herein shall operate as a waiver of any right, claim, power or remedy of the aforementioned property owners and the property owners expressly reserve all such rights, claims, powers and remedies herein.

Sincerely,

A handwritten signature in cursive script, appearing to read "John W. Cannavino".

John W. Cannavino

cc: Ted Ferrarone  
John Freeman  
Kathy Emmett  
Matt Quinones  
Susan Nabel  
Rodney Pratt  
Mary Fedeli  
Valerie Rosenson  
Ralph Blessing  
David Woods