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June 3, 2022

**VIA EMAIL—[regulatory@capecodcommission.org](mailto:regulatory@capecodcommission.org)**

Cape Cod Commission  
Attention: Harold Mitchell, Chair of Commission and  
Subcommittee on 35 Scudder Avenue  
3225 Main Street  
Barnstable, Massachusetts 02630

RE: CCC File # DA20065 – Emblem Hyannis  
Participation of Commissioner Fred Chirigotis

Dear Mr. Chairman:

During closing comments at the May 31 hearing of the subcommittee reviewing the apartment complex proposed for 35 Scudder Avenue, at which you presided, Commissioner and Subcommittee member Fred Chirigotis stated that housing is important, that there is no alternative for this property, that it is not realistic as open space, and that he was ready to move forward to approve the project. Mr. Chirigotis' remarks evidence a closed mind that has prejudged this project before all testimony has been received and discussed and an unwillingness or inability to perform his duties regarding this matter in accordance with the Cape Cod Commission Act and Commission regulations and policies.

The Communications Policy for Cape Cod Commission Members states (emphasis added):

“Members of DRI subcommittees and the full Commission *serve in a quasi-judicial role* during the pendency of DRI review. . . . During the pendency of the DRI review as well as during the appeal period on each DRI, *members should not express any opinions on the project, nor should they make any statements which may be construed to show any prejudgment or bias* on the project itself.”

The Q&A in the policy says (emphasis added):

“*Statements* that a member makes either prior to or during the DRI *which may be perceived as projecting the appearance of either a closed mind (whether it be about the project or the applicant), a conclusion on facts about that DRI that are made before the Commission hears the project, or an opinion about the facts of the project may be considered to show bias.*”

Under Section 13 of the Cape Cod Commission Act and Section 6(c)(viii) of Chapter A of the Commission's regulations, the Commission may approve a DRI (with or without conditions) only after completing public hearings, reviewing and weighing the evidence presented orally and in writing, and making specific findings, including that the project is consistent with the Regional Policy Plan. The Subcommittee has yet to hear testimony—whether favorable or unfavorable to the

proposed development—on the whole suite of RPP goals and objectives addressing natural systems. These include such crucial matters as impacts on water resources, wetland resources, open space, and wildlife and habitat. Mr. Chirigotis made abundantly clear that he will not consider all the statutorily mandated factors or all the provisions of the RPP. Instead, he has shown unequivocally that he has prejudged this project, not waiting to hear evidence on the multitude of topics remaining for the subcommittee to hear, and has violated the Communications Policy for Cape Cod Commission Members. This conduct also may deter members of the public who otherwise would address the important remaining areas from doing so.

The people of Cape Cod as well as the applicant deserve a full and fair hearing, before a body that will hear and weigh the evidence impartially in light of the factors your governing statute mandates and the Regional Policy Plan you have adopted. Mr. Chirigotis' actions have tainted this proceeding. He should resign as a member of the Subcommittee and refrain from any discussion or vote on this project at the Subcommittee or the full Commission. If he fails or refuses to do so, as Chair of the Commission you should remove him from this Subcommittee and ensure he does not participate in any discussion of or vote on this project.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Wielgus", is centered on a light yellow rectangular background.

cc: Jessica Wielgus, Commission Counsel—[jwielgus@capecodcommission.org](mailto:jwielgus@capecodcommission.org)  
Members of the Barnstable Town Council (via Cynthia Lovell, Administrator)—  
[cynthia.lovell@town.barnstable.ma.us](mailto:cynthia.lovell@town.barnstable.ma.us)