JULY 2, 2020 – TESTIMONY ON BEHALF OF THE MORAVIAN CHURCH VI CONFERENCE RE SUMMERS END CZM PERMIT

GOOD MORNING, HONORABLE SENATORS OF THE 33RD LEGISLATURE. MY NAME IS SAMUEL RYMER, PROPERTY MANAGER OF THE MORAVIAN CHURCH VI CONFERENCE, AND WITH ME IS THE SUPERINTENDENT OF THE MORAVIAN CHURCH VI CONFERENCE, THE REVEREND EULENCINE CHRISTOPHER. WE REPRESENT THE MORAVIAN CHURCH VI CONFERENCE AND WE THANK THE SENATE PRESIDENT, NOVELLE FRANCIS, FOR BEING ALLOWED TO APPEAR TO PRESENT TESTIMONY AGAIN THIS MORNING TO THE LEGISLATURE, AS YOU CONSIDER THE RENEWED REQUEST OF THE SUMMERS END GROUP, LLC FOR A PERMIT TO CONSTRUCT A MARINA IN WATERS OF CORAL BAY.

WE DO WISH TO RESPECTFULLY NOTE OUR OBJECTION TO THE FACT THAT WE WERE NOT GIVEN ADVANCE NOTICE OF THIS HEARING BY THE LEGISLATURE, DESPITE HAVING

BEEN AN ACTIVE PARTICIPANT IN YOUR PREVIOUS HEARING. WE LEARNED OF THE HEARING AND THE DEADLINE FOR FILING TESTIMONY ONLY INFORMALLY, AND FOR THAT REASON, WE DID NOT HAVE SUFFICENT TIME TO PREPARE OUR TESTIMONY FOR YOU IN AS CAREFUL A MANNER AS WE WOULD HAVE LIKED. WE WOULD ASK THAT AS TO ANY FUTURE PROCEEDINGS ABOUT THIS MATTER, WE BE GIVEN REASONABLE ADVANCE NOTICE.

AS THE SENATE MAY RECALL, WE TESTIFIED BEFORE THIS BODY WHEN THE PERMIT WAS PREVIOUSLY BEFORE YOU IN OCTOBER OF LAST YEAR. AS WE EXPLAINED THEN, WE HAVE OBJECTED TO THIS PERMIT FOR A NUMBER OF REASONS. WE WISH TO EXPRESS OUR APPRECIATION TO THE LEGISLATURE FOR ITS DECISION NOT TO APPROVE THE SUMMERS END PERMIT AT THAT TIME, AND, AS WE UNDERSTAND, ALSO TO REFUSE A LATER SUBMISSION THAT YOU DETERMINED WAS NOT DONE IN A LAWFUL MANNER.

AS YOU KNOW, THE MORAVIAN CHURCH VI CONFERENCE HAS OBJECTED TO THE ORIGINAL DECISION OF CZM TO GRANT A PERMIT TO THE GROUP NAMED SUMMERS END, TO CONSTRUCT A MARINA AND OTHER STRUCTURES IN CORAL BAY, BECAUSE THE SUMMERS END PROJECT WOULD BOTH SUBSTANTIALLY DAMAGE THE COASTAL ZONE ENVIRONMENT, AND DEPRIVE THE MORAVIAN CHURCH OF ITS RIGHTS, AS AN HISTORIC OWNER OF SHORELINE PROPERTY ABUTTING CORAL BAY, INCLUDING THE RIGHT TO FULL AND EQUITABLE USE OF ITS LAND AS A SITE FOR A LONG-PLANNED MARINA. THE MORAVIAN CHURCH VI CONFERENCE OBJECTED TO THIS PERMIT AND CURRENTLY HAS PENDING BEFORE THE SUPERIOR COURT OF THE VIRGIN ISLANDS, A LEGAL ACTION CHALLENGING THE COMMISSION'S DECISION TO APPROVE THE PERMIT. WE SUBMITTED TO YOU A COPY OF OUR PETITION TO THE COURT AND OUR BRIEFS IN THE MATTER,

WHICH IS STILL CURRENTLY PENDING BEFORE THE SUPERIOR COURT.

AFTER THAT PREVIOUS HEARING, THE LEGISLATURE REJECTED THE PERMIT WITH A NUMBER OF OBJECTIONS. SINCE THAT PREVIOUS HEARING, WE HAVE LEARNED THAT SUMMERS END REPORTEDLY MANAGED TO OBTAIN A "REVISED PERMIT" FROM THE CHAIRMAN OF CZM, WITHOUT ANY CONSIDERATION BY THE CZM COMMITTEE AS A WHOLE, AND THAT THEY ALSO SECURED CONSENT OF THE GOVERNOR TO MODIFY THE PERMIT IN CERTAIN WAYS IN A PROCEEDING IN WHICH THE MORAVIAN CHURCH CONFERENCE WAS GIVEN NO OPPORTUNITY TO BE HEARD, OR TO HAVE OUR INTERESTS CONSIDERED. AS WE UNDERSTAND THE REVISED PERMIT, IT MAKES NO PROVISION TO ADDRESS THE SERIOUS CONCERNS OF THE MORAVIAN CHURCH CONFERENCE THAT WE HAVE LONG RAISED. PUT SIMPLY, WE HAVE BEEN TOTALLY IGNORED BY SUMMERS END.

WE SUBMIT TO YOU THAT THIS RECENT PROCESS ATTEMPTING TO CREATE AN AMENDED PERMIT, WITHOUT INVOLVEMENT OF THE FULL CZM COMMITTEE AND WITHOUT ANY PUBLIC INPUT, IS UNFAIR AND SHOULD BE TREATED AS ILLEGAL.

THE COURT CHALLENGE WE HAVE PENDING AGAINST SUMMERS END PRESENTS A SERIES OF IMPORTANT ISSUES, NOT ONLY FOR THE MORAVIAN CHURCH AND THE CORAL BAY COMMUNITY, BUT FOR THE VIRGIN ISLANDS AS A WHOLE. WE RESPECTFULLY SUBMIT THAT IT WOULD BE UNFAIR AND IMPROPER FOR THIS LEGISLATURE TO PROCEED TO APPROVE THIS REVISED PERMIT APPLICATION NOW, WITHOUT AWAITING THE COURT'S RULING ON OUR LEGAL CONTENTIONS.

IN FACT, IF THAT WERE TO OCCUR, AND CONSTRUCTION WERE TO BEGIN, FOLLOWED BY A RULING IN FAVOR OF THE MORAVIAN CONFERENCE BY THE COURT, WE MIGHT FACE A SCENE OF PARTIAL CONSTRUCTION IN

THIS IMPORTANT BAY, LEAVING BOTH ENVIRONMENTAL DAMAGE AND AN EYESORE FOR THE COMMUNITY. WE HEREBY ASK THAT THE LEGISLATURE SHOULD AWAIT A DECISION BY THE COURT ON THIS PENDING MATTER, WHICH RAISES SUCH IMPORTANT LEGAL ISSUES, BEFORE PROCEEDING TO CONSIDER THIS UNUSUAL REVISED PERMIT WHICH WE HAD NO OPPORTUNITY TO ADDRESS.

WHILE WE PREVIOUSLY SUBMITTED TO YOU COPIES OF OUR BRIEFS, FILED WITH THE BOARD OF LAND USE APPEALS AND THE SUPERIOR COURT, TO FULLY DETAIL OUR LEGAL OBJECTIONS TO THIS PERMIT, WE WANT TO TAKE THE OPPORTUNITY YOU HAVE GIVEN US TO AGAIN HIGHLIGHT SOME OF THE MOST COMPELLING ISSUES THAT WOULD AFFECT THE MORAVIAN CONFERENCE.

FIRST, AS WE HAVE MENTIONED IN OUR PREVIOUS TESTIMONY, THE MORAVIAN CHURCH VI CONFERENCE OWNS PROPERTY ABUTTING CORAL BAY AND VERY CLOSE TO THE SITE OF THE PROPOSED SUMMERS END MARINA,

WHICH WOULD BE A VAST COMPLEX OF LAND AND WATER BASED STRUCTURES. UNFORTUNATELY, WHILE WE PRESENTED OUR CONCERNS AND OBJECTIONS TO THE SUMMERS END PLANS TO CZM, THE ST. JOHN COMMITTEE DID NOT GIVE ANY SERIOUS CONSIDERATION TO OUR PRESENTATION. IN FACT, THE COMMITTEE, FAILED TO EVEN ADDRESS THE LITTORAL RIGHTS OF NEIGHBORING PROPERTY OWNERS, SUCH AS THE MORAVIAN CHURCH VI CONFERENCE, ALTHOUGH THOSE RIGHTS IMPLICATE MULTIPLE GOALS AND PRINCIPLES ADOPTED FOR THE U.S. VIRGIN ISLANDS COASTAL ZONE IN THE CZM ACT. (Such as12 V.I.C. §§ 903(B)(4)-(6) AND (8).

THOUGH THE MAPS OF THE PROPOSED DEVELOPMENT SUBMITTED BY SUMMERS END CLEARLY STRETCHED OUT TO CONSUME THE VAST MAJORITY OF THE ENTIRE AREA OF NAVIGABLE WATER IN CORAL BAY AND THOUGH MULTIPLE MEMBERS OF THE PUBLIC AND OWNERS OF LITTORAL LAND IMPACTED BY THE DEVELOPMENT OF SUCH A MASSIVE

MARINA TESTIFIED TO THE EXCESSIVE SIZE OF THE PROPOSED MARINA AND ITS ENCROACHMENT UPON THE LITTORAL RIGHTS OF NEIGHBORING PROPERTY OWNERS, CZM DID NOTHING TO ADDRESS THIS CRITICAL CONCERN IN ITS DECISION TO APPROVE THE PERMIT.

TO THE EXTENT THAT WE HAVE ANY UNDERSTANDING OF THE REVISED PERMIT, THAT WAS SOMEHOW CHANGED IN PRIVATE PROCEEDINGS WITH THE CZM CHAIR ALONE, AND THE GOVERNOR, BUT WITHOUT ANY PUBLIC INPUT, AND WITHOUT ANY OPPORTUNITY FOR THE MORAVIAN CHURCH CONFERENCE TO BE HEARD, IT APPEARS THAT IT DOES NOT CORRECT ANY OF THE MAJOR CONCERNS WE HAVE EXPRESSED.

AT THE PUBLIC HEARING, AND IN WRITTEN SUBMISSIONS, WE PRESENTED OUR STRONG OBJECTIONS TO THE PROPOSED MASSIVE MARINA, BECAUSE IT WAS SITED AND DESIGNED TO EFFECTIVELY CONSUME ALL AVAILABLE MARINA CAPACITY AND MORE, WHEN IT WAS WELL KNOWN

THAT THE MORAVIAN CHURCH CONFERENCE HAD LONG BEEN PLANNING A MARINA DEVELOPMENT ON ITS PROPERTY, DIRECTLY ON THE OPPOSITE SIDE OF THE BAY. THE MORAVIAN CHURCH VI CONFERENCE OWNS PROPERTY LOCATED IN THE MORE PROTECTED NORTHEAST AREA OF CORAL BAY HARBOR, ALONG THE SOUTH SIDE OF ROUTE 10. THE MORAVIAN CHURCH CONFERENCE AND ITS TENANT HAD BEEN WORKING FOR SOME TIME ON THE DESIGN AND DEVELOPMENT OF A MARINA ON THE MORAVIAN CHURCH CONFERENCE'S PROPERTY, AND HAD ALREADY CONDUCTED PRE-FILING MEETINGS WITH CZM.

THE CLEAR IMPACT OF THE SUMMERS END MARINA, IF ALLOWED TO PROCEED AT ITS PROPOSED SIZE AND SCALE, WILL BE THE DESTRUCTION OF THE MORAVIAN CONFERENCES' RIGHT TO PROCEED WITH ITS OWN MARINA PLANS. THIS WAS DOCUMENTED NOT ONLY IN TESTIMONY, BUT IN A GRAPHIC PRESENTED BY THE MORAVIAN CONFERENCE SHOWING THE OVERLAP OF THE APPLICANT'S

MARINA WHICH EXTENDED OVER AND INTO THE VERY AREA WHERE THE MORAVIAN CONFERENCE'S MARINA WOULD BE LOCATED, EFFECTIVELY LEAVING NO SPACE FOR THE MORAVIAN CONFERENCE'S PLANS. SPECIFICALLY, THE MORAVIAN CHURCH VI CONFERENCE SUBMITTED TO CZM LEGAL AUTHORITY ON ITS RIGHTS AS A NEARBY WATERFRONT PROPERTY OWNER. IT DEMONSTRATED THAT SIZE AND SCOPE OF THE MARINA DEVELOPMENT PROPOSED BY SUMMERS END WOULD INTERFERE WITH THE RIGHTS OF THE MORAVIAN CHURCH VI CONFERENCE AND, ITS TENANT TO ACCESS, AND WHARF OUT OVER, THE WATER ADJOINING THE MORVAVIAN CONFERENCE LAND. IN OUR SUBMISSION TO CZM ON THIS OBJECTION, WE SAID, IN PART:

> AS THE OWNER OF LITTORAL LAND, THE MORAVIAN CHURCH "HAS THE RIGHT AT COMMON LAW TO ERECT PIERS AND DOCKS ON THE SUBMERGED PUBLIC LAND BEYOND THE WATER LINE AND TO WHARF OUT OVER IT, SUBJECT TO GOVERNMENT REGULATION AND CONTROL AND WITH DUE REGARD TO THE RIGHTS OF THE PUBLIC

AND ADJOINING LAND OWNERS." *BURNS*, 412 F.2D AT 998 (CITATIONS OMITTED). THE RIGHT OF A LITTORAL OWNER TO ACCESS WATERS ADJACENT TO ITS LAND "IS NOT LIGHTLY TO BE DEPRIVED." *ID.* DEVELOPMENT OF THE ST. JOHN MARINA BY SUMMER'S END, IN ACCORDANCE WITH THE CURRENT PROPOSAL, WOULD DEPRIVE THE MORAVIAN CHURCH OF ITS LITTORAL RIGHTS BY UNREASONABLY RESTRICTING THE MORAVIAN CHURCH'S ABILITY TO ACCESS THE WATER ADJACENT TO ITS LAND AND TO WHARF OUT OVER IT. *SEE, E.G., NEW JERSEY V. DELAWARE,* 552 U.S. 597, 612, 128 S. CT. 1410, 1421, 170 L. ED. 2D 315 (2008) ("A RIPARIAN LANDOWNER ORDINARILY ENJOYS THE RIGHT TO BUILD A WHARF TO ACCESS NAVIGABLE WATERS FAR ENOUGH TO PERMIT THE LOADING AND UNLOADING OF SHIPS."), *CITING* 1 H. FARNHAM, LAW OF WATERS AND WATER RIGHTS § 62, P. 279 (1904) ("THE RIPARIAN OWNER IS ALSO ENTITLED TO HAVE HIS CONTACT WITH THE WATER REMAIN INTACT. THIS IS WHAT IS KNOWN AS THE RIGHT OF ACCESS, AND INCLUDES THE RIGHT TO ERECT WHARVES TO REACH THE NAVIGABLE PORTION OF THE STREAM."); *ID.*, § 111, P. 520 ("A WHARF IS A STRUCTURE ON THE MARGIN OF NAVIGABLE WATER, ALONGSIDE OF WHICH VESSELS ARE BROUGHT FOR THE SAKE OF BEING CONVENIENTLY LOADED OR UNLOADED.").

FURTHERMORE, THE SIZE OF THE MARINA PROPOSED BY SUMMER'S END MUST BE SUFFICIENTLY CONTROLLED SUCH THAT A CHANNEL EXISTS FOR THE NAVIGATION OF VESSELS BETWEEN THE PROPOSED SUMMER'S END MARINA AND THE MARINA DEVELOPMENT

> PLANNED BY THE MORAVIAN CHURCH AND T-REX. *UNITED STATES V. WILLOW RIVER POWER CO.*, 324 U.S. 499, 504-05, 65 S. CT. 761, 765, 89 L. ED. 1101 (1945) ("THE FUNDAMENTAL PRINCIPLE OF THIS SYSTEM IS THAT EACH RIPARIAN PROPRIETOR HAS AN EQUAL RIGHT TO MAKE A REASONABLE USE OF THE WATERS OF THE STREAM, SUBJECT TO THE EQUAL RIGHT OF THE OTHER RIPARIAN PROPRIETORS LIKEWISE TO MAKE A REASONABLE USE.") (INTERNAL CITATION AND QUOTATION MARKS OMITTED).

MOST TROUBLING OF ALL, IF THIS LEGISLATURE APPROVES THE SUMMERS END PERMIT APPLICATION, PARTICULARLY WITHOUT AWAITING THE COURT'S RULING ON OUR PENDING OBJECTIONS, YOU WILL BE AUTHORIZING THIS GROUP TO EFFECTIVELY WIPE OUT THE MORAVIAN CONFERENCE'S RIGHTS AS A SHORELINE PROPERTY OWNER, WE INVITE YOU TO REVIEW THE DETAILED DISCUSSION OF THIS ISSUE IN OUR BRIEFS, BUT TODAY, WE ASK THAT YOU DECLINE TO APPROVE THIS REVISED PERMIT, AS THE PERMIT DOES NOT CONFORM TO THE DESIGN SUBMITTED TO CZM ON WHICH HEARINGS WERE HELD, AND EVEN AS REVISED, STILL SEEKS TO UNDERTAKE CONSTRUCTION

THAT WOULD BE DETRIMENTAL TO CORAL BAY AND HIGHLY DAMAGING TO THE MORAVIAN CHURCH VI CONFERENCE.

THE MORAVIAN CONFERENCE AND ITS TENANT ALSO HAD AN EXPERIENCED ENVIRONMENTAL CONSULTANT, WILLIAM MCCOMB, REVIEW THE SUMMERS END ENVIRONMENTAL ASSESSMENT REPORT, AND HE BOTH APPEARED TO TESTIFY AT THE PUBLIC HEARING AND SUBMITTED TIMELY AND DETAILED OBSERVATIONS ON THE DEFECTS IN THE APPLICATION UNDER THE CZM LAW. CZM DID NOT REQUIRE THE APPLICANT TO RESPOND TO THESE IMPORTANT ISSUES, NOR DID IT MAKE FINDINGS ADEQUATE TO SUPPORT A DECISION TO DISMISS THEM OUT OF HAND. A COPY OF MR. MCCOMB'S TESTIMONY WAS ALSO PREVIOUSLY SUBMITTED FOR YOUR CONSIDERATION AT YOUR LAST HEARING.

PERHAPS THIS FAILURE TO CONSIDER THE EVIDENCE WAS A RESULT OF A CONFLICT OF INTEREST.

SPECIFICALLY, THE CZM HEARING WAS CONDUCTED WITH A CONFLICT OF INTEREST UNDERMINING ITS VALIDITY FROM THE OUTSET, AS ONE OF THE THREE COMMITTEE MEMBERS WAS AN ATTORNEY WHO REPRESENTED AN INTERESTED PARTY IN SUMMERS END, AND WHILE HE DISCLOSED HIS CONFLICT, AND DID NOT VOTE ON THE PERMIT, THE COMMITTEE ELECTED TO COUNT HIM AS A PRESENT, PARTICIPATING MEMBER, IN ORDER TO ESTABLISH A QUORUM. HIS CONFLICT OF INTEREST IN CREATING THAT QUORUM CONTAMINATED THE PROCEEDINGS FROM THE OUTSET. IT MAY ALSO EXPLAIN THE RULING OF THE COMMITTEE THAT DISREGARDED THE OVERWHELMING EVIDENCE AGAINST THE PROJECT AND FAILED TO REQUIRE SUMMERS END TO MEET THE ACTUAL REQUIREMENTS OF THE CZM ACT, DETAILED IN OUR BRIEFS WHICH WE ARE SUBMITTED TO THE LEGISLATURE TODAY AS EXHIBITS. NOW THAT PROBLEM IN THE ORIGINAL CZM PROCEEDINGS HAS BEEN COMPOUNDED BY THE DISCOVERY

THAT THE CHAIRMAN OF CZM, ACTING ALONE AND WITHOUT COMMITTEE REVIEW OR APPROVAL, APPEARS TO HAVE APPROVED A REVISED PERMIT. THAT, TOO, IS VERY TROUBLING, PARTICULARLY SINCE THE CHANGES DID NOTHING TO ADDRESS THE URGENT CONCERNS THAT WE HAVE BEEN RAISING FOR SO LONG.

WE ALSO ASK THE LEGISLATURE TO CONSIDER THE SERIOUS PROBLEMS ARISING FROM THE SPECIFIC LOCATION OF THIS PROPOSED MARINA IN CORAL BAY. MANY MEMBERS OF THE PUBLIC SUBMITTED LETTERS EMPHASIZING THE EXPOSED NATURE OF THE PROPOSED MARINA LOCATION, INCLUDING MEMBERS OF THE PUBLIC WITH CLEARLY EXTENSIVE NAUTICAL EXPERIENCE. ONE COMMENTER HAD CIRCUMNAVIGATED THE WORLD ON A SAILING VESSEL. ANOTHER WAS LICENSED TO OPERATE 50 TON SEAGOING VESSELS. ONE COMMENTER SUBMITTED PHOTOGRAPHS OF ANOTHER MARINA ON ST. THOMAS, LOCATED IN A PARTICULARLY EXPOSED AREA, WHICH HAS

APPARENTLY BEEN DESTROYED AND REPAIRED SO MANY TIMES AFTER STORMS THAT IT WAS FINALLY LEFT TO DISINTEGRATE – AN EYESORE FOR THE PUBLIC. WHILE THOSE PEOPLE DESCRIBED THE PROPOSED LOCATION AS PARTICULARLY UNSAFE AND PARTICULARLY EXPOSED TO THE ELEMENTS IN A STORM AND DESCRIBED THE SIZE OF THE PROPOSED MARINA AS UNSAFE AND EXCESSIVE, NEITHER CZM NOR BLUA HAD A SUBSTANTIAL EVIDENTIARY BASIS FOR SIMPLY ACCEPTING SUMMERS END'S DISMISSIVE STATEMENT THAT NO MARINA CAN BE COMPLETELY PROTECTED IN A HIGH CATEGORY STORM AS SUFFICIENT TO DEEM THE PROPOSED DEVELOPMENT TO HAVE JUSTIFIED A FINDING THAT NO FEASIBLE ALTERNATIVE EXISTS.

A MEMBER OF THE PUBLIC SUBMITTING PHOTOGRAPHS OF VESSELS BEACHED IN THE LOCATION OF THE PROPOSED DEVELOPMENT MORE THAN JUSTIFIED FURTHER INQUIRY ON THE PART OF CZM. WHETHER *ANY* MARINA PLACED IN

THAT LOCATION WOULD BE SAFE IN A HIGH CATEGORY HURRICANE IS IRRELEVANT. RATHER, THE QUESTION IS WHETHER *THAT* LOCATION ON *THAT* SIDE OF CORAL BAY IS AN APPROPRIATE LOCATION FOR A MARINA OF THAT SIZE *AT ALL* AND WHETHER THERE ARE ALTERNATIVE LOCATIONS THAT, DUE TO TOPOGRAPHY AND THE CUSTOMARY PATH OF WINDS DURING A HURRICANE, WOULD BE FAR BETTER PROTECTED THAN THE PROPOSED SITE. THE CHURCH HAS CONTENDED, AND WE SUBMIT TO YOU TODAY, THAT ITS PROPERTY, ON THE OPPOSITE SIDE OF CORAL BAY, IS SUCH A SITE. IT WOULD BE LEGALLY WRONG AND COMPLETELY CONTRARY TO THE BEST INTERESTS OF THE VIRGIN ISLANDS FOR THE LEGISLATURE TO APPROVE THE REVISED PERMIT TO BUILD THIS HUGE MARINA IN THIS UNSUITABLE LOCATION, ON THE EXPOSED SIDE OF CORAL BAY. IN THE IMMEDIATE AFTERMATH OF THE MEETING AT WHICH 2 OF THE 3 MEMBERS OF CZM VOTED TO APPROVE THE PERMIT, WITHOUT ANY

MODIFICATIONS – APPARENTLY AN UNPRECEDENTED ACTION – ONE OF THE TWO MEMBERS EXPLAINED HIS VOTE TO THE PRESS BY STATING THAT HE WAS "KEEPING HIS FINGERS CROSSED AND HOPING IT WORKS OUT FOR THE BEST." (ST. THOMAS SOURCE, OCTOBER 1, 2014.) WE HOPE THE LEGISLATURE WILL NOT ACT ON THIS PERMIT BASED ON CROSSING ITS FINGERS AND HOPING IT WORKS OUT. TOO MUCH IS AT STAKE.

ANOTHER IMPORTANT FACTOR IN ANY MAJOR DEVELOPMENT FOR PURPOSES OF DETERMINING WHETHER THE DEVELOPMENT SATISFIES THE GOALS AND POLICIES OF THE CZM ACT, IS THE QUESTION OF WHETHER OR NOT THE DEVELOPMENT WILL ACTUALLY BE COMPLETED AS PLANNED OR WILL FAIL TO BE COMPLETED, RESULTING IN SUBSTANTIAL DAMAGE TO THE ENVIRONMENT, AN EYESORE FOR THE PUBLIC, AND DAMAGE TO THE COMMUNITY WITH NO REDEEMING COMMERCIAL OR PUBLIC INTEREST PURPOSE – A "BRIDGE TO NOWHERE"

WITH HORRIBLE CONSEQUENCES FOR THE COASTAL ZONE OF THE U.S. VIRGIN ISLANDS. IT IS THUS PARTICULARLY SHOCKING THAT CZM AND BLUA DISREGARDED THE WARNINGS OF NUMEROUS MEMBERS OF THE PUBLIC, WHO QUESTIONED THE APPLICANT'S ABILITY TO COMPLETE THE PROJECT AS PROPOSED – THE APPLICANT'S FINANCIAL WHEREWITHAL TO SEE TO COMPLETION THIS MASSIVE PROPOSED MARINA. ONE MEMBER OF THE COMMITTEE QUESTIONED THE APPLICANT AT THE PUBLIC HEARING AS TO WHETHER THE APPLICANT POSSESSED SUFFICIENT FINANCING TO COMPLETE THE DEVELOPMENT, TO WHICH THE APPLICANT PURPORTEDLY RESPONDED, SIMPLY "YES." APPARENTLY SATISFIED WITH THIS NON-EVIDENCE OF THE SUFFICIENCY OF THE APPLICANT'S FINANCING, CZM ASKED NO FURTHER QUESTIONS OF THE APPLICANT ON THE SUBJECT. THIS REFUSAL TO SERIOUSLY QUESTION THE APPLICANT'S FINANCIAL CAPACITY TO COMPLETE CONSTRUCTION WAS PAINFULLY OBVIOUS AS CZM WAS

ALREADY IN POSSESSION OF A LETTER FROM SUMMER'S END'S PRIMARY DEVELOPER THAT "REVOKED" SUMMER'S END'S RIGHT TO USE THE VERY PLANS ON WHICH THE ENTIRE PERMIT APPLICATION WAS BASED DUE TO SUMMER'S END'S FAILURE TO PAY THE PRIMARY MARINA DEVELOPER $51,803.87 FOR THEIR WORK. EVEN IGNORING THIS OBVIOUS EVIDENCE OF A LACK OF FINANCIAL WHEREWITHALL TO COMPLETE THE PROJECT, THAT LETTER (AND THE CORRESPONDENCE THAT FOLLOWED) REVEALED THE POTENTIAL FOR LITIGATION BETWEEN SUMMER'S END AND ITS PRIMARY DEVELOPER REGARDING THE USE OF THE PLANS, WHICH CLEARLY RAISED THE SPECTER OF COURT ORDERED INJUNCTIONS POTENTIALLY STOPPING ANY DEVELOPMENT IN A PARTIALLY COMPLETED STATE IF CZM WERE TO PERMIT THE PROJECT TO GO FORWARD WITH CONTESTED PLANS AGAINST THE WISHES OF SUMMER'S END GROUP'S PRIMARY DEVELOPER, WHICH WAS CLAIMING EXCLUSIVE OWNERSHIP. GIVEN THE MASSIVE COST FOR

THE DEVELOPMENT IDENTIFIED BY THE APPLICANT ITSELF, THIS WAS INEXCUSABLE. WE SUBMIT THERE IS NO BASIS FOR THE LEGISLATURE TO CONCLUDE THAT THIS APPLICANT ACTUALLY HAS EXISTING FINANCING FOR WHAT IT CLAIMS IS A $35 MILLION PROJECT IF IT COULD NOT PAY JUST $52K FOR THE PLANS UPON WHICH THE ENTIRE PROJECT RELIED.

FURTHER, THE ARMY CORPS OF ENGINEERS STILL HAS NOT APPROVED THIS PROJECT, AND THE FEDERAL AGENCY THAT AT ONE POINT WAS PREPARED TO MAKE A GRANT OF $300,000, ANNOUNCED IT WAS PULLING THAT GRANT FUNDING IN MARCH, 2015. (DAILY NEWS, 3/31/2015).

IN SUMMARY, WE ASK THAT YOU CONSIDER OUR OBJECTIONS TO THIS REVISED PERMIT, INCLUDING THE POINTS MADE IN OUR LEGAL BRIEFS IN THE PENDING JUDICIAL REVIEW, AND THE FACT THAT CHANGES MADE TO THE PROPOSED DEVELOPMENT HAVE BEEN AGREED UPON IN SECRET AND WITHOUT PUBLIC INPUT, SO THAT OUR

CONCERNS HAVE NOT BEEN FAIRLY CONSIDERED. FOR THESE REASONS, WE ASK THAT YOU DENY THE REQUEST TO APPROVE THIS REVISED PERMIT, BECAUSE IT IS AT BEST PREMATURE, WHILE THE COURT CHALLENGE IS PENDING, AND BECAUSE IT WOULD BE HARMFUL TO THE VIRGIN ISLANDS AND TO THE MORAVIAN CHURCH VI CONFERENCE. WE HOPE THE CONCERNS OF OUR CONFERENCE, AS AN IMPORTANT MEMBER OF THE CORAL BAY COMMUNITY, ARE GIVEN DUE CONSIDERATION BY THIS BODY. THANK YOU AGAIN FOR THE OPPORTUNITY TO BE HEARD ON THIS MATTER.