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August 26, 2016

Via First Class Mail

City of Ann Arbor
Attn: City Council
P.O. Box 8647
Ann Arbor, Michigan 48107

Lisha Turner-Tolbert
City of Ann Arbor
Construction and Building Department
301 East Huron Street
Lincoln City Hall, Ann Arbor, MI 48107

Re: 611 E. University, Ann Arbor, Michigan (the "Project")

Dear Honorable Members of City Council:

I represent the owner of Zaragon Place, a 10-story occupied residential project located at 619 E. University. Zaragon Place is adjacent to a proposed new 13 story building located at 611 E. University (the "Project"), which was recently granted site plan approval by the Council. The Project is proposed to be located directly on the north property line adjacent to Zaragon Place with no setback whatsoever. At the public hearing before the Planning Commission on the request for site plan approval, I expressed our concerns about the dangers of this zero lot line construction adjacent to an occupied residential structure. We questioned whether the Project could be constructed or maintained in the future without trespassing on, over or under Zaragon's property. We further expressed our serious concerns about damage to the foundations of Zaragon's existing residential building and/or storm water structures that were located near the north property line at issue. And, most important, we raised concerns about the risk of injury to the occupants of Zaragon Place who have direct outside access to the side yard maintained on the Zaragon Place property that would abut up to the Project. This side yard space is available for recreational and other activities and has tables and chairs available for use by the residents.

At the public hearing before the Planning Commission, a representative of the Project's developer assured the Planning Commission that the Project could be constructed and maintained without trespassing on or over the Zaragon Place property. This representation was based solely on a hearsay report of what the developer's unidentified contractor, who was not at the public hearing, allegedly told the developer's representative. As an experienced developer of high rise



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buildings, and based on what it knows about zero lot line construction, however, my client does not believe that such a structure can be constructed and maintained without trespassing on its property. Moreover, if anything were to fall, whether from a crane, or as a result of damaged precast, it would likely fall onto the Zaragon Place property at a location that is accessible to tenants for outdoor activities. But because no detailed construction plans have yet been submitted for the Project by the Developer, we have not been able to analyze the constructability and actual impact of the Project on the Zaragon Place property.

The Project, however, presents an unusual and dangerous situation. It is one thing to have zero lot line high rise buildings adjacent to each other, but an entirely different scenario and set of risks are presented when a zero lot line building abuts another building with a setback. Under those circumstances, all of the health and safety reasons supporting building setback requirements in every zoning ordinance become applicable and should not be ignored. And, we believe it is clear that those health and safety objectives are not met by a setback of only 9 feet between two high rise residential structures. Indeed, just because the zoning allows a zero lot line does not mean it is proper in all cases. For example, as you aware, Zaragon also abuts another high rise residential structure on the east side of the Zaragon Property, known as Arbor Blu. And, despite the fact that the zoning permits zero lot line construction, each building is set back from the property lines creating a setback in excess of 25 feet between these buildings.

All of the concerns raised above are also highlighted in a letter from Traveler's Insurance Company enclosed herewith. Traveler's is the insurer for the Zaragon Place property. Traveler's suggests the creation of a "safety zone" to protect the Zaragon property and residents from property damage and personal injury. This "safety zone" concept is identical to the setback concept in zoning law. Traveler's also suggests that protocols be established for the construction of the Project to assure that no trespass or harm occurs to Zaragon's property.

Zaragon is not opposed to the Project itself, but we urge the City Building and Engineering Department to carefully evaluate the constructability of the Project when it is reviewing the detailed construction plans for the Project to make sure that the health and safety of the residents at Zaragon Place is protected and that the project can be constructed and maintained without trespassing on, over or under the Zaragon Place property. And, if you conclude, as we have concluded, that the building cannot reasonably be constructed without trespassing on Zaragon Place or endangering the safety of residents, that you require that the Project be moved off the property line to create a proper setback between these two high rise structures.



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We appreciate your consideration of these matters.

DYKEMA GOSSETT PLLC

A handwritten signature in cursive script, appearing to read "Alan M. Greene".

Alan M. Greene

Enclosure

Cc: Brandt Stiles, Collegiate Development Group
Rick Perlman, Zaragon Place

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August 18, 2016

City of Ann Arbor City Council
Construction and Building Department
301 E. Huron Street
Ann Arbor, Michigan 48107

RE: Project No SP 16-065

Traveler's Insurance Company is the second largest writer of US Commercial Property Casualty Insurance in the United States and has been in business since 1851. We have been asked by our insured Galileo Associates, LLC who owns a 10 story residential building at 619 E. University, Ann Arbor Michigan (commonly known as Zaragon Place) to evaluate the potential impact of a new 13 story building proposed to be constructed at 611 E. University, on the north property line adjacent to Zaragon Place. Our Insured's building houses approximately 250 residents and there are occupied residences with windows facing the north property line, and direct outside access to the area abutting the entire length of Zaragon's north property line.

While Zaragon Place is located approximately 9 feet off the north property line, a portion of the proposed new high rise building will be constructed directly on the property line with no setback whatsoever between the properties—which is commonly referred to as zero lot line construction. Zero lot line construction is not uncommon in congested urban areas where buildings abut one another. Such construction is far less common in high rise buildings that do not directly abut one another, such as what is proposed for the high rise buildings at 611 E. University. When the buildings are separated, a number of technical and life safety issues arise which are typically addressed by proper setback requirements. Those issues do not appear to have been addressed by the developer of the 611 project. The first floor apartments all have direct outside access to this area that abuts up to the building.

First, it is very difficult to build a high rise building on a zero lot line without trespassing onto the adjacent property directly or in its air space. The zero lot line construction presents a potential danger to the adjacent Zaragon Place property and its residents as outlined above. Such construction will involve the use of high rise cranes. As insurers we know there is an increased risk of falling materials and even of a crane collapse, which can be catastrophic to an occupied adjacent building. In this particular situation, the 9 foot wide 115 foot long strip of property between the buildings is open and available as open space, outdoor seating and recreational activities for the residents of Zaragon Place. Because these buildings are not abutting (zero lot line to zero lot line) the safer and more prudent method would be to move the construction off the lot line to provide a greater separation of the buildings and the recreation space. The issues that exist regarding initial construction also exist when exterior repairs are required in the future to the new building. If pre-cast concrete and other exterior materials were to fall, they would fall on Zaragon's property. The owner of the new building may not be able to make certain repairs or undertake regular maintenance without trespassing on Zaragon's property.

The second concern with zero lot line construction with buildings not abutting each other involves unintended underground movement, which may cause damage to the foundation as well as underground structures (elevator pits) of the adjacent buildings (in this case a 10 story high rise located 9 feet away). Not only could this result in significant property damage, it can impact the safety of the residents if the elevators or other similar features are impacted. We also understand that there is a storm water drain that runs through the Zaragon property near the north property line which could also be damaged by the zero lot line construction. These are not just speculative concerns. As property insurers we have observed these circumstances occurring in other zero lot line jobsite's due to underground construction being so close to other underground features. Because the developer of the proposed 14 story building has yet to submit detailed plans and engineering drawings, it is not possible at this time to accurately evaluate all of the adverse impacts of the project on the adjacent properties, including Zaragon Place.

Given the known risk factors, which exist as a direct result of this proposed construction, we urge the City and the owner/contractor of the proposed new high rise building to consider the following:

1. Seek an alternative construction option which would include creating a safety zone to protect the occupants of Zaragon Place so they can have quiet enjoyment of their property, and to prevent damage to the Zaragon property itself, and the 9 foot by 115 foot outdoor recreational area used by Zaragon residents. This would include moving the building back from the lot line to create a proper setback and safety zone between the two buildings. When buildings are not abutting (zero lot line to zero lot line), it is unusual to have a setback for one property, and not the other. The whole purpose of setback requirements is to protect the adjacent properties and occupants from nearby structures. This critical feature of setback requirements appears to be ignored here. And, even if the building is moved, the adjacent developer should provide appropriate insurance coverage (naming Zaragon Place as an additional insured) and indemnification to protect Zaragon from liability and damage should the new construction cause personal injury or property damage.
2. Establish protocols and monitoring all construction activities to assure that no trespass occurs during the construction and provide specific safety protocols to protect the adjacent residential property from the impacts of the construction, including from falling materials, and that no soil or other underground movement takes place which can damage the Zaragon Place Property.

We at Traveler's are committed to safe building practices and minimizing risk to our Insured's property and occupants. We consider the proposed construction as we understand it and as described above, however, to be unreasonable, unsafe and respectfully urge the City regulators to mitigate those risks in order to protect all parties.

Sincerely



Stephanie Hill, Senior Underwriter