

Amended Request For Waiver/Extension of Tolling

The Guenter Marksteiner Revocable Trust (“Licensee”), licensee of WHDT-LD, Boston, Massachusetts, (Facility ID 59488) (“the Station”), hereby submits this amended request for waiver of the Commission’s tolling rules and seeks extension of the Station’s construction permit in FCC File No. 0000153397, to permit completion of construction of the Station’s construction permit facilities.

As the Commission is aware, the Licensee was poised to complete construction of the Station’s facility, but global supply chain issues delayed delivery of its antenna. This cost the Licensee its window of opportunity to complete construction and forced the Licensee to re-engineer the buildout. Cold weather in the Boston area delayed exterior work on the Station’s transmission site until the Spring of 2023 at which time it was expected that construction would be able to wrap up.

However, the Licensee’s principal has suffered a catastrophic health emergency triggering end-of-life measures, including placing the license of the Station into a newly-created trust to allow for construction and liquidation of the Station without the license and reimbursements becoming entangled in estate administration. While the principal’s health condition is improving, during his incapacity, construction of a new multi-million dollar pedestrian sky bridge commenced at the Station’s rooftop transmitter site. Construction of the Station and the pedestrian sky bridge mutually interfere with each other so the Station’s landlord has made arrangements for the Station’s transmission facilities to be returned to the Station’s previous site. The Station’s previous site is equipped with an integrated window washing hoist that is capable of lifting the Station’s antenna in sections, thus obviating entirely the helicopter-assisted installation needed at its current site, along with its attendant costs and logistical challenges.

At this time, the Licensee has submitted the required modification application for its construction permit and its vendors are standing by to ship all required equipment to the site and commence installation. Notwithstanding the enormous and ongoing cost of the principal’s medical care, he has arranged to take an additional mortgage out on his home to continue to finance construction. While this process was started some months ago, because the loan did not close prior to the start of hurricane season where the home is located, the addition of the lender as an additional insured on the required hurricane insurance has triggered a fraud review period. Closing on the loan is slated for June 17th, at which point, the remaining invoices can be paid and vendors who are waiting to complete construction can begin to do so. The Licensee continues to work with the Fund Administrator as well to approve its already-submitted invoices.

Given these extenuating circumstances and the combined efforts of numerous parties secured and coordinated by the Licensee, a waiver of tolling and extension of the Station’s construction permit is justified to permit completion of the facility. The Commission’s rules allow a construction permit deadline to be tolled under specific circumstances involving acts of God, delays due to administrative or judicial review of the permit’s grant, or court proceedings regarding local, state, or federal requirements affecting the construction, including zoning and

environmental requirements.¹ Moreover, stations may also be granted a waiver of the tolling rule to receive additional time to construct in the case where “rare or exceptional circumstances” not outlined above prevent construction.²

Tolling is appropriate here because the inability to complete construction is due to rare and exceptional circumstances beyond the Licensee’s control.

For these reasons, the Commission should waive the tolling standard and provide the Licensee with additional time through September 1, 2023, to complete construction and license the Station’s facilities.

¹ 47 C.F.R. §73.3598(b).

² See, e.g., *1998 Regulatory Review- Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536 (1999) at ¶ 42.