

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, to permit completion of construction of the Station’s construction permit facilities.

As the Commission is aware, construction of a new multi-million dollar pedestrian sky bridge commenced at the Station’s prior rooftop transmitter site. Construction of the Station and the pedestrian sky bridge mutually interfere with each other. Accordingly, the station modified its construction permit to specify its current site and immediately commenced construction planning and preparation and on-site activities.

At this time, however, a new building owner has taken over and is exercising its right to architectural review of the rooftop antenna system. Accordingly, construction has had to halt on site. The licensee has assembled and is storing nearby the station’s antenna and transmitter and will proceed with on-site work as soon as landlord review is complete.

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.<sup>1</sup> 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.<sup>2</sup>

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 December 1, 2023, to complete construction and license the Station’s facilities.

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<sup>1</sup> 47 C.F.R. §73.3598(b).

<sup>2</sup> 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.