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December 15, 2004

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Mark: Waterford of the Carolinas and Design
Serial No. 76/499,740
Filing Date: March 24, 2003
Opposer: Capital Senior Living Corporation
Our File No.: 121808-6001

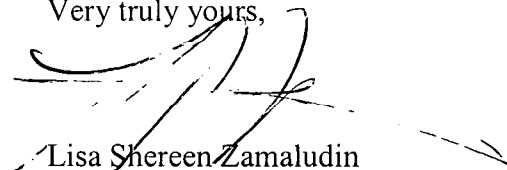
Dear Commissioner:

Enclosed herewith for filing are the following documents:

1. Notice of Opposition with Exhibit A;
2. Check in the amount of \$300; and
3. Return postcard.

It is believed that no additional fee is due. However, if this is incorrect, please charge any additional fee to Deposit Account No. 07-0153. Should you have any questions, please call me.

Very truly yours,


Lisa Shereen Zamaludin
LSZ:cmm

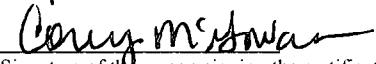
Enclosures

c: David Brickman (w/encl.)

DALLAS 1477590v1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail postage prepaid in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313 on

12/15/04


(Signature of the person signing the certificate)

Corey M. Gowan
(Printed or typed name of the person signing the certificate)

12/15/04
(Date of Signature)



12-21-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

GARDERE WYNNE SEWELL LLP

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Austin ■ Dallas ■ Houston ■ Mexico City ■ Washington, DC

TTAB

Attorney Docket No. 121808.6001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CAPITAL SENIOR LIVING CORPORATION

OPPOSER,

OPPOSITION No. _____

VS.

WDV, INC.,

APPLICATION SERIAL NO.
76/499,740

APPLICANT.

NOTICE OF OPPOSITION

Commissioner for Trademarks
BOX TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3513

12/30/2004 SWILSON1 00000093 76499740
01 FC:6402 300.00 OP

Sir:

This matter relates to an application for trademark registration, Serial No. 76/499,740 filed March 24, 2003 by WDV, Inc. ("Applicant") for registration of the mark "Waterford of the Carolinas and Design" in connection with services in class 37 ("Opposed Mark"). For the reasons set forth below, Capital Senior Living Corporation ("Opposer") believes that it would be damaged by the grant of registration of the Opposed Mark, and hereby opposes the registration of such mark.

As grounds for such opposition, it is alleged that:

Commencing on or before at least September 1998, long prior to any date upon which Applicant may rely, and continuing without interruption to the present time, Opposer has used and promoted the mark Waterford (the "Mark") in connection with a wide variety of goods and services including, inter alia, (1) management and operation for others of assisted living facilities



for senior adults and independent living facilities for adults and senior adults; (2) development of assisted living facilities for senior adults and independent living facilities for adults, including senior retirement community services.

Opposer's Mark has been so extensively used and promoted by Opposer in the United States in connection with such goods that it has come to indicate to the relevant trade and consumers these goods and services having their source of origin in, or connected with, the Opposer.

Opposer is the owner of United States Registration No. 2,731,000; and pending trademark application no. 76/588,931; copies of which are attached hereto (Exhibit A).

Upon information and belief, and according to the records of the United States Patent and Trademark Office, Applicant is the owner of Application Serial No. 76/499,740 and of the Opposed Mark.


Upon information and belief, the Opposed Mark has not been used by Applicant in interstate commerce, as the application is filed as an intent-to-use application.

The mark sought to be registered by Applicant in Application Serial No. 76/499,740 consists of a mark that so resembles Opposer's Mark, identified above and previously used and registered by Opposer as to be likely, when applied to the services of Applicant, to cause confusion, to cause mistake or to deceive, thereby to Opposer's damage. Moreover, Opposer's use of its "WATERFORD" mark has priority over the Opposed Mark.

WHEREFORE, Opposer prays that Applicant be required to answer this Notice of Opposition, that the mark made the subject of Application Serial No. 76/499,740 be refused

registration, and that Opposer be awarded such other and further relief as may be deemed to be just and proper.

Respectfully submitted,



Lisa Shereen Zamaludin
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Dallas, Texas 75201
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ATTORNEYS FOR OPPOSER

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-12-08 16:32:37 ET

Serial Number: 75729278

Registration Number: 2731000

Mark (words only): WATERFORD

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-07-01

Filing Date: 1999-06-15

Transformed into a National Application: No

Registration Date: 2003-07-01

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-07-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Capital Senior Living Corporation

Address:

Capital Senior Living Corporation
14160 Dallas Parkway, Suite 300
Dallas, TX 75240
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 035

management and operation of independent living facilities for adults

First Use Date: 1998-09-00

First Use in Commerce Date: 1998-09-00

Basis: 1(a)

International Class: 042

development of independent living facilities for senior adults; and senior retirement community services

First Use Date: 1998-09-00

First Use in Commerce Date: 1998-09-00

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-07-01 - Registered - Principal Register

2001-07-23 - Extension of time to oppose - Filed

2001-06-26 - Published for opposition

2001-06-13 - Notice of publication

2001-04-17 - Approved for Pub - Principal Register (Initial exam)

2001-04-11 - Examiner's amendment mailed

2001-04-11 - Previous allowance count withdrawn

2001-03-09 - Approved for Pub - Principal Register (Initial exam)

2001-03-06 - Examiner's amendment mailed

2000-09-07 - Final refusal mailed

2000-03-30 - Communication received from applicant

1999-09-30 - Non-final action mailed

1999-09-22 - Case file assigned to examining attorney

1999-09-16 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

H. Lisa Koh (Attorney of record)

H LISA KOH

GARDERE & WYNNE LLP

1601 ELM STREET STE 3000

DALLAS TX 75201-4761

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-12-08 16:32:59 ET

Serial Number: 76588931

Registration Number: (NOT AVAILABLE)

Mark

WATERFORD

(words only): WATERFORD

Standard Character claim: No

Current Status: A non-final action has been mailed. This is a letter from the examining attorney requesting additional information and/or making an initial refusal. However, no final determination as to the registrability of the mark has been made.

Date of Status: 2004-11-29

Filing Date: 2004-04-27

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 112

Attorney Assigned:
FAIRBANKS RONALD L Employee Location

Current Location: M30 -TMO Law Office 112

Date In Location: 2004-11-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Capital Senior Living Corporation

Address:

Capital Senior Living Corporation
14160 Dallas Parkway, Suite 300
Dallas, TX 752667240
United States

Legal Entity Type: Corporation**State or Country of Incorporation:** Texas

GOODS AND/OR SERVICES

International Class: 035

Management and operation for others of assisted living facilities for senior adults

First Use Date: 1998-09-00**First Use in Commerce Date:** 1998-09-00**Basis:** 1(a)**International Class:** 042

Development of assisted living facilities for senior adults, including senior retirement community services

First Use Date: 1998-09-00**First Use in Commerce Date:** 1998-09-00**Basis:** 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-11-30 - Non-final action mailed

2004-11-29 - Non-Final Action - Completed

2004-11-21 - Case file assigned to examining attorney

2004-05-13 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

Lisa Shereen Zamaludin (Attorney of record)

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