



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

December 22, 2016

**Response of the Office of Mergers and Acquisitions
Division of Corporation Finance**

Tonya Mitchem Grindon, Esq.
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Baker Donelson Center, Suite 800
211 Commerce Street
Nashville, TN 37201

**Re: GTJ REIT, Inc.
Request for No-Action Relief under Rule 13e-4**

Dear Ms. Grindon:

We are responding to your letter dated December 22, 2016, addressed to Ted Yu and Nicholas Panos, as supplemented by telephone conversations with the staff, regarding your request for no-action relief. To avoid having to recite or summarize the facts set forth in your letter, we attach the enclosed copy of your letter. Unless otherwise noted, capitalized terms in this response letter have the same meaning as in your letter.

On the basis of the representations and the facts presented in your letter and your opinion that the proposed transaction does not constitute an issuer tender offer subject to Exchange Act Rule 13e-4, the Division of Corporation Finance will not recommend that the Commission take enforcement action under Rule 13e-4 if the Company repurchases common shares from its stockholders under the Redemption Program in the manner described in your letter. In issuing this no-action relief, we considered the following facts, among others:

- All material information relating to the Redemption Program will be fully and timely disclosed to all stockholders. In addition to a newsletter that will be sent to all stockholders of record and posted on the Company's website, the material terms of the Redemption Program will be disclosed in a Current Report on Form 8-K;
- The Company will not solicit redemptions under the Redemption Program other than through a newsletter and a Current Report on Form 8-K disclosing the terms of the Redemption Program, and through further communications as necessary to announce a modification to, or suspension or termination of, the Redemption Program. Stockholders desiring to submit for redemption all or a portion of their shares will do so of their own volition and not at the behest, invitation or encouragement of the Company. The role of the Company in effectuating redemptions under the Redemption Program will be ministerial;

- The shares will be redeemed under the Redemption Program at a price equal to 90% of the NAV per share for the most recently completed calendar year, subject to adjustment, and the Company will file further Current Reports on Form 8-K and mail notices to stockholders to the extent adjustments to the redemption price are made. Subject to the terms of the Redemption Program, the Company will be obligated to redeem shares at the redemption price per share;
- Redemptions will be made on a semi-annual basis. The redemption price will be the same for all shares redeemed during a given semi-annual period and paid in cash no later than three business days following the last calendar day of the applicable semi-annual period;
- Redemptions under the Redemption Program will be limited in any calendar year to shares whose aggregate value (based on the redemption price per share on the date the redemption is effected) is no more than \$1 million, subject to sufficient funds being available;
- If the yearly volume limitation is reached in any given semi-annual period or the Company determines to redeem fewer shares than have been submitted for redemption in any particular semi-annual period due to the insufficiency of funds, the Company intends to prioritize redemptions under the Redemption Program for such semi-annual period as follows:
 - redemptions upon the death or disability of a stockholder;
 - any redemptions that have been carried over from one or more previous semi-annual periods where the value of the remaining, unredeemed shares is less than \$2,500; and
 - on a *pro rata* basis as to all other redemption requests;
- Material modifications, including any adjustments or changes to the redemption price, and suspensions or termination of the Redemption Program will be promptly disclosed in a Current Report on Form 8-K, and stockholders will be notified in writing at least 30 days prior to the effective date of the modification, suspension, or termination;
- No established regular trading market for the Company's common shares currently exists;
- The Redemption Program will be terminated if the Company's common shares are listed on a national securities exchange or included for quotation in a national securities market, or in the event a secondary market for the Company's shares develops;
- The Redemption Program is intended to remain open indefinitely for the life of the Company unless modified or suspended by the board of directors;
- The Company is structured as a perpetual-life entity and has no intention to list its shares for trading on an exchange or other trading market;

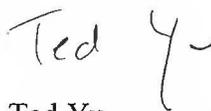
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- Stockholders may withdraw any redemption request at any time prior to ten (10) days before the last calendar day of any semi-annual period by providing written notice to the Company; and
- The Redemption Program is open to all stockholders.

The foregoing no-action position is based solely on the representations and the facts presented in your letter dated December 22, 2016 and does not represent a legal conclusion with respect to the applicability of the statutory or regulatory provisions of the federal securities laws. The relief is strictly limited to the application of Rule 13e-4 to repurchases made under the Redemption Program. The repurchases should be discontinued pending further consultations with the staff if any of the facts or representations set forth in your incoming letter change. In addition, this position is subject to modification or revocation if at any time the Commission or the Division determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act.

We also direct your attention to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 10(b) and 14(e) of the Exchange Act and corresponding Rules 10b-5 and 14e-3 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws rests with the participants in this Redemption Program. The Division expresses no view with respect to any other questions that the proposed Redemption Program may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of any other federal or state laws to, repurchases made under the Redemption Program.

Sincerely,



Ted Yu
Chief, Office of Mergers & Acquisitions
Division of Corporation Finance

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December 22, 2016

Mr. Ted Yu, Chief
Mr. Nicholas Panos, Senior Special Counsel
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Division of Corporation Finance
U.S. Securities and Exchange Commission
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Washington, DC 20549

**Re: GTJ REIT, Inc.
Request for No-Action Relief Under Rule 13e-4**

Dear Messrs. Yu and Panos:

We are special counsel to GTJ REIT, Inc. (the "Company"), a Maryland corporation which has elected to be treated as a real estate investment trust ("REIT") for federal income tax purposes. On behalf of the Company, we request that the Division of Corporation Finance concur in the Company's opinion that repurchases under its proposed stock redemption program (the "Redemption Program") do not constitute an issuer tender offer within the meaning of Rule 13e-4 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

OVERVIEW OF THE COMPANY AND THE REDEMPTION PROGRAM

The Company

The Company was incorporated on June 23, 2006 under the Maryland General Corporation Law (the "MGCL"). The Company is focused on the acquisition, ownership, management, and operation of commercial real estate located in New York, New Jersey, Connecticut and Delaware. The Company files periodic reports with the Securities and Exchange Commission (the "Commission") pursuant to Section 15(d) of the Exchange Act because it (i) has issued securities to the public in a registered offering and the number of record holders of such class of securities exceeds the threshold for the suspension of Exchange Act Section 15(d) reporting obligations, (ii) has not crossed the applicable thresholds to become subject to Section 12(g) of the Exchange Act and (iii) does not have securities listed on a national securities exchange under Section 12(b) of the Exchange Act.

The Company elected to be treated as a REIT under the Internal Revenue Code of 1986, as amended. Under the REIT operating structure, the Company is permitted to deduct the dividends paid to its stockholders when determining its taxable income. Assuming dividends equal or exceed the Company's taxable income, the Company generally will not be required to pay federal corporate income taxes on such income.

The Company is not currently conducting a securities offering under the Securities Act of 1933, as amended (the "Securities Act"), and the Company has not conducted an offering since inception. The Company does not have a pre-established liquidation date or other established liquidity event. The shares of the Company's common stock, \$0.0001 par value per share ("Shares"), are not listed on a national securities exchange and only very minimal trading has occurred over the counter (*e.g.*, only 13,400 Shares out of 13,881,901 outstanding Shares, or .097%, were traded over the trailing twelve-month period). The Company does not intend to list its Shares on an exchange or for quotation in the foreseeable future. The Company is a Maryland corporation with a perpetual existence pursuant to MGCL § 2-103 and has no finite date for liquidation. The Company does not intend to register as an investment company under the Investment Company Act of 1940, as amended.

On January 17, 2013, the Company closed on a transaction with Wu/Lighthouse Portfolio, LLC, in which a limited partnership (the "Operating Partnership") owned and controlled by the Company, acquired all outstanding ownership interests of a portfolio consisting of 25 commercial properties located in New York, New Jersey and Connecticut, in exchange for 33.29% of the outstanding limited partner interests in the Operating Partnership. The Company's outstanding limited partner interests were increased to 33.78% due to post-closing adjustments.

As of September 30, 2016, the Operating Partnership owned 47 properties consisting of approximately 5.6 million square feet of industrial and office space on 349 acres of land in New York, New Jersey, Connecticut, and Delaware.

The Redemption Program

Subject to receipt of no-action relief from the Staff of the Division of Corporation Finance, the Board has adopted and intends to implement the Redemption Program by which Shares may be redeemed by the Company from stockholders subject to certain conditions and limitations as set forth in the Redemption Program. No stockholder will be required to participate in the Redemption Program.

Purpose of the Redemption Program

The purpose of the Redemption Program is to provide limited interim liquidity for the Company's existing stockholders (under the conditions and limitations set forth below) until a liquidity event occurs. Through the Redemption Program, holders of Shares can liquidate all or a portion of their investment in the Company. The Redemption Program is an important feature for the Company's stockholders because the Company expects the Redemption Program will

serve as its stockholders' sole meaningful source of liquidity in the near term. Without the Redemption Program, stockholders in the Company would generally be required to hold their Shares for an indefinite time period because: (1) there is no established trading market for the Shares, (2) the Company does not anticipate that a secondary trading market (except for limited or sporadic quotations) for the Shares will develop and (3) the Company does not have a pre-established liquidation date or other established liquidity event (such as listing the Shares on a securities exchange, merger with a publicly traded company or a sale in a privately negotiated transaction). The Company is aware that a limited secondary market has in some cases developed for traditional non-listed REITs. However, these markets are very small and inefficient. The prices for which the Company's stockholders are able to sell their Shares is extremely undervalued in the opinion of the Company, and the Redemption Program will allow the Company's stockholders to gain limited interim liquidity for Shares prior to a liquidity event at more favorable prices than would likely be received from third party buyers. The Company's organizational documents do not provide a redemption right for the Shares. Rather, the Company intends to implement the Redemption Program as a service to its stockholders.

Redemption of Shares

The Company may, at its sole discretion, redeem Shares presented to the Company for cash to the extent it has sufficient proceeds to do so and subject to compliance with the MGCL. Any and all Shares redeemed by the Company shall be canceled and returned to the status of authorized but unissued Shares. Shares acquired by the Company through the Redemption Program will not be reissued unless they are first registered with the Commission under the Securities Act and other appropriate state securities laws or are exempt from such registration.

Redemption Price

The redemption price per Share will be equal to 90% of the Company's net asset value ("NAV") per Share as of the end of the most recently completed calendar year. The Board will announce any redemption price adjustment and the time period of its effectiveness by filing a Current Report on Form 8-K with the Commission and by mailing to the Company's stockholders an announcement of such redemption price adjustment and time period of its effectiveness at least 30 days prior to the effective date thereof. The Board may change the redemption price per Share at any time by providing 30 days' advance notice to stockholders in the event the Company has sold property and has made one or more special distributions to the Company's stockholders of all or a portion of the net proceeds from such sales. In such case, the per Share redemption price will be reduced by the net sale proceeds per Share distributed to stockholders prior to the redemption date as a result of the sale of such property in the special distribution. The Board will, in its sole discretion, determine which distributions, if any, constitute a special distribution. While the Board does not have specific criteria for determining a special distribution, the Board expects that a special distribution will only occur upon the sale of a property and the subsequent distribution of the net sale proceeds.

Funding and Operation of Redemption Program

The Company will make purchases under the Redemption Program semi-annually, with purchases made twice a year on a single date certain following the end of the applicable semi-annual period. The semi-annual periods will run from December 1 - May 31 and from June 1 - November 30 of each year (each a “semi-annual period”). The redemption price (determined in accordance with the paragraph above) will be paid in cash no later than three business days following the last calendar day of the applicable semi-annual period (May 31 and November 30), subject to sufficient funds being available. The Company will limit the number of Shares redeemed during any calendar year to no more than \$1 million in Shares, subject to sufficient funds being available.

Except as may be required by law, there is no limitation on the sources of cash used by the Company to fund repurchases of Shares under the Redemption Program. In order to effectuate the purchase of Shares by the Company during the term of the Redemption Program, the Operating Partnership will redeem Class A Units and/or Common Units of limited partner interests held by the Company in exchange for cash, and, thereafter, the Company will use the cash received from the Operating Partnership to effectuate repurchases of Shares pursuant to the Redemption Program.

If the Company cannot purchase all Shares presented for redemption in any semi-annual period, based upon insufficient cash available as described above or the limit on the number of Shares the Company may redeem during any calendar year, the Company will, in such a case, attempt to honor redemption requests as follows (and in the following order of priority): (1) redemptions upon the death or disability of a stockholder (or pro rata if less than all of such death or disability redemption requests can be satisfied); (2) any redemptions that have been carried over from one or more previous semi-annual periods where the redemption amount remaining is less than \$2,500; and (3) pro rata as to all other redemption requests. The Company would treat any unsatisfied portion of the redemption request as a request for redemption the following semi-annual period. At such time, a stockholder may then (A) withdraw the stockholder’s request for redemption at any time prior to ten (10) days before the last day of the new semi-annual period or (B) allow the stockholder’s request to remain in the redemption pool for a redemption at such time, if, any, when sufficient funds become available. Such pending requests will generally be honored on a pro rata basis. The Company will determine whether the Company has sufficient funds available as soon as practicable after the end of each semi-annual period, but in any event prior to three business days following the last calendar day of each semi-annual period. The redemption price per Share will be determined on the date of redemption.

Stockholder Requirements

Any stockholder may request a redemption with respect to all or a designated portion of his, her or its Shares, subject to the following conditions and limitations:

- There is no minimum or maximum amount of Shares that a stockholder must present for redemption.
- Subject to funds being available, the Company will limit the number of Shares redeemed during any calendar year to no more than \$1 million in Shares.
- The presentment of Shares must be accompanied by a completed Share redemption request form. All Share certificates must be properly endorsed. The Company will redeem Shares on or about the third business day following the end of each semi-annual period or at such other times as determined by the Board. All Shares presented and all completed Share redemption request forms must be received on or before the end of the applicable semi-annual period in order to have such Shares eligible for redemption for such semi-annual period.
- A stockholder may withdraw a redemption request upon written notice to the Company at any time prior to ten (10) days before the end of the applicable semi-annual period.

Termination, Amendment or Suspension of the Redemption Program

The Redemption Program will terminate and the Company will not accept Shares for redemption in the event (i) the Shares are listed on any national securities exchange, or (ii) the Company merges with a listed company. Additionally, the Board, in its sole discretion, may terminate, amend or suspend the Redemption Program if it determines to do so is in the best interest of the Company. A determination by the Board to terminate, amend or suspend the Redemption Program will require the affirmative vote of a majority of the members of the Board. If the Company terminates, materially amends or suspends the Redemption Program, the Company will provide to stockholders written notice of such event at least 30 days prior to the effective date thereof. The Company will file a Current Report on Form 8-K with the Commission to report any termination, material amendment or suspension of the Redemption Program.

Disclosure

The Company will file a Current Report on Form 8-K with the Commission to disclose the Redemption Program and will inform all stockholders of such Current Report on Form 8-K and the Redemption Program via a newsletter that will be sent to all stockholders of record and that also will be posted on the Company's website at www.gjtreit.com. The newsletter regarding the Redemption Program will be a stand-alone mailing and will not be sent with other Company news or information. Following each semi-annual period, the Company will file a Current

Report on Form 8-K with the Commission to report the number of Shares that were redeemed during such period and the redemption price at which such Shares were redeemed.

LEGAL DISCUSSION

Pursuant to Rule 13e-4 under the Exchange Act, an issuer with equity securities registered under Section 12 of the Exchange Act or that is required to file periodic reports with the Commission pursuant to Section 15(d) is required, in connection with any tender offer for its own equity securities, to make certain disclosures and comply with other procedures with respect to such offers. The provisions of Rule 13e-4 are intended to prevent fraudulent, deceptive or manipulative acts in connection with issuer tender offers, principally the time pressure and inadequate disclosures present in coercive tender offers. The Company believes that repurchases under the Redemption Program will not constitute issuer tender offers within the meaning of Rule 13e-4 for the reasons stated below.

The Redemption Program Is Similar To Repurchase Plans For Which the Staff Has Granted No-Action Relief

The Company believes that many features of the Redemption Program are similar to repurchase/redemption plans of other companies with respect to which the Staff of the Commission (the “Staff”) has granted no-action relief relative to the issuer tender offer rules found in Rule 13e-4.¹ The Company’s request for no-action relief includes, among other features: (1) a limitation on the number of Shares that will be repurchased in any calendar year; (2) the pricing of repurchases of Shares based on a discount to NAV; (3) stockholders can tender their Shares for repurchase at any time during the period in which the Redemption Program is open; (4) stockholders can withdraw tendered Shares at any time prior to 10 days before the end of the applicable redemption period; (5) the Company will repurchase Shares on a pro rata basis at the end of each redemption period, subject to compliance with the policy on priority of repurchases discussed on page 4 of this letter; (6) the terms of the Redemption Program, and any termination, suspension or amendment of the Redemption Program, will be fully disclosed to the Company’s stockholders; (7) no trading market in the Shares exists, and if such a market develops, the Redemption Program will be terminated; and (8) stockholders desiring to request repurchase of Shares will do so of their own volition and not at the behest, invitation or encouragement of the Company.

¹ See Hines Real Estate Investment Trust, Inc., SEC No-Action Letter, 2006 WL 3007365 (Sept. 7, 2006); Apple REIT Six, Inc., SEC No-Action Letter, 2006 WL 1880375 (June 30, 2006); Behringer Harvard REIT I, Inc., SEC No-Action Letter, 2004 WL 2439520 (Oct. 26, 2004); Paladin Realty Income Properties, Inc., SEC No-Action Letter, 2004 WL 2375781 (Oct. 22, 2004); Orange Hospitality, Inc., SEC No-Action Letter, 2004 WL 2065831 (Sept. 9, 2004); Hines Real Estate Investment Trust, Inc., SEC No-Action Letter, 2004 WL 1432321 (June 18, 2004); CNL Income Properties, Inc., SEC No-Action Letter, 2004 WL 892249 (Mar. 10, 2004); T REIT Inc., SEC No-Action Letter, 2001 WL 649546 (June 4, 2001); CNL American Properties Fund, Inc., SEC No-Action Letter, 1998 WL 476210 (Aug. 13, 1998).

The Company acknowledges that the relief granted to other non-listed REITs has generally been for redemption programs established by either daily NAV non-listed REITs² or non-listed REITs that offer monthly³ or quarterly⁴ repurchases. The Redemption Program, in contrast, provides for semi-annual repurchases. The difference in frequency of the repurchases should not materially impact the analysis of whether the Repurchase Program constitutes an issuer tender offer because a longer repurchase period actually provides the stockholders with additional time to make a decision, thereby decreasing further any potential pressure on stockholders to sell their stock. During the semi-annual repurchase periods, stockholders are free to withdraw a redemption request at any time prior to ten (10) days before the end of the applicable period. Thus, stockholders are not subjected to a high pressure, short-term offer period, but instead have considerable time to assess and evaluate whether to submit (or withdraw) a redemption request. Moreover, similar to other non-traded REITs' repurchase programs, the Redemption Program will be open for an indefinite period. This means that the risk of manipulation and stockholder pressure to sell typically associated with tender offers are not present in the Redemption Program. See “—Analysis of the *Wellman* Factors Demonstrates That Redemptions Under the Redemption Program Do Not Constitute a Tender Offer” below.

Another difference between the Redemption Program and other non-traded REITs' repurchase programs is the limitation on the number of Shares that will be repurchased. Repurchases under the Redemption Program will not exceed \$1 million annually (approximately 0.8% of the Company's current weighted average number of Shares outstanding), whereas other non-traded REITs' repurchase programs often limited repurchases on an annual basis to 5% of the weighted average number of shares outstanding. This feature, however, makes the Redemption Program less like a tender offer than the other non-traded REITs' repurchase programs since an even smaller percentage of the Company's outstanding Shares are subject to repurchase.

There is no limitation on the sources of cash used by the Company to fund repurchases under the Redemption Program (as compared to the typical traditional non-listed REIT repurchase plan, in which the sources of cash are limited to proceeds from the sale of additional shares through a distribution reinvestment plan). This feature provides greater liquidity to the

² See Jones Lang LaSalle Income Property Trust, Inc., SEC No-Action Letter, 2012 WL 5450035 (Aug. 26, 2014); RREEF Property Trust, Inc., SEC No-Action Letter, 2013 WL 65987 (Jan. 4, 2013); Dividend Capital Total Realty Trust Inc., SEC No-Action Letter, 2012 WL 2903983 (July 12, 2012); Cole Real Estate Income Strategy (Daily NAV), Inc., SEC No-Action Letter, 2011 WL 6071983 (Dec. 6, 2011); American Realty Capital Daily Net Asset Value Trust, Inc., SEC No-Action Letter, 2011 WL 2938525 (July 21, 2011); Clarion Partners Property Trust Inc., SEC No-Action Letter, 2011 WL 1999926 (Feb. 24, 2012); Clarion Partners Property Trust Inc., SEC No-Action Letter, 2011 WL 7657591 (May 17, 2011).

³ See Blackstone Real Estate Income Trust, Inc., SEC No-Action Letter, 2016 WL 4730018 (Sept. 12, 2016); Inland Western Retail Real Estate Trust, Inc., SEC No-Action Letter, 2003 WL 22119707 (Aug. 25, 2003).

⁴ See supra note 1.

Company's stockholders and is consistent with a repurchase plan for which the Staff has recently granted no-action relief.⁵

Another difference from traditional non-listed REIT repurchase plans, albeit one that should not affect the tender offer analysis, is that the terms of the Redemption Program would be disclosed to stockholders via a Current Report on Form 8-K and a newsletter sent to all stockholders and posted on the Company's website. The terms of traditional non-listed REIT repurchase plans have been generally disclosed in a prospectus delivered in connection with a securities offering. This option would not be available to the Company since it is not currently, and has no present intention of, conducting a securities offering. The Company believes that filing a Current Report on Form 8-K with the Commission and mailing stockholders and posting to the Company's website a newsletter describing the Redemption Program will provide the Company's stockholders notice of the availability of the Redemption Program, without exerting any untoward pressure the tender offer rules were designed to prohibit. This method of disclosure is consistent with how companies have disclosed stock repurchase programs for which the Staff has granted no-action relief.⁶

As described in more detail below, the Company does not believe any differences from other non-traded REITs' repurchase programs materially impact the analysis of whether the Redemption Program constitutes an issuer tender offer.

Analysis of the *Wellman* Factors Demonstrates That Redemptions Under the Redemption Program Do Not Constitute a Tender Offer

We believe that the Redemption Program is not an "issuer tender offer" subject to Rule 13e-4 based on an analysis of the factors expressed in *Wellman v. Dickinson*, 475 F. Supp. 783 (S.D.N.Y. 1979), and applied in subsequent cases by the Commission and its Staff in determining what constitutes a tender offer. As the court asserted in *SEC v. Carter Hawley Hale Stores, Inc.*, 760 F.2d 945, 950 (9th Cir. 1985), the term "tender offer" implies: (i) active and widespread solicitation of public stockholders for the shares of an issuer; (ii) the solicitation is made for a substantial percentage of the issuer's stock; (iii) the offer to purchase is made at a premium over the prevailing market price; (iv) the terms of the offer are firm, rather than negotiable; (v) the offer is contingent on the tender of a fixed number of shares; (vi) the offer is open only for a limited period of time; (vii) the offeree is subjected to pressure to sell; and (viii)

⁵ See Blackstone Real Estate Income Trust, Inc., SEC No-Action Letter, 2016 WL 4730018 (Sept. 12, 2016).

⁶ See Apple REIT Six, Inc. Redemption Program, SEC No-Action Letter, 2006 WL 1880375 (June 30, 2006) (providing notice of the "terms of the Proposed Revised Redemption Program by (i) filing a report on Form 8-K under the Exchange Act describing the Proposed Revised Redemption Program (and highlighting the change from the current Redemption Program), and (ii) sending a letter or similar written notice of the Proposed Revised Redemption Program to all of the Company's shareholders by mail"); Inland American Real Estate Trust, Inc. Redemption Program, SEC No-Action Letter, 2011 WL 2677847 (Feb. 24, 2011) (stating that "the Company will provide written notice to its stockholders at least thirty calendar days prior to the effective date of the Proposed Amended Program and will file Current Report on Form 8-K, describing the terms and conditions of the Proposed Amended Program, including highlighting the changes from the Current Program").

a public announcement of an acquisition program prior to the rapid accumulation of stock by a purchaser.

Because virtually none of these factors apply to the Company in respect of repurchases of Shares under the Redemption Program, the Company believes that such repurchases will not constitute tender offers.⁷ Set forth below is an application of these factors to the Redemption Program.

(i) *Active and widespread solicitation of public stockholders for the shares of an issuer.* The Company will not engage in an active and widespread solicitation for the repurchase of the Shares. The Redemption Program will be described in a Current Report on Form 8-K and newsletter, and any communications to stockholders identifying changes to the Redemption Program will be communicated to stockholders in the same manner. If the Company terminates, materially amends or suspends the Redemption Program, the Company will provide to stockholders written notice of such event at least 30 days prior to the effective date thereof. The Company will also file a Current Report on Form 8-K with the Commission to report any termination, material amendment or suspension of the Redemption Program. Additionally, following each semi-annual period, the Company will file a Current Report on Form 8-K with the Commission to report the number of Shares that were redeemed during such period and the redemption price at which such Shares were redeemed. The Company believes that this disclosure is necessary and sufficient to make all of its stockholders aware of the Redemption Program's existence. The Company will not make any other significant public communications about the Redemption Program except as described above. Stockholders desiring to present all or a portion of their Shares for repurchase will do so of their own volition and not at the behest, invitation or encouragement of the Company. The Company will not solicit or encourage stockholders to request repurchase of their Shares. The role of the Company in causing an administrator to effectuate a repurchase under the Redemption Program will be ministerial and will merely facilitate the stockholder's full or partial exit from its investment in the Company. Stockholders desiring to present all or a portion of their Shares for repurchase will do so of their own volition and not at the behest, invitation or encouragement of the Company.

(ii) *The offer to purchase is made at a premium over the prevailing market price.* No premium will be paid over the prevailing market price by the Company for the Shares repurchased. The redemption price per Share will be equal to 90% of the Company's NAV per Share as of the end of the most recently completed calendar year. The Redemption Program will be terminated in the event the Shares are listed on a national securities exchange or included for quotation on a national securities market or in the event a secondary market for the Shares develops. Because there is no trading market and the repurchase price is at a discount to NAV per Share, this factor does not apply.

⁷ The absence of one particular factor does not necessarily mean the non-existence of an issuer tender offer because, depending upon the circumstances involved in the particular case, one or more of the factors may be found more compelling and determinative than the others. See *Wellman*, 475 F. Supp. at 824.

(iii) *The solicitation is made for a substantial percentage of the issuer's stock.* As noted above, the Company will not actively solicit repurchases under the Redemption Program. Further, numerous no-action letters have been issued to non-listed REITs with redemption plans similar to the Redemption Program, except that those plans generally limit repurchases to 5% of the issuer's outstanding shares, measured at the beginning of the prior 12-month period. Repurchases under the Redemption Program will not exceed \$1 million annually (approximately 0.8% of the Company's current weighted average number of Shares outstanding). Other than the "five per centum" threshold contained in Section 14(d)(1) of the Exchange Act, we are not aware of any authority that defines what constitutes a "substantial percentage" of an issuer's stock. We believe that the \$1 million annual limitation in the Redemption Program makes it less like a tender offer than the other non-traded REITs' repurchase programs since an even smaller percentage of the Company's outstanding Shares will be subject to repurchase. We also believe there is no reasonable likelihood that the Redemption Program will have the effect of the Company repurchasing a substantial percentage of the Shares.

The Redemption Program merely provides stockholders with a means of liquidity in respect of their investment, as discussed previously in this letter. Further, the Redemption Program does not exist for the same reasons that issuers typically conduct tender offers.

(iv) *The terms of the offer are firm, rather than negotiable.* The terms of the Redemption Program are firm with respect to the process by which stockholders may request that their Shares be repurchased. While the repurchase price is not negotiable, it is not fixed at the same amount for the duration of the Redemption Program, but rather it is determined each year using an established methodology to arrive at the NAV per Share. The Company believes, however, that the possible existence of this factor does not compel the finding of a tender offer because the firmness of the terms of the Redemption Program will not increase pressure on stockholders to have their Shares repurchased. The pressure on stockholders that Rule 13e-4 attempts to eliminate is that which is caused by "a high premium with the threat that the offer will disappear as of a certain time."⁸ Where these factors exist, firmness in the terms of the offer may have the effect of exacerbating the pressure. However, as previously discussed, the Redemption Program will not offer stockholders a premium for their Shares, and the Company intends that the Redemption Program will exist indefinitely during the life of the Company (subject to the authority of the Board in its discretion to terminate, amend or suspend the Redemption Program if it determines to do so is in the best interest of the Company).

In fact, the NAV-based repurchase price should have the effect of mitigating pressure because stockholders will know that they can request that their Shares be repurchased on a semi-annual basis at the NAV per Share as of the end of the most recently completed calendar year. The Company will not have discretion in the determination of the repurchase price, contrary to an issuer tender offer. In a typical tender offer, the offeror conceivably has both an incentive and the ability to set the offer price at a level that will maximize the chances of obtaining the desired volume of tenders, while minimizing the overall premium paid. Conversely, the Company will

⁸ See *Brascan Ltd. v. Edper Equities Ltd.*, 477 F. Supp. 773, 792 (S.D.N.Y. 1979).

apply a comprehensive set of valuation policies and procedures to ascertain the NAV per Share. Therefore, the repurchase price for the Shares under the Redemption Program will be based upon criteria that are beyond the day-to-day control of the Company.

(v) *The offer is contingent on the tender of a fixed number of shares.* The Redemption Program is not contingent on a fixed number of Shares being repurchased. Stockholders may choose to request that the Company repurchase none, all or a portion of their Shares on a semi-annual basis with no contingency to such request.

(vi) *The offer is open only for a limited period of time.* The Redemption Program is open for an indefinite period during the life of the Company. The risk of manipulation and pressure to sell typically associated with tender offers are not present in the Redemption Program. This feature of the Redemption Program makes it most unlike a tender offer.

(vii) *The offeree is subjected to pressure to sell.* As noted above, the Company will not encourage, invite, solicit or in any way pressure stockholders to participate in the Redemption Program. The role of the Company in effectuating repurchases under the Redemption Program will be purely ministerial. Because the Redemption Program has no set termination date, stockholders will not feel rushed or pressured to make decisions regarding participation in the Redemption Program. If the Company cannot purchase all the Shares presented for redemption in any semi-annual period, based upon insufficient cash available as described above or the limit on the number of Shares the Company may redeem during any calendar year, the Company would attempt to honor redemption requests as follows (and in the following order of priority): (1) redemptions upon the death or disability of a stockholder (or pro rata if less than all of such death or disability redemption requests can be satisfied); (2) any redemptions that have been carried over from one or more previous semi-annual periods where the redemption amount remaining is less than \$2,500; and (3) pro rata as to all other redemption requests. The Company would treat any unsatisfied portion of the redemption request as a request for redemption the following semi-annual period. At such time, a stockholder may then (A) withdraw the stockholder's request for redemption at any time prior to ten (10) days before the last day of the new semi-annual period or (B) allow the stockholder's request to remain in the redemption pool for a redemption at such time, if, any, when sufficient funds become available.

The Company acknowledges that some features of the Redemption Program may, to a limited extent, encourage a stockholder to request that the Company repurchase their Shares at a particular time given that the program will be open indefinitely during the life of the Company. Stockholders may feel pressure to request a repurchase of their Shares if the NAV per Share reaches a level at which stockholders may realize an attractive return above the amount of their initial investment. Additionally, stockholders may feel pressure to request a repurchase of their Shares if they believe the Company may receive repurchase requests in a semi-annual period in excess of the established maximum amount for that year. However, we do not believe that these pressures are the types of pressures placed on offerees in a tender offer which the tender offer rules were intended to address because the Company's stockholders will not be "pressured by premiums, . . . limited times or active solicitation into making hasty, ill-advised decisions to

sell.”⁹ Rather, the Company’s stockholders will be fully informed about the Redemption Program, which is open for an indefinite period, and will have considerable time to decide whether to submit (or withdraw) a redemption request. Furthermore, in view of the fact that stockholders may be able eventually to realize the value of their investment through a liquidity event, any pressure to have their Shares repurchased to take advantage of these factors may be reduced. Additionally, the pressures inherent in the Redemption Program noted above exist regardless of whether the price for repurchases of Shares is established annually in accordance with the NAV or daily, monthly or quarterly by the Board, as is the case in certain other redemption plans for which no-action relief has been granted by the Commission. In summary, we believe the substantive and procedural protections contained in the Redemption Program, including, among others, full and fair disclosure of the terms of the Redemption Program, the price protection in the Redemption Program (the same price is applicable to all stockholders), the Redemption Program being open to all stockholders, stockholders having adequate time to make a redemption decision, stockholders having withdrawal rights, and requirements for pro rata purchases of Shares in accordance with the terms of the Redemption Program, already address the issues the tender offer rules were intended to address.

(viii) *A public announcement of a purchasing program preceding or accompanying rapid accumulation of large amounts of stock.*¹⁰ The intent of the Redemption Program is to afford the Company’s stockholders liquidity, not for the Company to re-acquire its own Shares. The prices for which the Company’s stockholders are able to sell their Shares is extremely undervalued in the opinion of the Company, and the Redemption Program will allow the Company’s stockholders to gain limited interim liquidity for Shares prior to a liquidity event at more favorable prices than the stockholders would likely receive from third party buyers. It is unlikely that the Company may repurchase a significant number of Shares over a short time pursuant to the Redemption Program given the Redemption Program’s annual purchase limits. Moreover, any such Shares repurchased by the Company would not be deemed outstanding for purposes of receiving dividends or voting on matters submitted to stockholders.

The Company will file a Current Report on Form 8-K with the Commission and will inform all stockholders of such Current Report on Form 8-K and the Redemption Program via a newsletter that will be sent to all stockholders and that will also be posted on the Company’s website at www.gtjreit.com. The Board will announce any redemption price adjustment and the time period of its effectiveness by filing a Current Report on Form 8-K with the Commission and by mailing to the Company’s stockholders an announcement of such redemption price adjustment and time period of its effectiveness at least 30 days prior to the effective date thereof. If the Company terminates, materially amends or suspends the Redemption Program, the Company will provide to stockholders written notice of such event at least 30 days prior to the

⁹ See *Ludlow Corp. v. Tyco Labs., Inc.*, 529 F. Supp. 62, 68 (D. Mass. 1981).

¹⁰ The *Wellman* case did not include this eighth factor but acknowledged the Commission had listed an eighth factor in *Hoover v. Fuqua Industries, Inc.*, No. C79-106 2A, 1979 WL 1244, at *4 (N.D. Ohio June 11, 1979). See *Wellman*, 475 F. Supp. at 824.

effective date thereof. The Company will also file a Current Report on Form 8-K with the Commission to report any termination, material amendment or suspension of the Redemption. Additionally, following each semi-annual period, the Company will file a Current Report on Form 8-K with the Commission to report the number of Shares that were redeemed during such period and the redemption price at which such Shares were redeemed. The Company believes, however, that the Redemption Program is not characteristic of a publicly announced purchasing program that is followed by a rapid accumulation of a large amount of stock. Though disclosure of the Redemption Program as described above constitutes a public announcement of its existence and precedes any repurchase, the Company believes that any repurchase of Shares that might occur will not be driven by pressure exerted by the Company, as the Redemption Program imposes no deadline and offers no premium. Rather, any such accumulation would occur solely as a result of stockholders opting to exit from the investment at a particular NAV per Share of their own volition without pressure or prompting by the Company, which is not the type of untoward pressure the tender offer rules were designed to prohibit. Several courts have agreed that offers without a deadline or premium are not tender offers within the meaning of Rule 13e-4, as stockholders are not subjected to the pressure the rule was designed to mitigate.¹¹

Based on the analysis of the eight factors discussed above, the Company believes that repurchases of the Shares pursuant to the Redemption Program do not implicate the concerns that the issuer tender offer rules were intended to address.

The Redemption Program Withstands a “Totality of Circumstances” Analysis

We also note that some courts have rejected a rigid application of the *Wellman* test and have, instead, applied what the Company considers a reasonable “totality of circumstances” analysis.¹² This analysis looks to all the circumstances surrounding the transaction to determine whether the chief objectives of the tender offer statutes are being met, specifically, to remove the element of secrecy and undue pressure associated with such transaction, and to provide stockholders with adequate information to make an informed investment decision in connection therewith.¹³

We believe that the Redemption Program withstands such a “totality of circumstances” analysis. Stockholders are provided full disclosure of the program. The fact that the Redemption Program will be open indefinitely during the life of the Company eliminates any of

¹¹ See *Panter v. Marshall Field & Co.*, 646 F.2d 271, 286 (7th Cir. 1981) (ruling that where no deadline and no premium existed, stockholders “were simply not subjected to the proscribed pressures the Williams Act was designed to alleviate”); *Brascan*, 477 F. Supp. at 792 (ruling that without high premium and threat that the offer will disappear, a solicitation for a large percentage does not represent the kind of pressure the Williams Act was designed to prevent); *Kennecott Copper Corp. v. Curtiss-Wright Corp.*, 449 F. Supp. 951, 961 (S.D.N.Y. 1978) (ruling that where no deadline and no premium existed, no pressure was exerted on the stockholders), *aff’d* in relevant part, *rev’d* in part, 584 F.2d 1195, 1207 (2d Cir. 1978).

¹² See *Hanson Trust PLC v. SCM Corp.*, 774 F.2d 47 (2d Cir. 1985); see also *Pin v. Texaco, Inc.*, 793 F.2d 1448, 1454 (5th Cir. 1986) (applying same analysis to issuer tender offer case).

¹³ See, e.g., *Wellman*, 475 F. Supp. at 821-23; *Pin*, 793 F.2d at 1454; and *Hanson Trust*, 774 F.2d at 54-56.

the undue pressure on stockholders that is typical in tender offers. The Company is of the opinion that the protections afforded stockholders by the tender offer rules are not needed for stockholders who participate in the Redemption Program. We do not believe that a “substantial risk of ill-considered sales” made “by ill-informed shareholders” will exist for repurchases under the Redemption Program if the Rule 13e-4 procedural protections are not implemented.¹⁴

Finally, courts have specifically mentioned full disclosure, time in which to make investment decisions, withdrawal rights, and requirements for pro rata purchases of shares accepted in the event the offer is oversubscribed when referring to the substantive and procedural protections provided by Rule 13e-4.¹⁵ We note that these protections are already inherent in the Redemption Program even if Rule 13e-4 is inapplicable.

Rule 13e-3 Does Not Apply

Rule 13e-3 should not apply to the Redemption Program. Rule 13e-3 governs, among other transactions described in paragraph (a)(3)(i) of the rule, purchases of an equity security by the issuer of such security or by an affiliate of such issuer which have either a reasonable likelihood or a purpose of producing, either directly or indirectly, a “going private” transaction as described in paragraph (a)(3)(ii) of the rule. The Redemption Program is not being undertaken for the purpose of causing the Shares to become eligible for termination of registration under Rule 12g-4 or Rule 12h-6 or causing the Company’s reporting obligations to become eligible for termination under Rule 12h-6 or suspension under Rule 12h-3 or Section 15(d) of the Exchange Act. Moreover, there is not a reasonable likelihood that any of the foregoing effects would result from the operation of the Redemption Program inasmuch as the Redemption Program has limitations on the amount of repurchases that may be made in each year.

If the extent of repurchases under the Redemption Program is such that any of the effects described in paragraph (a)(3)(ii)(A) of Rule 13e-3 are to become reasonably likely, then the Board will undertake to modify or suspend the Redemption Program.

NO-ACTION RELIEF REQUESTED

Rule 13e-4 No-Action Request

We respectfully request that the Staff confirm that it will not recommend that the Commission take enforcement action under Rule 13e-4 with respect to repurchases of Shares by the Company under the Redemption Program. The Redemption Program is substantially similar to the share redemption plans for which the Staff has granted no-action relief.¹⁶ Although there are differences from other non-traded REITs’ repurchase programs, the Company does not believe the differences affect the analysis of the factors discussed above in any material way.

¹⁴ See *Hanson Trust*, 774 F.2d at 58.

¹⁵ See *Carter Hawley Hale Stores, Inc.*, 760 F.2d at 948.

¹⁶ See *supra* note 1.

Indeed, when evaluated as a whole, the differences make the Repurchase Program less like a tender offer than the traditional plans of non-listed REITs. In sum, factors we believe support this no-action request include:

- The Company has a perpetual existence pursuant to MGCL § 2-103, no finite date for liquidation and no intention to list the Shares for trading on an exchange or other trading market.
- Under the Redemption Program, the Company will redeem Shares on a semi-annual basis, at a specified price per Share (which price is equal to 90% of its most recent valuation price) up to a yearly maximum of \$1 million in Shares (which, based on the amount of Shares currently outstanding, equals approximately 0.8% of the weighted average number of Shares outstanding).
- The Redemption Program will be open to all stockholders.
- The Redemption Program will be open indefinitely with no specific end date, although the Board may choose to amend, suspend or terminate the Redemption Program upon 30 days' notice at any time. The Company will file a Current Report on Form 8-K with the Commission to report any termination, material amendment or suspension of the Redemption Program.
- The Redemption Program will be semi-annual whereby the Company will repurchase Shares twice a year, subject to the annual \$1 million limit and subject to sufficient funds being available.
- The Company will repurchase Shares on a pro rata basis at the end of each redemption period, subject to compliance with the policy on priority of repurchases discussed on page 4 of this letter.
- The repurchase periods will be December 1 - May 31 and June 1 - November 30 of each year. The Company receives its annual valuation as of December 31 each year and such valuation is ready in March of the next year (before the Company files with the Commission its Annual Report on Form 10-K).
- All material information relating to the Redemption Program will be fully and timely disclosed to all stockholders. The Company will file a Current Report on Form 8-K with the Commission and will inform all stockholders of the Current Report on Form 8-K and the Redemption Program via a newsletter that will be sent to all stockholders and that will also be posted on the Company's website. The newsletter regarding the Redemption Program will be a stand-alone mailing and will not be sent with other Company news or information. Following each semi-annual period, the Company will file a Current Report on Form 8-K with the Commission to report the number of Shares that were redeemed during such period and the redemption price at which such Shares were redeemed.

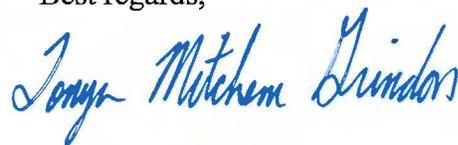
- Stockholders can tender their Shares for repurchase at any time during the period in which the Redemption Program is open. Stockholders can withdraw tendered Shares at any time prior to 10 days before the end of the applicable semi-annual period.
- The repurchase price for the Shares will be paid in cash no later than three business days following the last calendar day of the applicable semi-annual period.
- Stockholders desiring to request repurchase of all or a portion of their Shares will do so of their own volition and not at the behest, invitation or encouragement of the Company. The role of the Company in effectuating repurchases under the Redemption Program will be ministerial.
- No established regular trading market currently exists or will exist for the Shares. The Redemption Program will be terminated if the Shares are listed on a national securities exchange or included for quotation in a national securities market, or in the event a secondary market for the Shares develops or if the Company merges with a listed company.

The Company believes the Redemption Program as proposed would not result in the potential for the abuses Rule 13e-4 was intended to prevent and should not be subject to Rule 13e-4. Rather, the Company believes it would be a disservice to stockholders if the Redemption Program were not implemented. For the reasons stated above, the Company is of the opinion that repurchases under the Redemption Program will not constitute issuer tender offers within the meaning of Rule 13e-4. Therefore, the Company respectfully requests that the Staff confirm that it will not recommend that the Commission take enforcement action under Rule 13e-4 with respect to repurchases of Shares by the Company under the Redemption Program.

* * *

If you have any questions or need any additional information, please do not hesitate to contact me at (615) 726-5607.

Best regards,



Tonya Mitchem Grindon, Esq.

cc: Mr. Paul Cooper, GTJ REIT, Inc.
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