

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

KYRUS L. FREEMAN
202-862-5978
kyrus.freeman@hklaw.com

June 11, 2014

HAND DELIVERY & IZIS

District of Columbia Zoning Commission
441 4th Street, NW
Second Floor
Washington, DC 20001

Re: Z.C. Case No. 03-12Q/03-13Q - Request for Waiver of Section 3042.5 of the Zoning Regulations

Dear Members of the Commission:

On behalf of Capper/Carrollsbury Venture, LLC, together with the District of Columbia Housing Authority ("DCHA"), collectively the "Applicant" in the above-referenced application, we submit this request for the Commission to waive Section 3042.5 of the Zoning Regulations in order to accept DCHA's and the D.C. Department of Housing and Community Development's ("DHCD") request for a waiver of the applicable hearing fee in this case marked as Exhibit 15 in the record of this case.

The Zoning Regulations authorize the Commission to waive the required hearing fee for an application to permit the construction of a low or moderate income subsidized housing development based upon a written request from DHCD confirming that the proposed development meets the requirements of Section 3042.2 of the Zoning Regulations and stating why the proposed waiver should be granted. Section 3042.3 of the Zoning Regulations requires applicants to file a hearing fee waiver request at the time the application is filed so that the Commission can rule upon the request at the time the matter is set for public hearing.

In this case, the Applicant filed the current application on December 31, 2013. At its public meeting on February 10, 2014, the Commission voted to set the application down for a public hearing. The Applicant provided its prehearing statement on April 29, 2014. However, due to inadvertence, the Applicant did not submit the hearing fee waiver request until June 2, 2014.

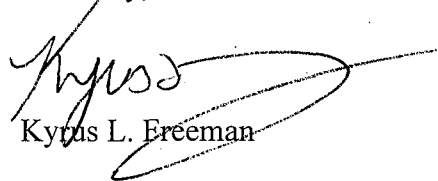
Section 3000.8 of the Zoning Regulations authorizes the Commission, for good cause shown, to waive any provision of Chapter 30 if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

The Applicant respectfully requests that the Commission exercise its discretion in this case to accept the late-filed hearing fee waiver request. The Zoning Regulations specifically authorize the Commission to grant waivers of hearing fees, and thus reaching the merits of the requested hearing fee waiver is not prohibited by law or regulation. Moreover, accepting the Applicant's hearing fee waiver request as a late filing will not adversely impact any parties since the waiver request will be decided at an open, public meeting after full review and deliberation by the full Commission. The only party to this case is Advisory Neighborhood Commission ("ANC") 6D, and granting the requested waiver will not have any impacts on the ANC and will not prejudice any of the ANC's rights.

In contract, not waiving Section 3042.3 in order to consider the hearing fee waiver request would effectively result in the hearing fee waiver requested being denied, and would ultimately require DCHA to pay a hearing fee of \$20,046.00. As described in the hearing fee waiver letter submitted by DCHA and DHCD, requiring a \$20,046.00 hearing fee in this case would be unduly burdensome on a District agency and is disproportionate to the PUD modification requested in this application. Furthermore, DCHA is a fellow District agency that provides public housing to low and moderate income households; therefore, the payment of the required hearing fee would essentially be a transfer of money from one District agency to another. DCHA is already impacted with limited funds, and payment of a \$20,046.00 hearing fee for this application would unnecessarily divert funds from DCHA's operational budget.

For the foregoing reasons, the Applicant respectfully requests that the Commission waive Section 3042.3 of the Zoning Regulations to accept the late-filed hearing fee waiver request.

Sincerely,



Kyris L. Freeman

cc: Advisory Neighborhood Commission 6D
Advisory Neighborhood Commission 6B
Steve Cochran, D.C. Office of Planning