STATEMENT IN SUPPORT OF APPEAL OF THE GENERAL COUNSEL OF THE DEPARTMETN OF CONSUMER AND REGULATORY AFFAIRS DATED JULY 14, 2003 REGARDING 2319 WYOMING AVENUE, N.W.; SQUARE 2522, LOT 4

This Statement of Reasons is submitted on behalf of the appellant, the Sheridan Kalorama Neighborhood Council (the "Council").

The Property. The subject property is located at 2319 Wyoming Avenue, N.W., Square 2522, Lot 4 (the "Property"). Prior to the transfer of the Property in March, 2002, the Property was used as the Jordanian Chancery.

Exceptions to Administrative Decisions. In February, 2003, the Jordanian chancery applied for a building permit to assist in the transfer of the Property to the Yemeni chancery. At that time, Kalorama contacted DCRA to inform then that resort to the Foreign Mission Board of Zoning Adjustment ("FMBZA") was required before the Property could be transferred or the permit issued. Regardless, in March, 2003, DCRA issued building permit for interior work to the improvements at the Property. By letter dated April 8, 2003, the Council disputed the validity of the permit on the basis that approval of the FMBZA of a special exception was first required before any transfer of chancery use from the Jordanian chancery to the Yemeni chancery and asked DCRA to reconsider its action. By letter dated July 14, 2003, General Counsel for DCRA, Karen Edwards, Esquire, denied that the zoning regulations which required such review was of any legal effect, and, instead, stated that the chancery use could be transferred under the Foreign Missions Act, a statute that DCRA has no authority to implement or interpret.. By this application, the Council appeals from the decision of Ms. Edwards, a copy of which is attached hereto.

Continued use of a property as a foreign chancery is limited to the government that lawfully occupied the subject chancery as of February 23, 1990. 11 D.C.M.R. § 201.1(m)(1). Clearly, then, in order for a chancery to change hands, relief must be obtained from the FMBZA. This interpretation is consistent with the legislative purposes of the Foreign Missions Act (U.S.C. Title 22)(the "Act"), prior orders of the Zoning Commission, the Foreign Missions Act and the zoning regulations. Under the Foreign Missions Act, the Zoning Commission has the responsibility for adopting regulations to implement the provisions of the Act.

When the Foreign Missions Zoning Commission took up the issue of existing chanceries in the 1980's it read § 4306(h) of the Act, the section relied upon by DCRA, to apply to only the chancery that existed at the time the Foreign Missions Act was passed. So, as indicated above, section 201.1(m) of the zoning regulations states that after February 23, 1990, the continued use of the chancery that was grandfathered is limited to the government that occupied the chancery on that date. New users in R-1 through R-5-B districts must go through the FMBZA process. That is, whenever a nonconforming chancery use within a residential zone either changes ownership or use, a new owner may not occupy the premises with a use that is in violation of the zoning regulations unless the new owner obtains a special exception.

BZA
Case No. 17086
Exhibit No. 3

Board of Zoning Adjustment
District of Columbia
CASE NO. 17086
EXHIBIT NO. 3