GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Office of the General Counsel

July 14, 2003

Richard B. Nettler, Esquire
Robins, Kaplan, Miller & Ciresi, L.L.P.
1801 K Street, N.W.
Washington, D.C. 20006-1301

Re: 2319 Wyoming Avenue, N.W.
Washington, D.C.

Dear Mr. Nettler:

We have reviewed your concerns about the transfer of the Jordanian chancery to the Yemeni chancery raised in your April 8, 2003 letter. In addition, we have reviewed the relevant case law and regulations. While some inconsistencies may exist in the regulations, the Department of Consumer and Regulatory Affairs (DCRA) properly issued a building permit for the interior work at the foreign mission.

We understand your interpretation of the 11 DCMR § 201.1(m)(1)(1995) prohibits any transfer without approval by the Foreign Mission Board of Zoning Adjustment. However, the zoning regulations cannot be read or interpreted in a manner that is inconsistent with the Foreign Missions Act, 22 USCA § 4306(h). In this regard, the interpretation of the statute by the Zoning Administrator and the State Department is similar.

As you know, the Foreign Missions Act clearly states that

> "Approval of Board of Zoning Adjustment or Zoning Commission or, except as provided in section 205 [22 USCS § 4305], by any other agency or official is *not required*,
>
> **
>
> (2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on the effective date of this section on October 1, 1982."

Id. (emphasis added.)

Our reading of this provision affords the Zoning Administrator the ability to approve transfers of chanceries where the site had been used as a chancery by another foreign

BZA
Case No. 17086
Exhibit No. 7

Board of Zoning Adjustment
District of Columbia
CASE NO. 17086
EXHIBIT NO. 7

mission. This is the circumstances of the Jordan-Yemen transfer. To the extent, the local regulations may be read to require additional approvals undermines the goal and the legislative intent of the Foreign Missions Act. A contrary result, as you suggest, would be disfavored.

In light of our conclusion, this office cannot advise the Zoning Administrator to revisit his decision. Should you have any further questions, please feel free to contact me at 442-8404.

Sincerely,

Karen M. Edwards

Karen Edwards
General Counsel

cc: David Clark, Director
Theresa Lewis, Deputy Director
Denzil Noble, BLRA Administrator