COLE, RAYWID & BRAVERMAN, L.L.P.

ATTORNEYS AT LAW
1919 PENNSYLVANIA AVENUE, N.W., SUITE 200
WASHINGTON, D.C. 20006-3458
TELEPHONE (202) 659-9750
FAX (202) 452-0067
WWW.CRBLAW.COM

EDWARD L. DONOHUE
WRITER'S E-MAIL
EDONOHUE@CRBLAW.COM

LOS ANGELES OFFICE
2381 ROSECRANS AVENUE, SUITE 110
EL SEGUNDO, CALIFORNIA 90245-4296
TELEPHONE (310) 643-7999
FAX (310) 643-7997

March 16, 2004

VIA HAND DELIVERY

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment of the District of Columbia
441 4th Street, NW
Washington, DC 20001

Re: BZA Appeal No. 17092
Opposition to Appeal (Wagtime, LLC)

Dear Mr. Griffis:

This statement and attachments are submitted on behalf of Lisa Schreiber, Wagtime, L.L.C. and in accordance with subsection 3112.15 of the Zoning Regulations. For obvious reasons, Ms. Schreiber is opposed to the appeal filed by Stephanie Mencimer.

Introduction:

Located at 1412 Q Street, NW and within the C-3-A/Arts Overlay District, Wagtime offers care for dogs and related retail goods. The care offered ranges from dog walking, grooming, etc. to overnight stays for a limited number of dogs. Wagtime is a relatively small operation, and one that operates in a clean and safe environment. In order to obtain the requisite approvals from the District's Department of Consumer and Regulatory Affairs (DCRA), Ms. Schreiber met with DCRA staff, described the nature of the use and ultimately submitted an application for a Certificate of Occupancy as instructed by DCRA.

Mr. Denzil Noble, Acting Zoning Administrator, characterized the DCRA review of the proposed use as "in-depth". During the course of this review, and in order to demonstrate good faith to the DCRA and also the neighborhood, Ms. Schreiber offered a number of conditions of approval—conditions, we submit, that are neither required under the Zoning Regulations nor any enforcement action. Simply put, Ms. Schreiber offered to place conditions on the approval to give assurances that the use of the facility would be compatible with its surroundings. After its "in-depth" review, which went beyond the Zoning Regulations and included the Environmental

BZA
Case No. 17092
Exhibit No. 72

Board of Zoning Adjustment
District of Columbia
CASE NO. 17092
EXHIBIT NO. 72

Policy Act of 1989 and the Building Code, Mr. Noble determined that "DCRA has no legal basis for withholding a Certificate of Occupancy (C of O) for Wagtime" (Letter dated July 30, 2003 from Denzil Noble, attached as Exhibit A). Mr. Noble was correct when he signed the referenced letter, and his statement is true and accurate today as well. The apparent basis for the appeal is that there are a few neighbors that are disappointed in this decision. In contrast, there are a great number of neighbors, and customers of Wagtime, that have written thoughtful and informative letters in support of Wagtime and in opposition to the appeal. Copies of those letters of support are attached as Exhibit B.

Appellant concedes that dog grooming and accessory retail uses are permitted as by right uses under the Zoning Regulations (See Appeal at page 4). The Appeal goes on to say that the determination that "24-hour dog boarding" is a permitted use is error. Accordingly, by her own admission, the only issue before the Board is the DCRA approval of 24-hour boarding and in that regard the appellant does not meet her burden. As you know, agency decisions are presumed to be correct, "so that the burden of demonstrating error is on the appellant or petitioner who challenges the decision." *Cohen v. Rental Housing Commission,* 496 A.2d 603, 605 (DC App. 1985). Appellant does not meet this burden and the decision of the Zoning Administrator should be affirmed.

A. There is no Legal or Factual Basis on Which to Base a Reversal of the Decision of the Zoning Administrator to Grant a Certificate of Occupancy to Wagtime

1. The Zoning Administrator Correctly Determined that the Use Should be Permitted By-Right

"Dog boarding" is not a defined term in the Zoning Regulations. However, the Zoning Administrator correctly observed that a pet shop is permitted in this zone (subsection 721.3), as is a public bath (subsection 721.2) as is a veterinary hospital (subsection 721.2). Significantly, each of these uses is first permitted in the C-2 zone, and therefore also in subsequent zones, including C-3. Each of the foregoing uses is permitted by right, without special exception or variance relief needed. There is no limitation on overnight boarding at either pet stores or veterinary hospitals, and in fact it is common for both uses to offer this service.

Similarly, Companions Pet Shop, located at 1626 U Street, NW in the C-2 district is permitted by-right. Our information is that boarding is offered by Companions as well.

The appellant states that the use is better characterized as a kennel. As support for this argument, the appellant states—without citing any authority—that the "core mission of a boarding kennel is to provide lodging for dogs, and kennel businesses thrive by attracting as many dogs as possible for the maximum possible". (Appeal at pages 10-11). The appeal goes on to cite cases of large, unrestricted kennel operations in other jurisdictions where problems arose. This line of reasoning is simply irrelevant to the Board's consideration in this appeal.

Wagtime does not operate a kennel. In accordance with its DCRA approval, Wagtime offers overnight stays to a limited number of dogs. Ms. Schreiber has informed DCRA and will testify before the Board, that the average number of dogs that stay over-night is 10, and the maximum number permitted to stay by Wagtime is 18 on any given night. The average length of stay is a few days. Furthermore, Ms. Schreiber will testify that on those nights when dogs stay overnight, they are always **supervised** by an employee of Wagtime, and that the dogs are not kept in cages, but instead sleep in an open room along with the employee.

Appellant cannot ignore the fact that the existing regulations permit a veterinary hospital to operate in this zone, and without limitation as to hours of operation, number of dogs or length of stay. Friendship Animal Hospital, located at 4105 Brandywine Avenue, NW operates a veterinary hospital in a R-2 zone district, however our information is that that facility also boards dogs overnight. The uses are very similar.

As stated above, the subject property is zoned C-3-A. The C-3 zone district is characterized as "**Major Business and Employment Center**", and is "designed to accommodate major business and employment centers". (Section 740.1). The Board must take into account the underlying zoning. Under the existing zoning, the property could be re-developed to a height of 65 feet, FAR of 4.0. Gas stations, fast food restaurants, dry cleaning and printing/photoengraving are also permitted uses in this zone.

2. The Zoning Administrator Took Into Consideration All Legitimate Concerns Regarding the Nature of the Use at the Present Location

In approving the C of O for Wagtime, the Zoning Administrator took into consideration the nature of the use, and any potential adverse effects on neighboring properties. As stated in his letter (Ex. A), this included not only the Zoning Regulations, but also the Environmental Policy Act and the Building Code. The noise levels at Wagtime have been tested numerous times and have been found to be within the levels permitted in the District. The District Health Department has also inspected Wagtime on a number of occasions and has not issued any notice of infraction or violation.

Appellant has failed to address the conditions that Wagtime agreed to as part of the review of its C of O. Those conditions are as follows:

1. No more than 20 dogs are permitted outside at any one time;
2. Use of the outdoor space at the rear of the property is permitted only between 9 AM and 5 PM;
3. Use of the outdoor space must be supervised by employees; and
4. Construction of a proposed temporary cover over part, or all, of the rear yard is required to protect and enclose the dogs and to help minimize noise impacts.

There has been no contention by the appellant or the District that these conditions have been breached. What then is left that could be found to be grounds for appeal? Overnight stays by a limited number of dogs in an indoor, secure and supervised environment. The ZA properly found no legitimate grounds for objection, and no legal basis to withhold the C of O.

Appellant attempts to make a case to distinguish this portion of the C-3-A district on the grounds that it is on the border of the R-5 district. Appellants point to some restrictions that may be placed on certain permitted uses in the C-3 district as support for the argument that there should be restrictions placed here. In fact, where the Zoning Commission has determined that the use may have an adverse impact on adjoining uses, it has made allowances for this in the Zoning Regulations. This is true of fast food restaurants (subsection 741.3) and other uses permitted in the commercial zone districts—*however, that is simply not the case for pet shops.* Pet shops are permitted by-right in the C-2 (and therefore C-3) zone district. Appellants may have recourse to the Zoning Commission on this point, but not this Board.

B. Appellant Has Raised Issues that Are Extraneous to the Appeal

The appellant has filed a great deal of material, and introduced many hours of testimony that is extraneous and in many instances, inflammatory, and should be disregarded by the Board. For example, on page 8 there is a litany of complaints about a kennel located somewhere in Florida, that contains "some sixty or sty-five (sic) dogs". Obviously, this is quite different in scale from the Wagtime operation. In addition, there is no information provided about the nature of care, the location of the facility, level of supervision, or anything to inform this Board about the case, other than to cite to the "barking, yelping, scratching and growling". Likewise, there are numerous references to "boarding and breeding" facilities, located elsewhere and apparently causing disturbance. Wagtime isn't engaged in breeding, and there are no kennel runs associated with the facility. This line of argument is extraneous to the ZA's proper and lawful decision regarding the C of O.

The most egregious example of extraneous and inflammatory statements relates to noise levels emanating from Wagtime. Appellants cannot point to a single infraction issued by DCRA in connection with ambient noise levels. Based upon conjecture about comparable noise levels, the Appellants would compare the nature of the use to a trash hauling facility (See page 16). In fact, Appellant states that the noise levels are "significantly worse" than permissible in industrial zones. This is simply conjecture. With regard to the noise report submitted by Appellants, that will be addressed at the hearing.

C. The Appellants Have Failed to Satisfy Their Burden of Proof

In several hours of testimony before the Board on January 20, 2004, the appellants and the many witnesses called to support this appeal proved only one thing: they are not pleased

with the Zoning Administrator in his rightful decision to issue the Certificate of Occupancy. One witness went so far as to testify, under oath that such a use may not be permitted at all within the District of Columbia, but in any case, only in the CM district. Others gave the Board their opinions that such a use would be fine with them provided it was relocated to rural portions of one of the adjoining counties. Others gave impassioned statements as to what effect a breeding kennel would have on the neighborhood. In summary, the testimony and documents in support of this appeal miss the point. The use of the subject property by Wagtime is a permitted use in the C-3 district.

As the Office of Corporation Counsel has pointed out in its brief, there are limitations which can be found in the Code, and under the laws of the District of Columbia. However, there is no reasonable, legal argument to be made that the use is not permitted under the Zoning Regulations.

Respectfully submitted

Edward L. Donohue

Encl.

cc: Bennett Rushkoff, Office of Corp. Counsel
All Parties of Record

Rec'd 7/30/03

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Administrator

RECEIVED
D.C. OFFICE OF ZONING
2003 SEP 22 PM 4:35

July 30, 2003

Andrea Doughty
1417 Q Street NW
Washington DC 20009

Ref: WagTime

Dear Ms. Doughty:

Your letter dated July 1, 2003 regarding the location of WagTime at 1412 Q Street NW has been referred to me for response. Please accept my apology for the delay in responding to you. The delay was caused by the Department of Consumer and Regulatory Affairs' (DCRA) in-depth review of all aspects of the plan to operate WagTime at the Q Street location. This review included the requirements of the Environmental Policy Act of 1989, the DC Zoning Regulations and the DC Building Code.

Based on this review, it has been determined that DCRA has no legal basis for withholding a Certificate of Occupancy (C of O) for WagTime at 1412 Q Street NW. Consequently, a C of O was issued on July 25, 2003.

If you have additional questions, do not hesitate to contact me at 442-4455.

Sincerely,

Denzil Noble
Administrator

cc: David Clark
Theresa Lewis

IQ # 181524

[redacted]

BZA
Case No. 17092
Exhibit No. 11

David Last and Becki Last
1401 17th Street, NW
Washington, DC 20036

17092

January 6, 2004

RECEIVED
D.C. OFFICE OF ZONING
2004 JAN -7 PM 3:33

Board of Zoning and Adjustment
441 Fourth Street, NW
Suite 210 S
Washington, DC 20001

RE: 1412 Q Street, NW – Wagtime, LLC

Dear Sir/Madam:

We write in anticipation of the Board's upcoming hearing regarding the zoning of 1412 Q Street, NW, specifically as it relates to the occupancy of Wagtime, LLC. It has come to our attention that a collection of Wagtime's neighbors have challenged the issuance of Wagtime's permits and/or have sought to rezone the property retroactively so as to inhibit, or effectively prohibit, Wagtime's ability to conduct business at that location. We urge the Board to deny any relief that would negatively impact Wagtime's ability to conduct business at 1412 Q Street, NW.

We have been customers of Wagtime for more almost three years. During that time, we have observed nothing but the highest of standards from the Wagtime owners, management and staff in the care of its animal guests. Wagtime has consistently proven itself dedicated to the care of its clients' pets through the provision of superb service in a clean and healthy facility. In addition to providing a needed service to its clients, Wagtime also has contributed a significant amount of time, energy and money to the positive growth and development of the surrounding community. Always eager to organize or sponsor a charitable or community event, or otherwise simply to bring a smile to a young child's face with the chance to pet a small puppy, Wagtime's beneficial impact on the Dupont Circle and Logan Circle neighborhoods and their residents cannot be understated.

As residents of this community, we vehemently oppose any attempt to rezone the property currently occupied by Wagtime, or to otherwise modify the permits previously issued to Wagtime, in any manner that would negatively impact its ability to conduct business there. In this crucial time of economic and commercial growth for the District of Columbia, as well as the Dupont Circle and Logan Circle neighborhoods, support and encouragement of small businesses such as Wagtime is not only desirable, but necessary. In this regard, the improvement of these neighborhoods will not be fully realized through the development of only chic loft apartments, corporate coffee shops and designer supermarkets. To be sure, the influx of this type of commercial growth has no doubt benefited the community exponentially. However, the District government and its residents also must recognize the value added by the infusion and continued subsistence of smaller, more individualized businesses. This type of "balanced commerce" not only facilitates continued economic growth, but also adds to the uniqueness of the Dupont Circle and Logan Circle neighborhoods.

For all of these reasons, we respectfully urge the Board to deny or decline any relief that would adversely affect Wagtime's business operations and continued dedication to the growth and development of our community.

Sincerely,

David Last and Becki Last

cc: Lisa Schreiber, Wagtime, LLC

BZA
Case No. 17092
Exhibit No. 30

[redacted]

1423 Q Street, NW
Washington, DC 20009
December 30, 2003

Board of Zoning Adjustment
441 4th Street, NW
Suite 210 S
Washington, DC 20001

Dear Board Members,

We live at 1423 Q Street, directly opposite Wagtime, a dog care facility that has recently opened.

We have found the facility to be a positive addition to the block and neighborhood. We sometimes board our cute-as-the-dickens mutt Fred there and have found the cleanliness of the business and the care afforded to the animals both excellent.

As I'm sure you are aware, our part of Q Street is right around the corner from a number of businesses, including restaurants, insurance companies, and a dry cleaner.

We hope that it turns out that Wagtime's permit was properly issued and that 1412 Q Street is appropriately zoned. We're very pleased to have them nearby.

Sincerely,
David Shapiro
Scott Kenison

RECEIVED
D.C. OFFICE OF ZONING
2004 JAN 12 AM 11:50

BZA
Case No. 17092
Exhibit No. 31

RECEIVED
D.C. OFFICE OF ZONING
2004 JAN 14 AM 7:09

December 30, 2003

Re: Letter of support for Wagtime

To Whom It May Concern:

I am writing this letter is support of Lisa Schreiber's request that Wagtime be issued the appropriate permits to operate at 1412 Q Street NW based on my experience with Ms. Schreiber as a responsible and responsive business owner. I have made use of Wagtime's various services over the course of two years and can state with confidence that Ms. Schreiber operates a fair and respectable business. In addition, she has demonstrated her commitment to being a positive addition to her surrounding neighborhood as well as the community in general. Given the commercial zoning of the property, Wagtime's neighbors should take into consideration Ms. Schreiber's flexibility and willingness to work through their concerns, which is certainly not characteristic of all business owners.

Sincerely,

Evelyn K. Lee

BZA
Case No. 17092
Exhibit No. 32

1812 Vernon St. Apt. 33
Washington, DC 20009-1259

November 24, 2003

Board of Zoning and Adjustment
441 4th St. NW
Suite 210 S
Washington, DC 20001

17092

RECEIVED
D.C. OFFICE OF ZONING
2003 NOV 25 PM 4:11

To the BZA:

I have been a customer of Wagtime, LLC, for a year, and I want to express my total support of the business continuing at 1412 Q St. NW. I write to you not just as a customer, but as a homeowner who appreciates enterprising small businesses in my neighborhood.

My dog, Lizzy, spends every weekday at Wagtime, and the trust that comes with leaving my little girl there is enormous. But Wagtime doesn't just care for my dog, a paying customer. Lisa Schreiber and Ofer Khal have taken in many strays from the neighborhood and the humane society who otherwise would have been left to the streets or taxed our already over-burdened animal shelter. Almost every employee at Wagtime has personally taken in a stray and they have found homes for a handful of others. This is just one example of how Wagtime does more than their fair share to help the neighborhood.

As someone who has spent a lot of time there and witnessed quite a bit of the harassment from the neighbors on Q Street Northwest, my honest assessment is that the neighbors made a decision from the outset that they didn't want a pet boutique on their street and have never given Lisa and Ofer a chance to prove that their business could be a positive addition to the neighborhood. As a reporter and generally fair person, I have tried to give their arguments a chance, but I don't believe what they say about Wagtime is supported by the facts. This is a vendetta, pure and simple.

Please uphold the zoning decision giving Wagtime its occupancy permit. Otherwise what kind of city would Washington be for small businesses, to have much needed entrepreneurs invest in a business only to have it taken away? That's not the kind of city I want to live in.

With kindest regards, I am

Sincerely yours,

Suzanne Nelson

BZA
Case No. 17092
Exhibit No. 20

November 24, 2003

Board of Zoning and Adjustment
441 4th Street, Northwest
Suite 210 S
Washington, D.C. 20001

17092

RECEIVED
D.C. OFFICE OF ZONING
2003 NOV 25 PM 4:

To Whom It May Concern:

SUBJECT: WAGTIME LLC/CERTIFICATE OF OCCUPANCY

I am writing this letter in reference to the challenge against Wagtime's Certificate of Occupancy. I understand some individuals feel that this business is a nuisance and I would like to provide you with a different perspective.

I have 2 dogs that play at Wagtime several days a week. In addition, when my husband and I work late, our dogs receive walks by trained Wagtime staff and when we travel, they stay at Wagtime overnight. Wagtime is a wonderful business that provides a real service to members of the community and the neighborhood.

In addition, I would like to point out the following key issues:

1) **The owners of Wagtime demand professionalism and abide by all city regulations.** Wagtime would not accept my dogs until they were licensed in the city of D.C. I also had to provide all proper and up-to-date veterinary certifications before my dogs were allowed to play or board.

2) **Wagtime is a clean establishment.** It always smells and looks clean in the store portion of Wagtime. In the portion of the establishment in which the majority of the dogs play, there is a huge window so that owners can watch their dogs socialize. My view from this window is one of cleanliness and the utmost respect for providing a safe, fresh environment for the dogs.

3) **The members of the Wagtime staff treat all animals with love and kindness.** I never worry about my dogs when they are at Wagtime because the staff is well trained, friendly, and incredibly caring toward the animals. I know that my dogs receive the same standards of care when they are at Wagtime as they do in my own home.

We live in a city in which people work long hours. The Dupont area is filled with men and women who love their dogs enough to treat them like children; daycare, daily walks, toys, grooming, etc. I honestly do not know what I would do without the consistent, convenient, and professional dog services that Wagtime provides. I feel privileged not only because Wagtime exists for my dogs, but also because I am privileged enough to know its remarkable staff and owners.

Sincerely,

Lisa L. Rosen

Lisa L. Rosen

1715 SWANN ST., NORTHWEST
APT. 6
WASHINGTON, D.C. 20009

BZA
Case No. 17092
Exhibit No. 21

Arley R. Conner & Scott A. Kirkland
1830 R Street, N.W., #72
Washington, D.C. 20009

17092

D.C. RECEIVED
OFFICE OF ZONING
2003 NOV 26 PM 2:02

November 24, 2003

Board of Zoning and Adjustment
441 4th St. N.W.
Suite 210 S
Washington, D.C. 20001

RE: Certificate of Occupancy for Wagtime Pet Spa and Boutique. 1412 Q Street

Dear Honorable Board Members:

Recently, Stephanie Mencimer and Andrea Dougherty, two persons residing on Q Street, challenged the Certificate of Occupancy (certificate) of Wagtime Pet Spa and Boutique (Wagtime) for multiple reasons. These challengers, in addition to blaming this Board for erroneously issuing the certificate, have thrown all but their kitchen sinks at the Board to thwart what others perceive as the resurgence of a neighborhood. It is because of these claims that we felt compelled to speak out.

Today, the face of Logan Circle reflects new grocery stores, hardware stores, coffee shops, restaurants, home furnishing stores, bars, hotels, and novelty shops that did not exist a year ago. Hardly a week passes without an announcement of the opening of a new business or apartment building in Logan Circle. In just over two years since our relocation to D.C., it seems as though the area, about which many warned us, has now become an area of tremendous growth and gentrification.

Wagtime Pet Spa and Boutique (Wagtime), a business that offers boarding, daycare, grooming, and pet supplies is one of the many businesses that have recently opened in the Logan Circle area. In addition to contributing the overall revitalization of the Logan Circle area, Wagtime has demonstrated its commitment to the community and has had a positive impact on the neighborhood, as well as the animals in the community.

1. Wagtime has consistently offered reliable dog grooming services and pet supplies. The owners and staff have always been conscious about the health of our pet, as well as responsive to our concerns.
2. Wagtime has acted as a community builder, bringing neighborhood pet owners together. Much like the new Starbucks or Caribou coffee shops, Wagtime offers a place to meet others. In addition to meeting other like-minded dog owners each time we take our dog in for a grooming, we have met many other neighbors through Wagtime-sponsored "meet and greet" activities.
3. Wagtime has helped raise awareness of and money for various pet welfare organizations that provide services within the community. In addition to regularly donating to animal welfare charities, Wagtime provides shelter and locates homes for unwanted pets. Most recently, it sponsored a Doggie Fashion Show which benefited D.C. Pets, a nonprofit organization which cares for animals belonging to people who are infirm or bedridden.
4. Wagtime has never treated my animal badly or appeared to be unclean or unsafe at any point within the last two years. The store and kennels have been clean and sanitary upon our every visit. Furthermore, we have never had any concerns over how Wagtime staff have treated the animals in their care nor over the conditions in which the animals were kept.
5. Wagtime has a location that is safer to which to walk our dog, and therefor to enjoy the sites that the neighborhood has to offer. Being so new to the area, we would never have had a reason to more closely explore the Logan Circle area and to discover the many things it has to offer had it not been for Wagtime's relocation.

However, one could see how those who do not like animals could view the location of such a business as a nuisance. This is especially true if located right beside or across from your residence. It is not our intention to criticize these persons for their point-of-views, or to erode the basis for which they stand. Rather, our letter serves only to point out the good in Wagtime's relocation to the Logan Circle area and, hopefully, to give some additional weight to the Wagtime side. As you can see, we believe that maintaining Wagtime's current location serves to benefit the community more than does revoking its certificate. For these reasons, we also believe that the community's interests should be considered as greater than the interests of the two persons lodging the complaint. We thank you for your attention and time in this matter.

Best Regards,

Arley R. Conner

Scott A. Kirkland

cc: Wagtime
S. Mencimer
A. Dougherty
Mayor's Office

BZA
Case No. 17092
Exhibit No. 22

Vicky Leonard-Chambers
2218 Flagler Place, NW
Washington, DC 20001
Vicky@VickyLC.com
202.326.5918 (work)

December 29, 2003

RECEIVED
D.C. OFFICE OF ZONING
2003 DEC 29 PM 4:38

Mr. Geoffrey Griffis
Chairman
Board of Zoning Adjustment
441 4th Street, NW, Suite 220
Washington, DC 20001

VIA FACSIMILE: (202) 727-6072

Re: Case Number 17092, Certificate of Occupancy Issued to Lisa Schreiber to Operate Wagtime at 1412 Q Street, NW

Dear Chairman Griffis:

It is my understanding that the Board of Zoning Adjustment will be holding a hearing in late January regarding the certificate of occupancy issued to Lisa Schreiber to operate Wagtime—a pet boarding, daycare, grooming, and supply store—at 1412 Q Street, NW.

My dog and I are patrons of Wagtime, and I urge you and other BZA members to uphold the certificate of occupancy issued to Ms. Schreiber by the D.C. Department of Consumer and Regulatory Affairs. The location is zoned for commercial use, and the certificate of occupancy is therefore valid. Moreover, Wagtime is a well-run establishment. The facility has been clean and presentable each time I have visited the premises. The dogs who are enrolled in the daycare program are well-behaved and a joy to watch through the viewing window.

As a resident of a less economically-developed neighborhood in Washington, D.C., I am envious that the 14th Street business corridor has been able to attract entrepreneurs such as Ms. Schreiber. In Bloomingdale, where I live and serve as an ANC Commissioner, our small businesses are mostly alcohol establishments.

Washington, D.C. needs to promote and protect small businesses like Wagtime that provide our city with tax revenue and jobs for D.C. residents but also move the product mix in our urban neighborhoods beyond alcohol and tobacco.

Please uphold the certificate of occupancy for Wagtime.

Sincerely,

Vicky Leonard-Chambers

Vicky Leonard-Chambers

BZA
Case No. 17092
Exhibit No. 24

Kenneth S. Katz
3411 Fessenden Street, NW
Washington, D.C. 20008

RECEIVED
D.C. OFFICE OF ZONING
2004 JAN -5 AM 9:07

Zoning Commission
Board Of Zoning Adjustment
441 4th Street, NW
Suite 210 South
Washington, DC 20001

Re: Case Number 17092

Tuesday, December 30, 2003

To the Honorable Members of the Board of Zoning Adjustment,

I am writing to support Wagtime as both a client and District of Columbia homeowner. I am confident that you will determine Wagtime is complying legally with all District requirements pertaining to the certificate of occupancy granted for an appropriately zoned business location. With respect to complaints that Wagtime represents a nuisance, it is clear that appellants make vastly overstated, if not outright fraudulent claims. It is also clear that appellants define nuisance as anything they would rather not experience, irrespective of the right to run a legally compliant business establishment. Wagtime is neither more of a nuisance, nor less concerned with minimizing undesired neighborhood impact than any other similar dog care businesses facility located in the area.

Due diligence is a homebuyer responsibility. I knew when purchasing my home that across the street a large facility was in the process of major development, and that the service stations nearby had the ability to change or be redeveloped within zoning laws by right. Knowing the potential impact each of these might have on the neighborhood was an important consideration in my home buying calculation. Never did I consider I could simply change their duly held rights by appealing to the BZA.

The BZA is being requested to withdraw the certificate of occupancy granted to Wagtime without any evidence of ongoing illegal activity. Such a decision would grant appellants power to undermine the contract of a standing zoning designation, unilaterally altering the conditions of occupancy *after the fact*. To allow such disregard of legal principles is to present any business with an impossible task. To do so when Wagtime provides such a well-run service to the community, sincere in its commitment to minimizing neighborhood impact is an affront to all.

Many would welcome such an irresponsible BZA decision. Indeed, those service stations in my neighborhood present many nuisances. It would certainly be easier for me to likewise forgo working with those businesses and simply appeal to the BZA to remove their occupancy based on those activities that while legal are nonetheless nuisances. Thousands of us await the opportunity to take advantage of such an ill-considered BZA decision.

I respectfully submit that the appeal to revoke the certificate of occupancy granted to Wagtime is wholly without merit and should be dismissed. Such a dismissal would encourage appropriate community negotiation so that the rights of all are upheld.

Sincerely,

Kenneth S. Katz

BZA
Case No. 17092
Exhibit No. 25