Mr. Nero —

Please include the following two pages in the file for our case, number 17411.

Thank you,

Paul Basken

2005 SEP 16 AM 9:53

BZA
Case No. 17411
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17411
EXHIBIT NO. 22

YAHOO! MAIL Print - Close Window

From: "Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>

To: "'paul@basken.com'" <paul@basken.com>

CC: "Jim Graham" <jim@grahamwone.com>, "Cohn, Joel (COUNCIL)" <JCohn@dccouncil.us>, "Josh Meyer" <joshmeyerdc@yahoo.com>, "Stanley, Nell (DCRA)" <Nell.Stanley@dc.gov>, "Dennis, Alanna (DCRA)" <Alanna.Dennis@dc.gov>, "Canavan, Patrick (DCRA)" <Patrick.Canavan@dc.gov>

Subject: RE: BZA questions for DCRA

Date: Wed, 14 Sep 2005 10:38:49 -0400

Mr. Basken:

Given the fact that this matter is before the BZA, I am forwarding this e-mail to our General Counsel who can contact the BZA to determine what information is needed by the BZA.

Theresa D. Lewis, Chief of Staff
Office of the Director
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE Suite 9500
Washington, D.C. 20002
Office: (202) 442-8947
e-mail: Theresa.Lewis@dc.gov
Fax: (202) 442-9445

SEP 16 2005 03:51 PM

-----Original Message-----
From: Paul Basken [mailto:paul@basken.com]
Sent: Wednesday, September 14, 2005 9:41 AM
To: Patrick (DCRA) Canavan; Theresa (DCRA) Lewis
Cc: Jim Graham; Joel Cohn; Josh Meyer
Subject: BZA questions for DCRA

Dear Director Canavan,

As you may have heard, the Board of Zoning Adjustment, at its regularly scheduled hearing yesterday, briefly considered a motion to dismiss against our BZA appeal (number 17411) concerning the construction at 1636 Irving Street NW.

The motion to dismissed was filed on behalf of the developers of 1636 Irving Street NW, who argued that we, the appellants, did not meet time-based filing requirements.

BZA members scheduled oral discussions of the dismissal motion for next Tuesday, Sept. 20. Both the chairman and the vice chairman of the BZA expressed concern about the lack of information from DCRA in this case, and the board's vice chairman listed several questions that she wanted to see answered at the Sept. 20 hearing.

Therefore, in a bid to help produce meaningful answers for the Sept. 20 hearing, I would like to make clear to you that the BZA is awaiting further information from your agency about DCRA's actions regarding 1636 Irving Street NW, and also ask a few specific questions based on BZA comments.

As you are aware, your agency has not responded to a series of questions in this matter, including your unfulfilled promises in a July 13 letter to Councilmember Graham. In addition, a July 14 letter from DCRA official Gwendolyn L. Davis to ANC commissioner Richard Wysocki describes a continuing failure to find missing records in this case.

The BZA does not intend at its Sept. 20 hearing to review the entire record in this case. Its review of the full case remains scheduled for February. The BZA does, however, plan next Tuesday to review facts that are relevant to the motion to dismiss. Therefore, in a bid to prepare for the Sept. 20 hearing, I would like to ask you a set of relevant questions.

You obviously are under no legal obligation at this point to answer questions posed by me, and it's clear from my experience to date with your agency that I may have limited luck in securing your responses. Yet, given the fact that the BZA vice chairman has set out a specific set of questions she would like to have answered, I would at least like to try one more time.

Therefore, could you please tell us:

1, Concerning Permit No. B468513, which states that permission for expansion to seven units was being granted "SUBJECT TO ZONING APPROVAL OF NUMBER OF UNITS IN ZONE," could you please explain your understanding of that language, and what actions the DCRA expected to be taken by the developers of this project to meet that condition?

2, Concerning that same permit, could you please state how often the DCRA has used that particular conditional language on permits?

3, Concerning your July 13 letter to Councilmember Graham, in which you state that "other calculations as to lot occupancy were in error," beyond the zoning errors concerning the number of units, could you please explain what additional errors you were referencing?

4, Given your comments in your letter of May 26 to ANC Chairman Jack McKay, could you please explain why your agency waited until June 10 before it actually issued the certificate of occupancy for this project?

5, Is it standard practice, as DCRA officials told me repeatedly during construction of 1636 Irving, for DCRA to wait until construction of a project is completed before making a final series of checks on compliance with the permits, and to then issue a certificate of occupancy only when DCRA inspectors are satisified that the construction complies with all permits and blueprints?

6, Could you please explain the reasons for DCRA losing records and failing to respond promptly to questions in this case, and whether that is typical or atypical of DCRA's behavior?

Thank you very much,
Paul Basken

cc: Theresa Lewis, office of Councilmember Graham