BZA Appeal No.: 17430

1150 K Street, N.W.
(Square 317, Lots 834, 835 (Part of Record Lot 25))

STATEMENT IN SUPPORT OF APPEAL

The Appellant, Rodut Associates of DC, LP, by and through undersigned counsel, respectfully submits this BZA Appeal of the Department of Consumer and Regulatory Affairs and/or Zoning Administrator's decision on July 5, 2005 to issue a new Certificate of Occupancy for a "Condominium 121 Units and Parking Garage" to 1150 Investors Inc. ("1150 K Owner")[1] at 1150 K Street, N.W. (Square 317, Lots 834, 836 (Part of Record Lot 25)) ("1150 K Property") in violation of the Zoning Regulations, 11 DCMR 3202.3 (February 2003).

Background:

The Appellant is the owner of 1108 K Street, N.W. (Square 317, Lot 835 (Part of Record Lot 25) ("1108 K Property"), a three-story commercial building constructed in 1916. The 1108 K Property and 1150 K Property are part of a Single Lot Development of the underlying Record Lot 25 which requires an above-grade connection between the two buildings to create a "single building" in order to comply with the applicable Zoning Regulations.

Zoning Violation:

The Zoning Regulations, 11 DCMR 3202.3, require that only one (1) principal structure be located on each separate lot of Record. In this case, §3202.3 requires that the buildings on the 1108 K Property and 1150 K Property be established as a single building with an above-grade connection. In order to obtain the required building permit, the 1150 K Owner submitted constructions plans (which were approved) showing the proposed construction of an above-grade

[1] Based on the Appellant's records, the property is owned by 1108 K Street, LLC, although the Certificate of Occupancy authorizes 1150 Investors Inc. to occupy the property.

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and operational connection between the two buildings. However, the building construction has been completed, a Certificate of Occupancy issued,[2] and many of the condominium units sold and occupied,[3] but the required above-grade connection has not been constructed and/or established. Accordingly, the building constructed on the 1150 K Property constitutes a second, separate principal structure on a single underlying Record Lot in clear and knowing violation of the Zoning Regulations.

For the foregoing reasons, the Certificate of Occupancy was issued in violation of the Zoning Regulations and should be REVOKED.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

John Patrick Brown, Jr., Esquire

Stephanie A. Baldwin, Esquire

1620 L Street, N.W., Suite 900
Washington, D.C. 20036-5605

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[2] Appellant, despite repeated investigative efforts and a written request to the Acting Administrator of the Building and Land Regulation Administration, was never able to obtain any documentation from DCRA that an application had been filed and/or the Certificate of Occupancy issued. Appellant only became aware of the Certificate of Occupancy in late August 2005, when it's counsel received a copy of the occupancy permit as part of a production of documents by the 1150 K Owner in connection with pre-trial discovery in pending litigation.

[3] Appellant has attempted to identify all of the purchasers of the individual condominium units in order to provide each of them the required notice of this appeal. However, records of the most recent transactions are not currently available.