GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17444
EXHIBIT NO. 23

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Appellee

v.

KURI BROTHERS, INC.

Appellant

Appeal No. 17444

ORIGINAL

APPELLANTS' PRE-HEARING BRIEF

Appellant, Kuri Brothers, Inc. ("Appellant"), by and though Tamir Damari, its undersigned counsel, hereby files this Pre-Hearing Brief and, in support thereof, states as follows:

I. INTRODUCTION

The instant appeal stems from the revocation by the District of Columbia Department of Consumer and Regulatory Affairs (the "DCRA") of Appellant's Certificate of Occupancy for 4225 Connecticut Avenue NW (the "4225 Premises"), Washington, DC. At the April 26, 2006 hearing on this matter, this Board postponed the hearing relating to the 4225 Premises until September 19, 2006, and directed Appellant to file a detailed outline of the arguments Appellant wished to assert on appeal. The instant filing is intended to comply with this mandate.

II. JURISDICTION

This Board has jurisdiction over the instant appeal pursuant to D.C. Ann. Code 6-641.07(f) ("Appeals to the Board of Adjustment may be taken by any person

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aggrieved...by any decision of the Inspector of Buildings granting or refusing a building permit or granting or withholding a certificate of occupancy.") and 12A DCMR 110.6 ("Any person aggrieved by the action of the Director granting, withholding, or revoking a Certificate of Occupancy may appeal the action to the Board of Zoning Adjustment, pursuant to D.C. Official Code Sec. 6-641.09 (2001), and the District of Columbia Zoning Regulations.").

III. FACTS

A. The History of the Premises and Pertinent DCMR Regulations

Appellant's business at the 4225 Premises (photographs of which are attached hereto as **Exhibit 1**), is comprised of two components: (i) a gas station located at the north end of the 4225 Premises; and (ii) a repair center at the south end of the 4225 Premises. During its occupancy of the 4225 Premises, Appellant has been issued two Certificates of Occupancy, the first, on February 17, 2000 (attached hereto as **Exhibit 2**), for "Motor Vehicle Fueling", and the second, on May 14, 2002 (attached hereto as **Exhibit 3**), for an "Automobile Service Center". The May 14, 2002 Certificate of Occupancy ("Certificate of Occupancy 33914") is the subject of the instant appeal.

The Premises are located in a C-3-A Zone, which is "designed to accommodate major business and employment centers supplementary to the Central Business (C-4) District." (11 DCMR 740.1). It is undisputed that certain automotive-related facilities, such as "Gasoline Service Stations" predating May 12, 1958, are permitted in a C-3-A zone.[1] Historically, operators of the gas station at the 4225 Premises have conducted

[1] Such Gasoline Service Stations are authorized in a C-3-A Zone, since (i) 11 DCMR 701.1(h) states that a Gasoline Service Station existing as of May 12, 1958 is permitted in a C-1 Zone as a matter of right; (ii) 11 DCMR 721 states that any use permitted in a C-1 Zone as a matter of right shall be permitted in a C-2 Zone as a matter of right; and (iii) 11 DCMR 741

automobile repairs ancillary to the provision of gasoline. The provision of such ancillary repair services at gas stations is specifically permitted by 11 DCMR 701.5: "other service or retail use similar to that provided for under 701.1 ***including assemblage and repair clearly incidental to the conduct of a permitted service***...shall be permitted in a C-1 District as a matter of right."[2] (emphasis added). Additionally, at the time Appellant was issued its February 17, 2000 Certificate of Occupancy for "Motor Vehicle Fueling", and its May 14, 2002 Certificate of Occupancy for an "Automobile Service Center", it submitted detailed applications outlining the uses to which it intended to employ the property, which included auto repairs.[3]

B. The DCRA's Revocation Of The Certificate Of Occupancy

On or about August 4, 2005, the DCRA served upon Appellant a "Notice of Revocation of Certificate of Occupancy Number 33914" (the "Notice"). In pertinent part, the Notice states:

> The C of O authorized Kuri Brothers Inc. to use the premises...as an automobile service center. Subsequent to the issuance of the C of O, DCRA concluded that an automobile service center was not an appropriate use in a C-3-A zone. It then revoked C of O #B00181657 for [an] automobile service center issued to Kuri Brothers several years earlier for that same operation at a different location, 4221 Connecticut Avenue...On July 1, 2003 in BZA Appeal No. 16947, the...Board of Zoning Adjustment upheld DCRA's decision to revoke C of O #B00181657.[4]

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states that any use permitted in a C-2 Zone as a matter of right shall be permitted in a C-3 Zone as a matter of right. Upon information and belief, the gas station at the 4225 Premises was established before May 12, 1958, and, as such, is lawfully situated within a C-3-A zone.

[2] As noted above, uses permitted in a C-1 zone as a matter of right are also permitted in a C-3 zone as a matter of right.

[3] Appellant's disclosures in connection with the February 17, 2000 Certificate of Occupancy are attached hereto as **Exhibit 4**, and its disclosures in connection with the May 14, 2002 Certificate of Occupancy are attached hereto as **Exhibit 5**.

[4] A copy of the Notice is attached hereto as **Exhibit 6**.

The Notice further stated that the revocation of Certificate of Occupancy 33914 was being undertaken "pursuant to 12A DCMR 110.5.3...authorizing the Director to revoke a Certificate of Occupancy that has been issued in error." Id. Notably, the Notice did not state that Appellant was violating the Regulations in any manner.

IV. ARGUMENT

Although 12A DCMR 110.5.3 authorizes the DCRA to revoke a Certificate of Occupancy that has been issued in error, it is the ***DCRA's*** burden, however, to demonstrate that such error in fact occurred. **See**, for example, Burka v. Aetna Life Ins. Co., 945 F. Supp. 313, 318 (D.D.C. 1996). ("a certificate of occupancy enjoys a presumption of validity.").

The factual basis underlying the DCRA's claim of "error" is presumably set forth in the Notice itself, whereas the legal basis for the DCRA's claim of error was disclosed, for the first time, at the April 26, 2006 hearing, by Bill Crews, the Zoning Administrator for the District of Columbia. Mr. Crews, citing to 11 DCMR 3203.8, opined that the DCRA does not have the authority to issue a certificate of occupancy containing a use designation which is not found in 11 DCMR 199.1 (the "definitions" section of the Regulations, containing an itemization of different property uses), noting that Section 199.1 does not define "Automobile Service Center." However, both the factual and legal grounds underlying the revocation of Certificate of Occupancy 33914 are unavailing, as demonstrated below.

A. The Factual Basis Underlying The DCRA's Claim Of "Error"

The DCRA fails to provide any cogent factual account in support of its claim that Certificate of Occupancy 33914 was issued in error. For example, the Notice fails to

identify the name of the individual who committed the "error", the nature of the oversight, if any, leading to the error and/or the means by which the DCRA discovered the error. While these omissions may seem "technical", they are telling. As noted above, it is the DCRA's burden to demonstrate facts sufficient to justify the revocation of a Certificate of Occupancy, and basic tenets of procedural due process require government entities to provide proper notice of the grounds upon which they seek to deprive a citizen of its property rights.

Moreover, even the sparse factual basis outlined in the Notice itself makes no sense. Firstly, the DCRA's claim of "error", as stated in the Notice, is based entirely upon the revocation of a different Certificate of Occupancy (Certificate of Occupancy #B00181657), which had been issued to Appellant for a property located at *4221* Connecticut Avenue NW, Washington, DC (the "4221 Premises"), not the 4225 Premises (which is owned by a different entity), and which was revoked for reasons having nothing to do with Appellant's business operations at the 4225 Premises or the general validity of Certificates of Occupancy for Automobile Service Centers.

The faulty reasoning in the Notice progresses as follows: (i) the DCRA revoked Certificate of Occupancy #B00181657 based on a determination that "Automobile Service Centers" are "not an appropriate use in a C-3-A zone"; (ii) this Board upheld the revocation of Certificate of Occupancy #B00181657 in Appeal No. 16947; therefore; (iii) this Board must likewise uphold the revocation Certificate of Occupancy 33914. The reasoning in the Notice fails, because its underlying premises are false.

Firstly, contrary to the representation in the Notice, the DCRA never determined, at any point during the proceedings relating to the revocation of Certificate of

Occupancy #B00181657, that an Automobile Service Center was "not an appropriate use in a C-3-A zone" (or that the issuance of a certificate of occupancy for an Automobile Service Center is otherwise "erroneous"). In point of fact, this Certificate of Occupancy was revoked on an entirely different ground; it was based upon the DCRA's allegation that Appellant was operating a repair garage at the 4221 Premises,[5] and thus was acting ***beyond the scope*** of a presumptively valid certificate of occupancy for an Automobile Service Center. In this regard, the Notice pursuant to which the DCRA revoked Certificate of Occupancy #B00181657 states, in pertinent part:

> Said certificate. . . authorized Kuri Brothers, Incorporated to operate an "Automobile Service Center" at the premises located at 4221 Connecticut Ave. NW...The Department created the category of "Automobile Service Center" to facilitate your efforts. This facilitation did not include or permit any major automotive engine, body work or other automotive garage functions. ***By making major repairs and doing engine work you have operated outside the scope of this Certificate of Occupancy.***[6]

This Notice therefore plainly indicates that the creation of an "Automobile Service Center" classification was the result of a deliberated decision by the DCRA. There is nothing in this Notice that states or suggests that the DCRA erred in creating this new use classification, or that the DCRA otherwise did not have the authority to issue a Certificate of Occupancy for an Automobile Service Center in a C-3-A zone.

Similarly, during an August 11, 1999 hearing before the DCRA's Office of Adjudication, in connection with an earlier (unsuccessful) attempt to revoke Certificate of Occupancy #B00181657, Tore Bello, a Zoning Engineer entrusted with the "final

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[5] No such allegation has been made by the DCRA in connection with the revocation of Certificate of Occupancy 33914. Moreover, the 4221 Premises (unlike the 4225 Premises) does not contain a gas station pre-dating 1958.

[6] See, Notice of Intention to Revoke Certificate of Occupancy No. B00181657, attached hereto as Exhibit 7.

approval" of all certificates of occupancy, stated that the ***DCRA*** created the "Automobile Service Center" use classification "as a result of my review of [the] application [for such Certificate of Occupancy]".[7] Later during this same hearing, Mr. Bello unambiguously indicated that the DCRA had the authority to issue certificates of occupancy containing use designations not contained within the definition section of 11 DCMR 199.1:

> Q: So if an applicant came to the desk and said "I want to be a widget manufacturer," they essentially would...look up and find out what zoning requirements are or permitted for widget manufacturing?
>
> A: That's correct, sir.
>
> Q: And what if widget manufacturing wasn't available in a particular zone or wasn't identified? What then happens?
>
> A: Well, the zoning codes allow for the Zoning Administrator to determine what constitutes other like uses, wherein there isn't specific language dealing with that particular use in the code.[8]

Moreover, during the numerous hearings before this Board in Appeal No. 16947, the DCRA, prompted by questioning by the Board, ***reiterated*** that the pertinent issue was the Appellant's purported operation beyond the scope of Certificate of Occupancy No. B00181657, not whether the DCRA had the authority to issue a certificate of occupancy for an Automobile Service Center in a C-3-A zone:

> CHAIRPERSON GRIFFIS: [T]he pertinence of what the appeal is based on goes to what the intent – why the certificate of occupancy was actually revoked, and maybe I am wasting people's time, but I am not clear on this...
> * * * * * * * * * * *
>
> MR. GREEN: All right. Again, and I direct the Board's attention to the notice of intent to revoke the certificate of occupancy. What took place here was simply an attempt at accommodating a business merchant. In this particular instance, we have something called an automotive service center at the premises...doing

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[7] **See** , August 11, 1999 Hearing Transcript, attached hereto as **Exhibit 8**, at page 92 L. 10 to page 93 L. 23.

[8] **Id**., at page 104 LL. 1-15.

major auto engine repair work did not fall within the scope of this understanding. Consequently, we have the issuance of this notice of intent to revoke the certificate of occupancy.

CHAIRPERSON GRIFFIS: Because of the operating outside the scope.

MR. GREEN: ***He operated outside the scope.***

CHAIRPERSON GRIFFIS: Okay, that's all I need.

MR. GREEN: That's it.

See, January 28, 2003 hearing transcript, attached hereto as **Exhibit 9**, at page 139 L. 15 to page 140 L. 24. (emphasis added).

Since, as demonstrated above, the DCRA's revocation of Certificate of Occupancy #B00181657 was not based upon a determination that "an automobile service center was not an appropriate use in a C-3-A Zone", this Board's affirmance in Appeal No. 16947 has no bearing on this case. In fact, in rendering its decision in Appeal No. 16947, this Board necessarily assumed that the DCRA *did* have the authority to issue a Certificate of Occupancy for an Automobile Service Center. For example, during the April 8, 2003 hearing in Appeal No. 16947, this Board, in the course of ruling that the undersigned could question a DCRA witness regarding the scope of activities permitted at an Automobile Service Center, determined that the pertinent issue was whether Appellant operated *outside the scope* of a (presumptively valid) certificate of occupancy for the 4221 Premises:

MR. DAMARI: [W]ould it be correct to say that minor repair are permitted at [an] automobile service center?

MR. GREEN: Mr. Chairman, I'm going to object...I believe that an automobile service center is not one of the defined terms as the Board of Zoning Adjustment would have in terms of what we are dealing with....And based on that, I believe any questions to this witness regarding that is improper.

CHAIRMAN GRIFFIS: Because it's not a defined term in DCMR level?

MR. GREEN: It's not a defined term of the Board of Zoning Adjustment. It is not.

CHAIRMAN GRIFFIS: Well, I disagree.

MR, DAMARI: At the last hearing, Mr. Green...stated that he was not contesting the validity of this C of O. Their contention was that the use was going outside the scope, but we have to know what the scope is in order to get a sense of whether we're outside the scope.

* * * * * * * * * * *

CHAIRMAN GRIFFIS: Well, that's what we're going to explore...I absolutely agree with Mr. Damari. We need to understand what the scope is before we understand what's outside the scope...The other piece is on your own submissions...[Exhibit] 1D is a Certificate Occupancy, and that is where I got the phraseology of automobile service center. It's a certificate of occupancy.[9]

Similarly, in rendering its July 1, 2003 decision in Appeal 16947, this Board neither indicated, nor suggested, that an Automobile Service Center is not permitted in a C-3-A Zone, or is otherwise invalid.

Finally, there is nothing in the decision of the District of Columbia Court of Appeals in Kuri Brothers, Inc. v. D.C. Bd. of Zoning Adjustment, 891 A2d. 241 (2006) which states, or suggests, than an Automobile Service Center is not permitted in a C-3-A zone, or that the DCRA otherwise does not have the authority to issue certificates of occupancy for Automobile Service Centers. In rendering its decision, the Court of Appeals once again necessarily *assumed* that the DCRA had such authority, and restricted its analysis to the *limited* question of whether the Appellant acted *beyond the scope* of an otherwise-valid certificate of occupancy: "Petitioner's C of O...was for an 'automobile service center.' Although the term 'automobile service center' is not defined in the zoning regulations, *and its precise scope may be subject to some uncertainty*, the

[9] **See**, transcript from April 8, 2003 hearing, attached hereto as **Exhibit 10**, at page 340 L. 5 to page 341 L. 19.

BZA concluded that it was not intended and could not be construed to allow operation of a repair garage... *Thus notwithstanding that the BZA did not undertake to delineate the precise scope of the C of O, the dispositive question before us is simply whether the BZA's further finding, that petitioner was operating a repair garage, was supported by substantial evidence of record.*" **See**, **Id**., at pages 247-48. (emphasis added).

For each of the foregoing reasons, the DCRA fails to meet its factual burden to demonstrate that Certificate of Occupancy 33914 was issued in error.

B. The Legal Basis Underlying The DCRA's Claim Of Error

As discussed **supra**, during the April 25, 2006 hearing in this appeal, Bill Crews of the Office of Zoning, citing to 11 DCMR 3208(a), proffered the opinion that the DCRA cannot issue certificates of occupancy containing use designations which are not found in 11 DCMR 199.1. This "legal" argument fairs no better than the DCRA's "factual" argument.

Firstly, Mr. Crews did not cite to a single decision from the DCRA's Office of Adjudication, this Board, or the District of Columbia Court of Appeals in support of the aforementioned argument.

Secondly, there is nothing in Section 3208(a), or any other Section of the Regulations, expressly: (i) prohibiting the DCRA from issuing certificates of occupancy containing use designations not found in Section 199.1 of the Regulations; or (ii) supporting Mr. Crews' contention that certificates of occupancy containing use designations not contained in Section 199.1 are, ipso facto, invalid. As previously stated, Tore Bello testified that "the zoning codes allow for the Zoning Administrator to determine what constitutes other like uses, wherein there isn't specific language dealing

with that particular use."[10] This interpretation of the Regulations is supported by the language of 11 DCMR 199.2(g), which states that "Words not defined in this section shall have the meanings given in *Webster's Unabridged Dictionary*." This provision would be superfluous absent a recognition by the DCRA that Section 199.1 does not necessarily contain an exhaustive itemization of the uses to which a premises may be employed.

Secondly, Mr. Crews' assertion that the DCRA does not have the authority to issue certificates of occupancy containing use designations not found in Section 199.1 of the Regulations, ignores its past practice both in connection with Appellant, and in connection with other operators of automobile-related facilities. As addressed above, during the hearing on Appeal No. 16947, the DCRA's counsel, in response to pointed questioning from this Board as to the grounds upon which the DCRA was seeking to revoke Appellant's earlier certificate of occupancy for an Automobile Service Center, specifically stated that the only reason why the DCRA was seeking to revoke Certificate of Occupancy #B00181657 was because Appellant was allegedly operating outside its scope. Surely, if the DCRA's policy *truly* prohibited the issuance of Certificates of Occupancy containing use designations not found in Section 199.1, the DCRA's counsel would have made an argument to this effect at the hearing on Appeal No. 16947.

Furthermore, Mr. Crews' contention that the DCRA cannot issue certificates of occupancy containing use designations not found in Section 199.1 of the Regulations, ignores the DCRA's long-standing practice of routinely issuing automotive-related certificates of occupancy containing use designations not found in Section 199.1. The

[10] **See**, **Exhibit 8**, at page 104 LL. 12-15.

undersigned's cursory research alone has uncovered that, apart from the DCRA's repeated issuance of Certificates of Occupancy to Appellant for an "Automobile Service Centers," the DCRA has also issued Certificates of Occupancy to other property owners/operators for "Auto Lubrication", "Auto Lube", "Auto Repair", "Lube Center," "Motor Vehicle Fueling" (the designation on the certificate of occupancy issued to Appellant on February 17, 2000) "Automotive Repair Shop/Specialty", "Retail Sale of Tires and Auto Repair Service" and "Consumer Auto Repair", none of which is found in Section 199.1. (**See**, Certificates of Occupancy, collectively attached hereto as **Exhibit 11**). Undoubtedly, countless other Certificates of Occupancy exist which likewise contain use designations which are not found in the Regulations. It is axiomatic that basic principles of due process (including the Equal Protection Clause of the 14th Amendment to the United States Constitution) prohibit the District of Columbia from engaging in disparate treatment of similarly-situated property owners. Yet, this is precisely what the DCRA is attempting to accomplish by, on one hand, routinely creating new use designations for automotive-related facilities, while, on the other hand, simultaneously seeking to revoke Certificate of Occupancy 33914 on the alleged grounds of error.

Furthermore, while the DCRA's interpretation of the regulations it administers is entitled to a certain measure of deference by this Board, and while arguably this deference may extend to Mr. Crews as the Director of the Office of Zoning, this deference need not be granted where the DCRA's asserted interpretation of the Regulations is contradicted by its prior practice. **See**, for example, Atwater v. DC Dept. of Consumer and Regulatory Affairs, 566 A.2d 462, 468 (D.C. 1989) (while courts

normally accord deference to an agency's interpretation of the statute it is charged with administering, particularly if the interpretation is of long standing and has been consistently applied, "less deference is appropriate where the interpretation lacks these attributes."); Genstone Stone Products, Inc. v. DC Dept. of Employment Services, 777 A.2d 270, 273 (D.C. 2001) ("the degree of deference to be accorded to such agency interpretation is a function of the process by which that interpretative ruling has been arrived at and the degree to which the agency's administrative experience and expertise have contributed to the process.") Since the DCRA's present claim that it does not have the authority to create new use designations is plainly contradicted by its own routine practice, this claim should be summarily rejected by this Board.

Finally, principles of judicial equity prevent the DCRA from currently asserting that it does not have the authority to issue a certificate of occupancy for an Automobile Service Center. Judicial estoppel is a principle of judicial equity which "generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase." Pegram v. Herdrich, 530 U.S. 211, 227, n. 8, 120 S.Ct. 2143, 147 L.Ed.2d 164 (2000)." **See also**, Prince Construction Co., Inc. v. DC Contract Appeals Bd., 892 A.2d 380, 386-87 (D.C. 2006). The doctrine has also been extended to apply to contradictory arguments in different legal proceedings between one or more of the same parties. Prince, **supra,** at 386-87 (a trial court consent judgment in favor of a contractor barred the contractor, on basis of judicial estoppel, from claiming before the Contract Appeals Board (CAB) that his claim was contractual and entitled him to an interest penalty under the Quick Payment Act; the contractor necessarily admitted that the trial court action was equitable because that

court would not have had jurisdiction if the claim were contractual, and the contractor's claim before the CAB that it was paid under valid contracts was clearly inconsistent with its earlier position that it accepted the payment in equity.); Allen v. Yates, 870 A.2d 39, 53 (D.C. 2005).

In prior proceedings before the Office of Adjudication, this Board and the District of Columbia Court of Appeals in connection with the revocation of Certificate of Occupancy B00181657, both Tore Bello and the DCRA's counsel expressly acknowledged the validity of Certificates of Occupancy for automobile service centers. Having made such acknowledgements, the DCRA should presently be estopped from denying the validity of such certificates. For each of the foregoing reasons, there is no legal basis for the DCRA's contention that Certificate of Occupancy 33914 was "issued in error."

C. The Doctrine Of Laches Prevents The DCRA From Revoking Certificate Of Occupancy 33914

Laches requires a demonstration of: (i) an unreasonable and unexplained delay by one party; and (ii) prejudice to the other party resulting from the delay. Interdonato v. Interdonato, 521 A.2d 1124, 1137 (D.C. 1987); Simpson v. D.C. Office of Human Rights, 597 A.2d 392, 404 (D.C. 1991); Woodley Park Community Assoc. v. D.C. Bd. of Zoning Adjustment, 490 A.2d 628, 639 (D.C. 1985). The doctrine has been applied in a zoning context, to bar attempts to revoke certificates of occupancy on the alleged grounds of agency "error". In D.C. v. Cahill, 54 F.2d 453 (D.C. 1931), the District of Columbia government issued a certificate of occupancy to Cahill for a garage. Approximately six months thereafter, the government attempted to revoke this certificate of occupancy, on the ground that it had been issued under a "mistake of fact". The trial

court concluded that the government was precluded from seeking to revoke Cahill's certificate of occupancy on the grounds of laches. On appeal, the District of Columbia Court of Appeals affirmed the trial court's ruling:

> When Appellee in good faith presented his application to the inspector of buildings, it became the duty of that officer to ascertain whether the facts justified the granting thereof...The inspector made an investigation and decided that the application should be granted; he accordingly issued the permit and certificates...Reposing confidence in these official acts of the inspector of buildings, the Appellee was induced to expend a large sum of money upon the building, and to enter into the several 5-year leases of the premises for garage purposes...It follows from these facts and circumstances that the District of Columbia is estopped from revoking the certificates of occupancy for garage purposes here in question.

Id., at page 454.

In Goto v. D.C Board of Zoning Adjustment, 423 A.2d 917 (D.C. 1980), Goto built a kiln on her property, after consulting with a zoning official who advised her that the construction would not require a permit. Shortly thereafter, a neighborhood association complained about the kiln to a zoning administrator, who once again determined that the kiln did not require a permit. Goto began operating the kiln, and the neighborhood association appealed the zoning administrator's decision to this Board. Although Goto claimed that the appeal was precluded on the grounds on laches, this Board rejected Goto's laches argument. The District of Columbia Court of Appeals reversed this Board's decision:

> [The association was] aware of [the administrator's] ruling by June 1975. The record reveals no reason why they waited until November 1975 to discuss that ruling with [the zoning administrator]. That unexcused delay of five months was compounded by an additional two months during which they requested...and received a written decision...Finally, the delay of still another two months between that letter decision and the filing of the appeal on March 4, 1976, adds to the unreasonableness of the timing of the [association's] action...The second element...is prejudice to Goto resulting from the delay...Goto spent approximately $2000...to build the kiln...Essentially...the neighbors stood by and watched Goto spend time and money before pressing their objections before the BZA.

Id., at pages 926-26.

Finally, in American University Park Citizens Assoc. v. Burka, 400 A.2d 737 (D.C. 1978) a neighborhood association sought to prevent the issuance of a building permit to Burka, arguing that the proposed structure was to be built upon an alley which had been unlawfully closed by Burka three years earlier. The trial court held in favor of Burka, on the grounds of laches and the District of Columbia Court of Appeals affirmed the trial court's ruling, on the same grounds:

> As to prejudice, the Burkas assert that they have undertaken substantial legal and financial commitments since the alley closing in May 1973...We agree that...the Burkas would be substantially prejudiced if appellants were permitted to challenge the 1973 alley closing by a lawsuit three years later...the Burkas must also show that appellants' delay was undue...Appellants do not deny that they have been aware of the alleged irregularities in the alley closing since 1973...We conclude...that the delay between the 1973 alley closing and appellants' 1976 lawsuit severely prejudiced the Burkas, and that the delay was inexcusable.

Id., at pages 740-741, 742, 745.

In light of the foregoing authorities, the DCRA should be equitably barred from revoking this Certificate of Occupancy. Appellant has been lawfully operating its business at the 4225 Premises under a certificate of occupancy for an "Automobile Service Center" for **over four years**. During this period, Appellant had no reason to expect or believe that this certificate of occupancy was in any way improper or invalid; particularly since: (i) it had previously been issued a separate certificate of occupancy in 1998 for an "Automobile Service Center" in connection with its business operation at the 4221 Premises; and, more importantly (ii) the DCRA had repeatedly acknowledged its authority to issue certificates of occupancy for "automobile service centers" during numerous judicial proceedings, including during two separate proceedings before this very Board in 2003.

While none of these facts is disputed, the DCRA is suddenly asserting that Certificate of Occupancy 33914 was erroneously issued. Apart from the substantive weaknesses in the DCRA's position (outlined above), the DCRA proffers **no explanation whatsoever** for its four year delay in asserting that Certificate of Occupancy 33914 was issued "in error." By way of a single example, the DCRA does not even explain why it was unable to discover this "error" earlier, an omission which is particularly glaring since the DCRA was well aware of its issuance to Appellant of ***other*** certificates of occupancy for "Automobile Service Centers". Under the circumstances, it cannot seriously be disputed that the DCRA's delay was not only unexplained, it was unexcusable.

Furthermore, Appellant has plainly been prejudiced by the DCRA's delay. At the time Appellant applied for Certificate of Occupancy 33914, it fully disclosed to the DCRA the uses to which it intended to employ the 4225 Premises, and when, based upon these representations, the DCRA issued Certificate of Occupancy 33914, Appellant justifiably assumed that it would be able to operate its business unimpeded. Among other things, Appellant procured permits and licenses for its business operation, entered into a long-term lease for the 4225 Premises, invested a substantial sum of money into the 4225 Premises and spent years developing client good-will and creating a profitable asset in reliance on its ability to conduct its business. The prejudice caused to Appellant by the revocation of Certificate of Occupancy 33914 is compounded by Mr. Crews' claim, during the April 25, 2006 hearing, that the issuance of Certificate of Occupancy 33914 superceded the February 17, 2000 Certificate of Occupancy issued

to Appellant.[11] Thus, according to the DCRA, the revocation of Certificate of Occupancy 33914 leaves Appellant without any Certificate of Occupancy for the 4225 Premises and thereby subjects Appellant to further enforcement action by the DCRA.

It is evident that this case is squarely on point with Cahill, Burka, and Goto, supra. In each of these cases, the party seeking to enforce the zoning regulations delayed, without just cause, for various lengths of time (ranging from six months to three years) before attempting to enforce the zoning regulations against a land-owner. During these periods of delay, the landowners made capital investments, entered into long-term leases and otherwise made valuable improvements to these properties. The case sub judice presents an even more striking instance of laches, since the DCRA, while ***indisputably*** aware that it had issued Appellant numerous certificates of occupancy for Automobile Service Centers, inexplicably delayed for **four years** (between 2002 and 2006) before suddenly proclaiming that it did not have the authority to issue such a Certificate. Additionally, whereas in Cahill, Burka, and Goto, it was undisputed that the party asserting the doctrine of laches was in violation of the zoning regulations, in the instant matter (as demonstrated above), the DCRA has not even *alleged* that the Appellant's business activities at the 4225 Premises violate the Regulations. Accordingly, the DCRA's revocation of Certificate of Occupancy 33914 should be barred on the grounds of laches.

IV. CONCLUSION

As established herein, the DCRA is attempting to revoke Appellant's Certificate of Occupancy for the 4225 Premises, on the alleged basis of "error", even though it: (i)

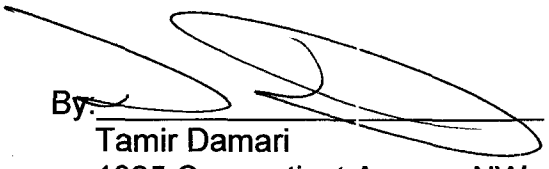
[11] **See**, April 26, 2006 hearing transcript, attached hereto as **Exhibit 12**, at page 258 L. 21 to page 259 L. 11.

does not contend that the error was due to any misrepresentation or other wrongful conduct by Appellant; (ii) provides no explanation for the error itself, or for its delay in attempting to rectify this error; and (iii) does not contend that Appellant is violating any zoning statute or regulation as a result of this error. Moreover, the principal "basis" articulated by the DCRA in "support" of its claim that it cannot issue a Certificate of Occupancy for an Automobile Service Center is undermined by the statements of its own representatives, and by the DCRA's routine practice of creating new use classifications in connection with automotive-related facilities.

Based on the foregoing, it should be obvious that the DCRA has no basis whatsoever to revoke Certificate of Occupancy 33914. While Appellant recognizes that it may be bound by certain determinations of this Board and the District of Columbia Court of Appeals with respect to the *4221* Premises, the property at issue is a different property, governed by different regulations. Indeed, throughout Appellant's six-year occupancy of the *4225* Premises, and continuing to date, the DCRA has never even *alleged*, let alone demonstrated, that Appellant has violated any zoning statute or regulation at this property. The DCRA ostensibly believes that it has the right to sanction Appellant's alleged non-compliance with the zoning regulations at the 4221 Premises, by undermining Appellant's lawfully-conducted business at the 4225 Premises. Neither the letter, nor the spirit, of the zoning statutes or regulations permit such "collective punishment". For this reason, and each of the other reasons outlined in this Brief, Appellant respectfully requests that the DCRA's revocation of Certificate of Occupancy No. 33914 be reversed.

Respectfully submitted,

Roetzel & Andress, LPA



By: _____
Tamir Damari
1025 Connecticut Avenue NW
Suite 220
Washington, D.C. 20036
(202) 625-0600

Counsel for Appellant

CERTIFICATE OF SERVICE

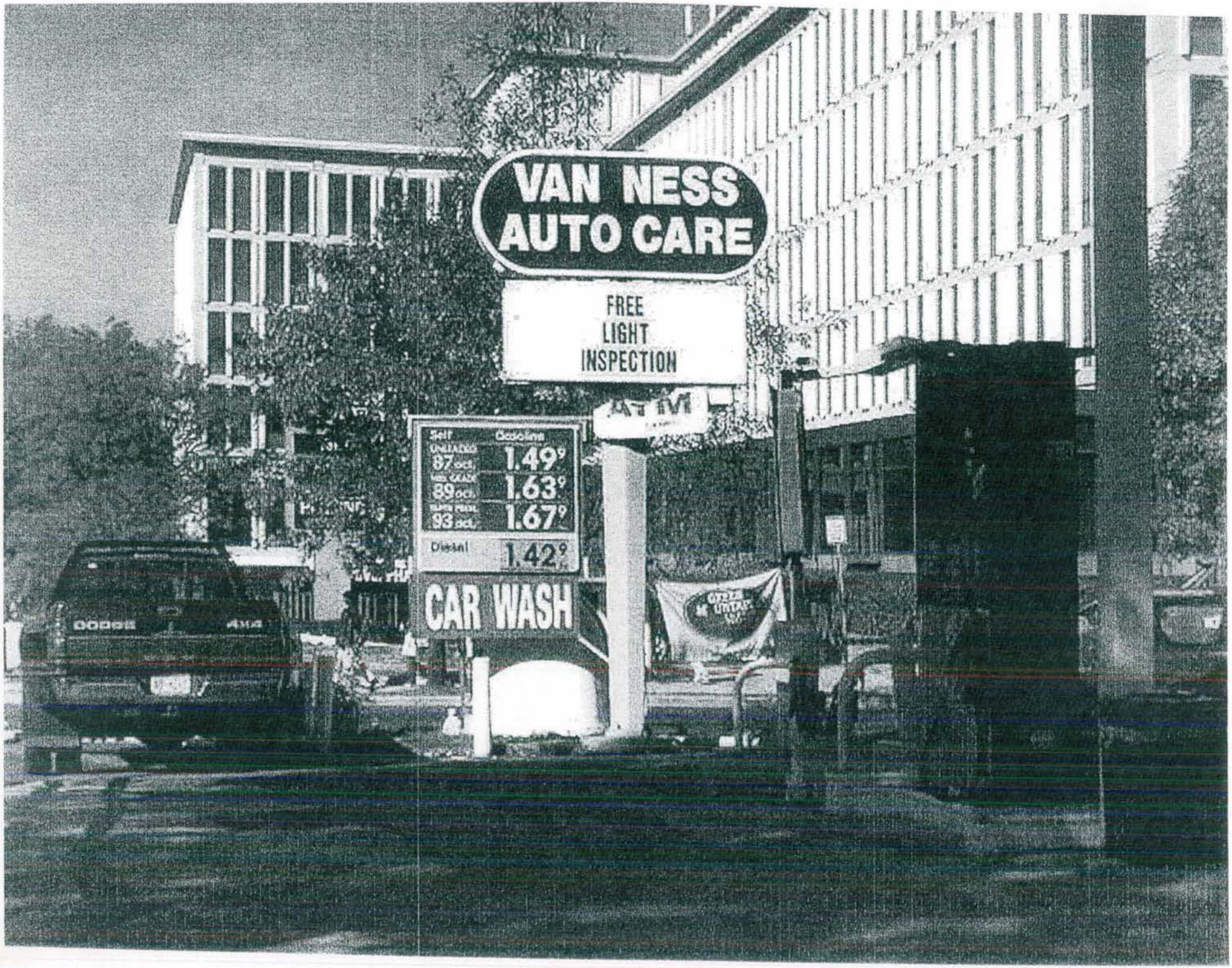
I hereby certify that a copy of the foregoing document was sent via U.S. mail, postage prepaid, this 24th day of July, 2006, to the following:

Matthew Green, Esq.
Office of the General Counsel
Department of Consumer and Regulatory Affairs
941 North Capitol Street N.E., Suite 9400
Washington, DC 20002

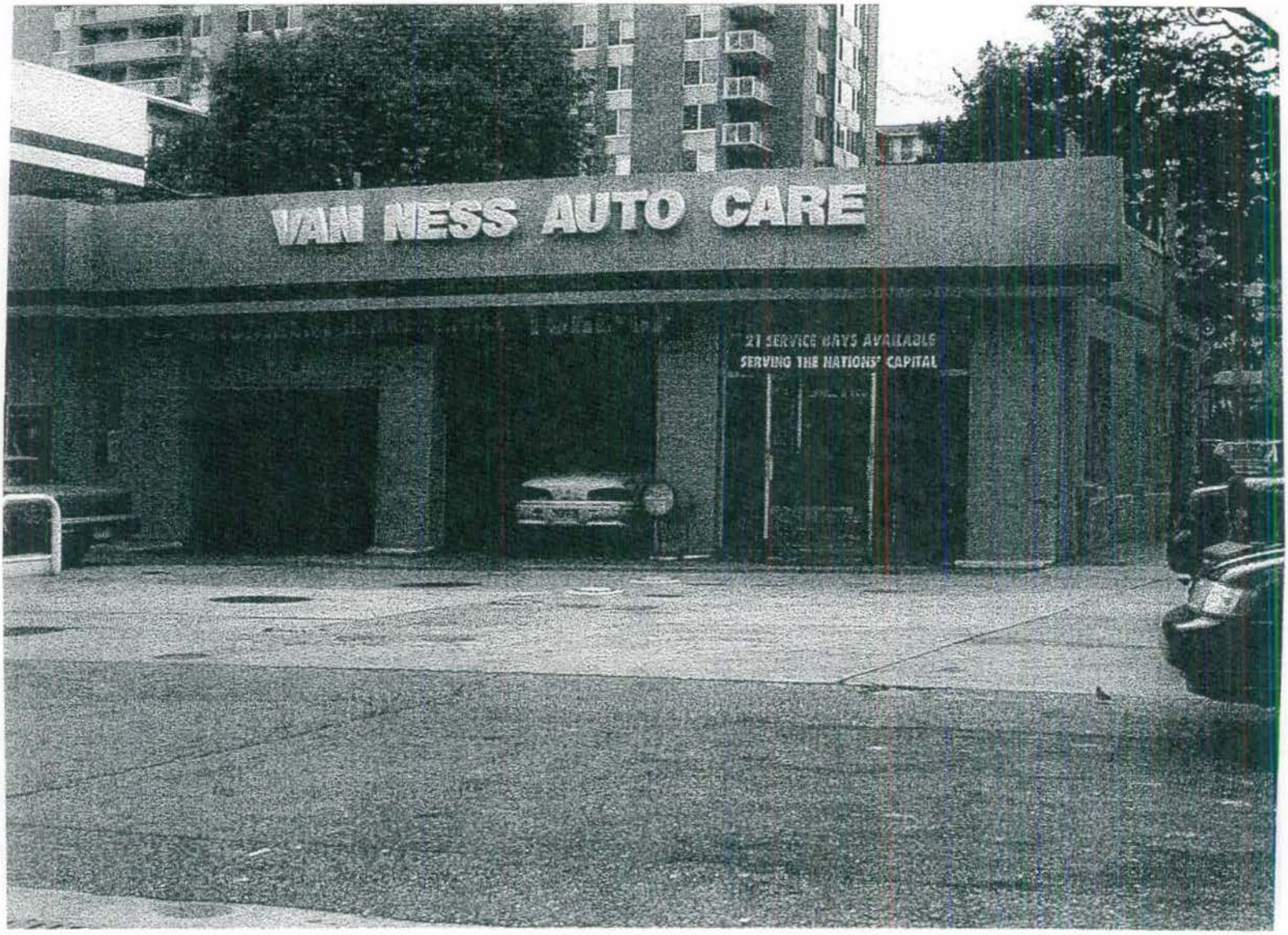
Catherine W. Wiss, Chairperson
Advisory Neighborhood Commission 3F
4401A Connecticut Avenue NW
Box 244
Washington, DC 20008-2322

Tamir Damari

1


VAN NESS
AUTO CARE
FREE
LIGHT
INSPECTION
ATM
Self
Gasoline
87 oct.
1.49⁹
89 oct.
1.63⁹
93 oct.
1.67⁹
Diesel
1.42⁹
CAR WASH

Front of 4225 Connecticut Avenue showing office and Van Ness South



2

★ ★ ★

BLRA-17
(Rev 12/95)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

186535

CERTIFICATE OF OCCUPANCY

2/17/00
(date)

Permission is hereby granted to KURI BROTHERS INC.
to use suite(s) _____ on the 1ST floor(s)
of the building located on lot(s) 517 square 2051
known as premises 4225 CONN. AVE. N.W. for the following
purpose(s) MOTOR VEHICLE FUELING
NOT SEXUALLY ORIENTED

BZA # _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C-3-A FEE $ 32.00

Director L. JORDAN

By D. MINOR
Designee

98-08C2PM6

3

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. room 2100
Washington D.C. 20002
Tel. (202) 442 - 4470 Fax (202) 442 - 4862

Government of the District of Columbia
BLRA94A

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.
CO 33914

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

DATE : 5/14/02

ADDRESS :	FLOOR(S):	PRCLID : 2051 (square) -0000- 0007 (lot)
4225 CONNECTICUT AVE NW	1ST FLOOR	WARD : 3 ZONE : C3A

PERMISSION IS HEREBY GRANTED TO :	TRADING AS:
CORPORATION : KURI BROTHERS INC ID No.: 942064	VAN NESS AYTO CARE

APPROVED USES :	PREVIOUS USES :
OTHER - SEE DESCRIPTION	OTHER - SEE DESCRIPTION

TYPE :	BZA NO. :	OCCUPIED SQ. FOOTAGE:	OCCUP. LOAD:	EXPIRATION DATE:
CHANGE OF OWNERSHIP		2,668		NONE

DESCRIPTION OF USE	FEE :
AUTOMOTIVE SERVICE CENTER	$57.00

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark DIRECTOR	PERMIT CLERK: THINGOC MACXOAN

4

DUPLICATE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS REGULATION ADMINISTRATION
ONE STOP BUSINESS CENTER

Corporate Surety Bond

Bond No. 18926152 Issued By Equitable Insurance Agency, Inc.

Address 4710 Auth Place, #685, Camp Springs, MD 20746 Phone No. 301 702 9494

This form is to be used by all applicants for Consumer Goods Repair Dealers Licenses. Amount of corporate surety bond for consumer goods repair dealers is $2,000.00 except that any such applicant dealer who employs more than five (5) repairmen shall file a corporate surety bond in the amount of $5,000.00. This bond must accompany the application. Surety must immediately notify the Business Service Division upon making any payment on account of this bond. If recovery be had on this bond, licensee must restore bond to original amount.

KNOW ALL MEN BY THESE PRESENTS, THAT we, KURT BROTHERS, INC. T/A VAN NESS AUTO CARE doing business in the District of Columbia at 4221-25 Conn. Ave., N. W., Washington, D. C. 20008 as principal and PEERLESS INSURANCE COMPANY as surety are held and firmly bound unto the District of Columbia in the sum of Five thousand dollars and no/100 ($5,000.00) dollars, lawful money of the United States for the payment; whereof, well and truly to be made we bind ourselves and each of our heirs, executors, administrators, successors, and assigns jointly and severally firmly by these presents: Signed with our seals this 4th day of October in the year of our Lord one thousand nine hundred and 2001 of the effective date of this bond to be October 1, 2001. Whereas, the above-bounden principal is about to apply to the Department of Consumer and Regulatory Affairs of the District of Columbia for a license as a auto repair and is about to engage in the business under the Consumer Goods Repair Regulation, No. 74-1, of the District of Columbia adopted March 15, 1974. Whereas, it is desired by the obligators herein to support by bond such license or any renewal or reissuance thereof, if the same is issued to the principal; NOW THEREFORE, the condition of this obligation is such if the principal shall conduct himself or herself and his or her business in accordance with the requirements of the said act, then this obligation shall be null and void; otherwise to remain in full force and effective through September 30, 2003 any person aggrieved thereby shall have, in addition to his rights of action against the principal hereof a right to bring suit against the surety of this bond, either alone or jointly with the principal hereof, and to recover an amount not exceeding the penalty of this bond any damages sustained by reason of any act, representation, transaction or conduct of the principal which may be prohibited by said act or enumerated as one of the causes for suspension or revocation of a license granted thereunder. PROVIDED however, that the total liability of the surety hereunder in no event is to exceed the amount of this bond; and PROVIDED FURTHER, that the surety hereunder may be terminated by giving thirty days notice thereof, served personally or by registered mail, to the principal and to the Department of Consumer and Regulatory Affairs of the District of Columbia; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of thirty days from the date of service of such notice.

29. Signed in the presence of two witnesses: Licensee _____ Date _____
(Corporate Seal)
30. Witness Leon Buetow Date 5-14-02
31. Witness _____ Date _____

32. If incorporated, officers signature(s):
33. President _____ (Surety's Seal) Date 5-14-02
34. Secretary - Attest _____ Date _____

35. Licensing and Registration PEERLESS INSURANCE COMPANY
36. Attorney-in-Fact _____ Date 10-4-2001

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THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

PEERLESS INSURANCE COMPANY
THE NETHERLANDS INSURANCE COMPANY

496343

62 MAPLE AVENUE KEENE, NEW HAMPSHIRE 03431

POWER OF ATTORNEY

NOW ALL MEN BY THESE PRESENTS: That Peerless Insurance Company and/or The Netherlands Insurance Company, each being a New Hampshire Corporation having its principal office in the City of Keene, County of Cheshire, State of New Hampshire do/does hereby make, constitute and appoint:

******F. Sherman Shoemaker, Walda Yowell******

of Camp Springs in the State of Maryland their/its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred in their/its name, place and stead, to sign, execute, acknowledge and deliver in their/its behalf, and as their/its act and deed, without power of redelegation, as follows:

bonds, undertakings, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; unlimited as to Dollar Amount;

and to bind the Company(ies) making this appointment thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Company(ies), and all the acts of said attorney(s), pursuant to the authority herein given, are hereby ratified and confirmed.

AUTHORITY FOR MAKING APPOINTMENT OF ATTORNEYS-IN-FACT

Article IV Section 12 of Bylaws of Peerless Insurance Company states: "Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or President may prescribe, shall appoint such Attorneys-in-Fact as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations."

Article IV Section 12 of Bylaws of The Netherlands Insurance Company states: "Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or President may prescribe, shall appoint such Attorneys-in-Fact as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations."

CERTIFIED COPY

USE OF FACSIMILE SIGNATURES

Use of facsimile signatures by Peerless Insurance Company is made pursuant to Resolution of the Board of Directors of Peerless Insurance Company, dated April 28, 1988. Use of facsimile signatures by The Netherlands Insurance Company is made pursuant to Resolution of the Board of Directors of The Netherlands Insurance Company, dated April 28, 1988.

COMPANY MAKING APPOINTMENT

The company making this appointment is identified by an "X" in the box opposite its name in the space provided below. It is the intent of Peerless Insurance Company and The Netherlands Insurance Company to use this instrument for the appointment of Attorney(s)-in-Fact for either Company designated, or for both Companies, if so indicated. **In Witness Whereof**

X PEERLESS INSURANCE COMPANY X THE NETHERLANDS INSURANCE COMPANY

has/have caused these presents to be signed by its President, and its Corporate Seal to be hereto affixed by its Secretary, this 24th day of October, 2001.

PEERLESS INSURANCE COMPANY

By: M R Christiansen President

Attest: Jane F. Taylor Secretary

THE NETHERLANDS INSURANCE COMPANY

By: M R Christiansen President

Attest: Jane F. Taylor Secretary

STATE OF NEW HAMPSHIRE
COUNTY OF CHESHIRE

The foregoing instrument was acknowledged before me this 24th day of October, 2001, by Michael R. Christiansen President of Peerless Insurance Company and of The Netherlands Insurance Company and Jane F. Taylor, Secretary of Peerless Insurance Company and The Netherlands Insurance Company, New Hampshire Corporations, on behalf of the corporations.

My commission expires

Rhonda E. Jardine
Notary Public

I, Jane F. Taylor, Secretary of Peerless Insurance Company and The Netherlands Insurance Company do hereby certify that the above and foregoing is a true and correct copy of Power of Attorney executed by the Company(ies) designated above which is still in force and effect. In witness whereof, I have hereunto set my hand and affixed the Seal(s) of the Company(ies) at Keene, New Hampshire this 4th day of October, 2001.

Jane F. Taylor
Secretary

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

6

MASTER BUSINESS LICENSE PROGRAM
BUSINESS LICENSE CENTER
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
District of Columbia Government
P.O. BOX 1234, WASHINGTON, D.C. 20002

Federal ID No:

all Corp-Div
5/15/2002

Please Read Instructions Carefully Before Completing This Application

SECTION A: TYPE AND PURPOSE OF APPLICATION

Type of License: (✓) Place a check mark next to your selection)

	Master Business License A		Master Business License B

Purpose of Application: (✓) Place a check mark next to your selection)

	Open New Business		Add Endorsement To Existing License
	Open Business At New Location		Transfer of ABC Establishment License
	Transfer License To New Ownership		

SECTION B: BUSINESS OWNERSHIP OR INDIVIDUAL TO BE LICENSED

1. Name of Applicant (If Corporation or Partnership, Complete the Box to the Right): Kuri Brothers, INC.

2. Trade Name of Business, If Any: Van Ness Auto Care

3. Applicant Address — Telephone: (202) 494-1490
Street: 12030 Chase Crossing Circle Suite: #204
City/State: Rockville, MD Zip Code: 20852

4. Billing Name — Telephone: 202 966-5955
Kuri Brothers, INC.

5. Billing Address
Street: 4225 Connecticut Ave, N.W. Suite:
City/State: Washington, D.C. Zip Code: 20008

6. Business Fax Number: (202) 244-4207

7. Business E-Mail Address:

8. Corporation or Non-Resident Applicant Agent's Name, Address and Telephone #:

1a. Partnership or Incorporating Information

Corporation Partnership Limited Liability Comp

President or Partner
Name: Christophe Kuri
Address: 12030 Chase Crossing Cir
Rockville MD 20852
202 494-1190 / 20852
Telephone # / Zip Code

Vice Pres. or Partner
Name: John F Kuri
Address: 17134 Old Baltimore
Olney MD 208
301 924-0289 / 20832
Telephone # / Zip Code

Secretary/Treasurer
Name: Koo Yeon
Address: 4522 Albemarle St
NW Washington DC
/ 2001C
Telephone # / Zip Code

SECTION C: INFORMATION ABOUT THE PREMISES WHERE BUSINESS IS LOCATED

1. Address of Premises Applied For	2. Quad	3. Ward	4. ANC:	5. Zone
4225 Connecticut Ave, N.W.	NW			C3A

6. Certificate of Occupancy Number	7. Home Occupancy Number	8. Date Approved	9. Lot	10. Square
			5	2051

SECTION D: TYPE OF LICENSE ENDORSEMENT(S)

Description of Business Activity	Related Business Code
1. Auto Repair	
2.	
3.	
4.	
5.	

SECTION E: INFORMATION ABOUT THE BUSINESS

1 **Vehicle** Make	Year	Identification Number	License Tag	State	Tare Weight	Capacity

2. **Additional D.C. Locations** Address:	Certificate of Occupancy #
Address:	Certificate of Occupancy #
Address:	Certificate of Occupancy #

3 **Indicate Number Of**	Billiard Tables	Bowling Alleys	Bulk Fuel Meter Device	Bulk Fuel Storage Tank

Cigarette Vending Machines	Food Vending Machines	Game Boards	Gasoline Dispensing Hoses

Mechanical Amusement Machines	Parking Square Feet	Restaurant Seats

4. **Resident Manager** Telephone:		4a. Apt. Units	4b. Rooming Units	4c. Hotel/Motel Rooms
Name:	Apt.			

SECTION F: INFORMATION ABOUT EMPLOYEE TO BE LICENSED

1. Name of Company To Employ Licensee						2. UI Number (If applicable)		
3. Address of Company						4 Signature of Owner or Manager		
5. Date of Birth	Month	Date	Year	Height	Weight	Color of Hair	Color of Eyes	Place of Birth
6. Driver's License Number						State		Expiration Date
7. If non-resident, list name and D.C. Address of person to receive notices Name: Address:								

SPACE FOR ADDITIONAL INFORMATION

Signature of Applicant:	Date:
[signature]	May 15. 02

APPLICATION FOR D.C. LICENSE
CONSUMER GOODS REPAIR REGULATION

TO: Director, Department of Consumer and Regulatory Affairs

Application is hereby made for license to engage in the business of:

[✓] **Motor Vehicle Repair Services**
[ ] **Electronics Equipment Repair Services** **Date:** _____

When a consumer goods repair dealer operates more than one place of business offering repair services subject to the Consumer Goods Repair Regulation, he shall obtain a separate consumer goods repair dealer license for each such place of business.

The furnishing of false, misleading or fraudulent information shall be grounds for refusal to issue or to renew a license.

1. **Applicant's Name** Kuri Brothers Inc

2. **If the applicant is an individual or a partnership, is the individual, or are all the partners at least 18 years old?**
[X] **Yes** [ ] **No**

3. **Trade name of business** Van Ness Auto Care

4. **Address for which applied** 4225 - Conn Ave NW Washington DC

5. **Type of license applied for:** [✓] **Motor vehicle repair services** [ ] **Electronics equipment repair services**

6. **If an applicant is a corporation, give the complete names, current home phone numbers, addresses and office held by its principal officers:**

Name Christopher Kuri **Phone Number** 301 970 0672
Address 12014 Chase Crossing Cir Rockville **Office Held** President
Name John Kuri **Phone Number** 301 428-2939
Address 11209 Dorsouble way Bowie MD **Office Held** Vice President
Name _____ **Phone Number** _____
Address _____ **Office Held** _____
Name _____ **Phone Number** _____
Address _____ **Office Held** _____

7. **If an applicant is a partnership, give the complete names, current home phone numbers, addresses and office held by its principal officers:**

Name John Kuri **Phone Number** 301 924 2939
Address 11209 Dorsouble Lane Bowie MD **Office Held** Vice President
Name _____ **Phone Number** _____
Address _____ **Office Held** _____

Name _____ Phone Number _____

Address _____ Office Held _____

Name _____ Phone Number _____

Address _____ Office Held _____

8. If an applicant is the owner, give the complete name, current home phone number, and address:

Name Christopher Kuo Phone Number 301 770-0672

Address 12014 Close Crossing c/e 401 Rockville MD 20852

9. If an applicant is a non-resident of the District of Columbia, give the name, address and telephone number of an attorney-in-fact or a resident agent who resides or has an office in the District of Columbia, upon whom all fiducial and other process or legal notice directed to the applicant may be served.

Name [redacted] Koo Yuen Phone Number 202 966 [redacted] 1321

Address 4522 Albemarle St NW DC

10. As a non-resident, have you attached a notarized consent agreement of your resident agent? [X] Yes [ ] No

11. I certify that the applicant and the applicant's principal officers are fit, willing and able to conduct the business for which the license is sought, and to comply with the Consumer Goods Repair Regulations for the District of Columbia approved March 15, 1974, other laws applicable to repair transactions and the rules, regulations and requirements of the Mayor-Commissioner thereunder. [X] Yes [ ] No

An applicant shall be presumed to be of good moral character unless he has been convicted of a crime which the Board finds has a substantial relationship to the functions and responsibilities to be performed by a supervisory inspector and has not demonstrated good moral character subsequent to his conviction.

(The following questions are to be answered by the applicant)

12. I have read the Consumer Goods Repair Regulations and certify that based upon my belief and information, applicant or applicant's principal officer have not been engaged in extensive or continuous conduct that violates the Consumer Goods Repair Regulation of the District of Columbia, approved March 15, 1974 or other laws applicable to repair transactions. [X] Yes [ ] No

13. Is the name of the applicant as set forth on page 1, item 1, the true and lawful name of the applicant?
[X] Yes [ ] No

14. Has the applicant, or the applicant's chief executive officers been convicted within the past five years of a felony or any crime involving moral turpitude? [ ] Yes [X] No

15. In the past five years has the District of Columbia or any jurisdiction denied, suspended or revoked any business or professional license for which you have applied or been licensed? [ ] Yes [X] No

In the past five years has any surety company declined to be surety on your bond? [ ] Yes [X] No

In the past five years has recovery been made on any bond issued in your behalf? [ ] Yes [X] No

16. Attached hereto is a copy of the "Written Estimate and Final Bill" form I am presently using. [X] Yes [ ] No

17. I hereby file with the Consumer Goods Repair Board a corporate surety bond in the amount of:
[ ] $2,000.00 [X] $5,000.00
Such corporate surety bond shall serve as protection for any person aggrieved by violation of this regulation pursuant to Section 47-2334(c) of the D.C. Code.

18. I will comply with provisions of Title 34, D.C. Rules and Regulations Human Rights Law. [X] Yes [ ] No

19. In the space below, list each jurisdiction in which you are now doing business and each jurisdictions in which you have done business during the past five years:

NW Washington, DC

20. In the spaces below, list the total number of automotive and/or electronic employees:

Technical Repair Shop Employees 5 Other Repair Shop Employees 6 Total 11

21. I certify that the average annual total electronic equipment or automotive repair shop revenue for the previous two years is $ _____.

22. I certify that all information contained in this application is true and correct. I am aware that should this information become inaccurate after filing, the Office of Consumer Protection must be notified with an amended notification within twenty (20) calendar days of the date the information becomes available.

Authorized Signature of Applicant Christopher Kim Date _____

23. YOU ARE NOT REQUIRED TO ANSWER THE FOLLOWING QUESTIONS - FOR INFORMATION PURPOSES ONLY.

List all types of electronic equipment used in repair services:

1. Tire Balance Machine
2. Tire Mounting Machine
3. Alignment Machine
4. CAR LIFT.
5.
6.
7.
8.

Clerk	Result	License Number

Date _____

PD 78 REV. 01/93

Date of Request	METROPOLITAN POLICE DEPARTMENT Washington, D. C. CRIMINAL HISTORY REQUEST	MP PDID Number SSN#
7.10.02		13563875

Request Record of: (Last, First, Middle Name)
Kurt Christopher

Address
12030 Chase Crossing Cir

Sex	Race	Birthdate	Place of Birth
M	W	1.6.66	Paterson N.J.

Requesting Agency | Call-Back Number

Signature of Agent | Badge No.

Purpose of Request (check one)
- ☐ Law Enforcement Purposes (not for employment)
- ☐ Visas*
- ☐ Employment*/Licensing*
- ☐ Challenge*

Method of Request (Check One)
- ☐ Mail
- ☐ In Person
- ☐ NLET
- ☐ Telephone

IDENTIFICATION AND RECORDS DIVISION USE ONLY-(Check if applicable)

☐ SUBJECT UNDER ARREST ☐ CORRECT COLOR CODE

Request Received By	Date and Time Received	Date and Time Returned

D.C. CODE §1-2539 IS QUOTED HERE FOR YOUR INFORMATION

It shall be an unlawful practice, punishable by a fine of not more than three-hundred dollars ($300.) or imprisonment for not more than ten (10) days, or both, for any person to require the production of an arrest record or any copy, extract, or statement thereof, at the monetary expense of any individual to whom such record may relate. Such "arrest records" shall contain only listings of convictions and forfeitures of collateral that have occurred within ten (10) years of the time at which such record is requested. *(Dec. 13, 1977, D.C. Law 2-38, Title II, §266, 24 DCR 6038).*

*I hereby authorize the release of my adult arrest record revealing convictions and forfeitures *within the past ten (10) years.*

Signature 7.10.02 Date

RESULTS OF CRIMINAL HISTORY FILE SEARCH ☐ Name Search ☐ Fingerprint Search

TO: Criminal History Users

This request concerns information whose collection, dissemination, and use are conditioned and restricted by applicable federal and District of Columbia statutes, and policy of the Metropolitan Police Department. Continued assistance from this department is conditioned upon your strict adherence to these regulations.

WARNING TO APPLYING AGENCIES: The Metropolitan Police Department does not guarantee either the accuracy of the record or that the individual whose record is furnished is actually the same individual whose record was requested. To obtain accuracy, the record of the Court involved should be examined. Positive identification can only be determined by comparable fingerprints. Records of arrests obtained from the Metropolitan Police Department as detailed on this form are for convictions and forfeitures for the past 10 years prior to the date of request of this record, exclusive of periods of imprisonment, if any. This record does not reflect any cases which may be currently pending before the Courts or cases where convictions have been set aside pending appeals.

CHIEF OF POLICE

Date of Arrest	Charge(s)	Disposition
	NO RECORD NAME FILE SEARCH JUL 10 2002 METROPOLITAN POLICE DEPARTMENT WASHINGTON, D.C.	

Documents Released:
- ☐ Criminal History Record
- ☐ Prosecution Report
- ☐ Photograph
- ☐ Fingerprints
- ☐ Other: _____
- ☐ Other: _____

Date of Record Search	Record Searched By	Release Authorization

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

Building and Land Regulation Administration
Office of the Administrator

VIA PERSONAL SERVICE,
U.S. FIRST CLASS MAIL, and
U.S. FIRST CLASS CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Kuri Brothers, Inc.
T/a Van Ness Auto Care
4225 Connecticut Avenue, NW
Washington, DC 20008

Koo Yuen, Registered Agent
4522 Albermarle Street, NW
Washington, DC 20016

NOTICE OF REVOCATION OF
CERTIFICATE OF OCCUPANCY NUMBER 33914

This is official notice that the District of Columbia Department of Consumer and Regulatory Affairs (DCRA) revokes Certificate of Occupancy #33914, effective ten (10) days from the date of service of this notice. This action is taken pursuant to 12A DCMR §110.5.3 (2004) authorizing the Director to revoke a Certificate of Occupancy that has been issued in error.

On May 14, 2002, the Department issued to Kuri Brothers Inc. Certificate of Occupancy #33914 (C of O). The C of O authorized Kuri Brothers Inc. to use the premises located at 4225 Connecticut Ave., N.W., a C-3-A zone district, as an automobile service center. Subsequent to the issuance of the C of O, DCRA concluded that an automobile service center was not an appropriate use in a C-3-A zone. It then revoked C of O #B00181657 for automobile service center issued to Kuri Brothers several years earlier for that same operation at a different location, 4221 Connecticut Avenue, NW. On July 1, 2003, in BZA Appeal No. 16947, the Government of the District of Columbia Board of Zoning Adjustment upheld DCRA's decision to revoke C of O #B00181657.

DCRA records disclose that Kuri Brothers Inc. continues to operate an "automobile service center" at 4225 Connecticut Avenue, NW, in a C-3-A zone district, under the May 14, 2002 C of O. In light of the July 1, 2003 BZA decision, DCRA revokes C of O

#33914. Kuri Brothers Inc. is directed to discontinue the unauthorized use of the property, effective ten (10) days from the date of service of this notice. Should it be discovered that Kuri Brothers Inc. is continuing to operate the automobile service center after the effective date of this revocation, DCRA will initiate legal proceedings against it without further notice.

You are invited to submit comments and/or objections to the subject Notice of Revocation at least **two (2) days prior to the effective date** of the revocation by delivering them to the Acting Zoning Administrator, Neil A. Stanley, 941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002. Notwithstanding the delivery of comments and/or objections, your C of O is revoked ten (10) days from the date of service of this notice unless you are notified by the Acting Zoning Administrator that the revocation is rescinded.

RIGHT TO APPEAL

You have the right, pursuant to 11 DCMR § 3200.2 (2003) and 12A DCMR § 110.6 (2004), to appeal this decision to the BZA. Should you decide to appeal DCRA's decision, your appeal must be made pursuant to the requirements set forth in the District of Columbia Zoning Regulations, D.C. Mun. Tit 11 (2004), and must be filed at the Office of Zoning, Board of Zoning Adjustment, 441 Fourth Street, N.W., Suite 210S, Washington, D.C. 20001.

If you decide to appeal, please send a copy of your appeal, pleading or written communication to the Zoning Administrator at DCRA, Office of the Zoning Administrator, 941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002.

If you have any questions, you may contact my office at (202) 442-4576.

Date: August 4, 2005

Neil A. Stanley

Neil A. Stanley
Acting Zoning Administrator

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
OFFICE OF THE ADMINISTRATOR

623

June 27, 2002

PERSONAL SERVICE

Kuri Brothers, Inc., t/a Automobile Service Center
4221 Connecticut Ave, NW
Washington, D.C. 20008

442-4533

Koo Yuen, Registered Agent
4522 Albermarle Street, NW
Washington, D.C. 20016

NOTICE OF INTENT TO REVOKE CERTIFICATE OF OCCUPANCY NUMBER B001816757

This is official notice to you that the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration (the "Department") proposes to revoke Certificate of Occupancy Number B001816757, issued to Kuri Brothers, Incorporated. The subject property is owned by Koo Yuen/Van Ness Incorporated. Said certificate was issued on or about August 12, 1998, and authorized Kuri Brothers, Incorporated to operate an "Automobile Service Center", at the premises located at 4221 Connecticut Avenue, NW, in a C-3 zone area.

At the time of the Certificate of Occupancy's issuance, you informed the Department that the corporation's intent was to sell small automotive parts and make installations of same. The Department created the category of "Automobile Service Center" to facilitate your efforts. This facilitation did not include or permit any major automotive engine, body work or other automotive garage functions. By making major repairs and doing engine work you have operated outside the scope of this Certificate of Occupancy as well as the zoning requirements for this location. This notice is issued pursuant to D.C. Code § 1-1509(a). The charge and specifications in support of this action are as follows:

CHARGE I

You are in violation of 11 DCMR §101.5, which states in pertinent part that: "No building, structure, or premises shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered, or enlarged except in conformity with this title."

You are operating an "automobile repair garage" located in a zone C-3 area, such a business operation is not permitted as a "matter of right" pursuant to 11 DCMR §743.1 and requires approval from the Board of Zoning Adjustment.

SPECIFICATION A. On or about April 27, 1999, DCRA Zoning Inspector Yvonne Rockett conducted an inspection of the Respondent's business and personally observed Respondent's employees repairing automotive head lights and engaging in under the hood auto- motive mechanical repairs.

SPECIFICATION B. On or about January 3, 2002, DCRA Investigator Anthony Hooks conducted an investigation of the Respondent's business and personally observed Respondent's employees performing automotive engine repairs.

SPECIFICATION C. On or about May 12, 2002, DCRA Investigator Anthony Hooks conducted an investigation of the Respondent's business and personally observed Respondent's employees performing automotive engine repairs.

SPECIFICATION D. On or about June 5, 2002, DCRA Investigators Anthony Hooks and Vacylla Williams conducted an investigation of the Respondent's business and personally observed that the premises were open for business and that there were eight vehicles in various states of auto repair. The Investigators also observed the Respondent's employees accepting automotive repair receipts and vehicles for repair.

You have the right to challenge this proposed action to revoke your certificate of occupancy. In order to exercise this right you must request a hearing in writing within fifteen (15) days of your receipt of this Notice. Your request should be mailed first class U.S. mail postage pre-paid and

addressed to E. Savannah Little, Chief Administrative Law Judge, Department of Consumer and Regulatory Affairs, Office of Adjudication, 941 North Capitol Street, N.E., Suite 9100, Washington, D.C. 20002. Alternatively, you may hand-deliver your written request for a hearing to the same address within fifteen (15) calendar days of your receipt of this notice.

Additionally, if you decide to challenge this proposed action, please send a copy of your request for a hearing, pleading or other written communication in this case to Matthew J. Green, Jr., Agency Counsel, Office of the General Counsel, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Suite 9400, Washington, D.C. 20002. Please note that if you do not request a hearing within the time specified in this notice, or if you fail to appear at a scheduled hearing, you shall be deemed to have admitted the validity of the charges and specifications stated in this notice and a final notice of revocation will be entered against you. Should you request a hearing, you will be notified by the Office of Adjudication of the hearing date and time. You may appear personally at such hearing and be represented by legal counsel. You have the right to produce witnesses and evidence and to cross examine witnesses against you, to examine evidence produced, and to have subpoenas issued on your behalf to require the production of witnesses and evidence.

If you or any witness you intend to call, is deaf or because of a hearing impediment or language barrier cannot readily understand or communicate the spoken English language, you or your witness may apply to the Office of Adjudication for the appointment of a qualified interpreter.

442 8167 442-8402 8475

If you have any questions, you may contact, Karen M. Edwards, General Counsel, Office of Compliance, on (202) 442-8475.

P. Gregory Love

P. Gregory Love, Administrator
Building and Land Regulation
Administration

cc: David Clark, Director
Karen M. Edwards, General Counsel
E. Savannah Little, Chief Administrative Law Judge
Denzil Noble, Acting Zoning Administrator

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DISTRICT OF COLUMBIA

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DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

+ + + + +

OFFICE OF ADJUDICATION

+ + + + +

HEARING

+ + + + +

IN RE:

KURI BROTHERS, INC.
4221 CONNECTICUT AVENUE, NW
WASHINGTON, D.C.

Case No. 99-OAD-1821-E
Citation No. 032834

Wednesday,
August 11, 1999

Washington, D.C.

BEFORE:

THE HONORABLE LENNOX SIMON,
Administrative Law Judge

WHEREUPON,

TORE BELLO

was called as a witness by Counsel for the Government, having first been duly sworn, assumed the witness stand, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GREEN:

Q Mr. Bello, will you state for the record your full name, please?

A My name is Tore Bello. I'm a Zoning Technician.

Q And by whom are you employed?

A District government, the Zoning Division.

Q And what is your function with the District government?

A I'm a Zoning Engineer, and I review building permits, Certificate of Occupancies, and all of the duties as a Zoning Technician.

Q So if a person were to submit an application for a Certificate of Occupancy, would the final approval fall on you?

A That's correct.

Q And you would review them; is that right?

A That's correct.

Q Do you get involved with other aspects of

zoning questions, such as instructions to zoning inspectors?

A Yes, I do.

Q All right. I'm going to direct your attention to Government's Exhibit 3-A and B. Now, you've been present during the course of this proceeding; is that right?

A Yes, sir.

Q And this document was identified as a Certificate of Occupancy for 4221 Connecticut Avenue. What was the purpose of that Certificate of Occupancy? For what purpose was it issued?

A The automobile service center.

Q And is that a result of anything?

A It's as a result of my review of application, Exhibit 3-B, in tandem with the previous records of user premises.

Q So in other words, you reviewed this -- did you cause this designation, if you will, on the Certificate of Occupancy to be placed there? That is the designation of auto service center.

A Well, as a reflection of the previous permitted use on the premises, yes, that's correct.

Q All right. And the previous use on the premises is governed by what, sir?

what they do, to be assisted by any member who has responsibility for this application.

Q So if an applicant came to the desk and said, "I want to be a widget manufacturer," they essentially would -- someone would essentially look up an find out what zoning requirements are or permitted for widget manufacturing?

A That's correct, sir.

Q And what if widget manufacturing wasn't available in a particular zone or wasn't identified? What then happens?

A Well, the zoning codes allow for the Zoning Administrator to determine what constitutes other like uses, wherein there isn't specific language dealing with that particular use in the code. But then it is also the purview of the Administrator where the language is so out of place to determine that the Board of Zoning Adjustment should either consider relief for establishment of such use. But in this particular case, there is clear language as to the need for special exception to establish an auto repair function.

Q All right. Auto repair versus auto service center. Can you tell us, please, what is required for auto repair? What do you have to do?

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GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 28, 2003

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 11:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

fact that the work being done in the 21 bays is simply incidental to installing things that people buy.

So it's a very interesting hypothetical question, but -- and we take the position that there was no such category they could have issued.

CHAIRPERSON GRIFFIS: Right.

MR. BARDIN: But the fact -- You have to decide cases in terms of the facts of the case. You're not writing laws here. You're not passing regulations.

CHAIRPERSON GRIFFIS: I agree.

MR. BARDIN: You are not the Zoning Commission. So I don't think anything is going to turn on that issue that you are now discussing.

CHAIRPERSON GRIFFIS: It is going to turn on it, because the pertinence of what the appeal is based on goes to what the intent -- why the certificate of occupancy was actually revoked, and maybe I am wasting people's time, but I am not clear on this, what the definitive element is that will be the substance of the appeal. And that is --

MR. BARDIN: As I --

CHAIRPERSON GRIFFIS: Let me just hear from Mr. Green briefly. Then I'll stop this.

MR. GREEN: All right. Again, and I

direct the Board's attention to the notice of intent to revoke the certificate of occupancy.

What took place was simply an attempt at accommodating a business merchant. In this particular instance, we have something called an automotive service center at the premises, and it was the understanding between what was represented to the agency by the Appellant that he wanted to install and sell small auto parts, and at that time the understanding was, well, maybe a light bulb here or there, and that was it.

CHAIRPERSON GRIFFIS: Okay. Without getting too far into a lot of detail.

MR. GREEN: Yes, I understand. Now doing major auto engine repair work did not fall within the scope of this understanding. Consequently, we have the issuance of this notice of intent to revoke the certificate of occupancy.

CHAIRPERSON GRIFFIS: Because of the operating outside the scope?

MR. GREEN: He operated outside the scope.

CHAIRPERSON GRIFFIS: Okay, that's all I need.

MR. GREEN: That's it.

CHAIRPERSON GRIFFIS: Good. Everyone

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GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 8, 2003

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

JAMES HANNAHAM	Commissioner
CAROL J. MITTEN	Commissioner

COMMISSION STAFF PRESENT:

BEVERLY BAILEY	Office of Zoning
JOHN K. A. NYARKU	Office of Zoning
CLIFFORD MOY	Office of Zoning

OTHER AGENCY STAFF PRESENT:

ARTHUR JACKSON	Office of Planning
MAXINE BROWN-ROBERTS	Office of Planning
STEVEN COCHRAN	Office of Planning
KAREN THOMAS	Office of Planning
DAVID MCGHETTIGAN	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:
LORI MONROE, ESQ.
COREY BUFFO, ESQ.

service center?

MR. HOOKS: From what I was told and what I read, no major auto repairs are to be done underneath an automobile service center.

MR. DAMARI: Okay. So with that, would it be correct to say that minor repairs are permitted an automobile service center?

MR. GREEN: Mr. Chairman, I'm going to object, and the reason I'm going to object again, to quote Board Member Etherly, not to be picky, I believe that an automotive service center is not one of the defined terms as the Board of Zoning Adjustment would have in terms of what we are dealing with.

CHAIRMAN GRIFFIS: Okay.

MR. DAMARI: With that --

CHAIRMAN GRIFFIS: An automotive service center is defined.

MR. GREEN: And based on that, I believe any questions to this witness regarding that is improper.

MR. DAMARI: Well --

MR. GREEN: It's a statement.

CHAIRMAN GRIFFIS: Because it's not a defined term in DCMR level?

MR. GREEN: It's not a defined term of the

Board of Zoning Adjustment. It is not.

CHAIRMAN GRIFFIS: Well, I disagree.

MR. DAMARI: At the last hearing, Mr. Green testified, not testified, he stated that he was not contesting the validity of this C of O. Their contention was that the use was going outside the scope, but we have to know what the scope is in order to get a sense of whether we're outside the scope.

MR. GREEN: I submit that this is the wrong witness for that purpose, Your Honor.

CHAIRMAN GRIFFIS: Well, that's what we're going to explore. I mean, I don't think the question is outside, and I absolutely agree with Mr. Damari. We need to understand what the scope is before we understand what's outside the scope. The other piece is on your own submissions, if I am getting these all correctly, 1D is a Certificate of Occupancy, and that is where I got the phraseology of automobile service center. It's a Certificate of Occupancy.

There was testimony. Mr. Hooks said he may not have investigated the history of the Certificate of Occupancy, but he talked about the repair. You know, this isn't going to be monumental. And, Mr. Hooks, you are absolutely free to say you don't know of a question of cross examination, and

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No. B 149526

BLRA-17
(Rev. 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

5/6/87
(date)

Permission is hereby granted to Gulf States Services, Inc.
to use suite(s) _____ on the 1st. floor(s)
of the building located on lot(s) 13 square 3590
known as premises 500 Florida Avenue, Northeast for the following
purpose(s) Lube Center
Not Sexually Oriented. [SU]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C/M/1 FEE $ 27.00

Donald G. Murray, Acting Director
By _____
Designee

86—P-3601· wd112

OFFICE COPY

C-62686

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BLRA-17
(Rev. 11/87)
6-4777

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
Zoning Division
614 H Street, N.W., Room 333
Washington, D.C., 20001

CERTIFICATE OF OCCUPANCY 1880231

ISSUED TO NAME, ADDRESS, SQUARE
TYNE CORPORATION

ISSUE DATE 12/27/1988

5420 NEW HAMPSHIRE AV NW
LOTS 0873
TO USE: FIRST
AS AN : AUTOMOTIVE REPAIR SHOP/SPECIALTY
ZONE: C2A USE CODE: I753901S1 OCCUPANCY LOAD 2
BZA # SPECIAL USAGE:[YES] SEXUAL ORIENTED [N]

EXPIRATION DATE
SQUARE 3393

THIS CERTIFICATE SHALL BE CONSPICUOUSLY POSTED ON THE ABOVE PREMISE AT ALL TIMES. IT IS VALID INDEFINITELY, UNLESS AN expiration date is stated ONLY for the purpose(s) indicated above, and is not TRANSFERABLE to another person or premise under any conditions. ANY CHANGE in the type of business, ownership or part of premises used therefor, will render this CERTIFICATE void and a new CERTIFICATE must be obtained.

Designee Ostra V. Mack

Donald G. Murray
DIRECTOR

SCANNED 6.24.96

Form LII-P-601
(Rev. 2/82)

CERTIFICATE OF OCCUPANCY

No. B139605

Washington, D.C., 8-9, 19 84

Permission is hereby granted to R.A.T. AUTO, INC.

to use the first floor(s) of the building located on Lot 4 Square 450

known as premises 625 New York Ave., N.W. for the following

purpose(s): Auto Repair.

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE R-5-D FEE $ 27.00

By [signature] Chief, Permit Branch

Permit Clerk

SCANNED 6.26.95

Form LII-P-601
(Rev. 2/82)

CERTIFICATE OF OCCUPANCY

No. B130286

Washington, D.C., 4/5/84, 19

Permission is hereby granted to Capitol Industries, Inc.

to use the 1st floor(s) of the building located on Lot 802 Square 4032

known as premises 1620 Rhode Island Ave. N.E for the following

purpose(s): Auto Repair

Not Sexually Oriented.

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT. OF DIST. OF COL.

ZONE C/2/A

FEE $ 28.60

Chief, Permit Branch

By [signature]
Permit Clerk

LICENSE BRANCH COPY

No. B 149825

BLRA-17
(Rev. 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

June 1, 1987
(date)

Permission is hereby granted to GULF STATES SERVICES, INC.
to use suite(s) _____ on the first floor(s)
of the building located on lot(s) 135 square 5014
known as premises 3401 Benning Road, N.E. for the following
purpose(s) Auto Lubrication & Accessory Sales
Not sexually oriented. [SU]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certifrcate must be obtained.

ZONE C-2-A FEE $ 27.00

Donald G. Murray, Acting Director

By _____
Designee

86—P.3601 wd112

OFFICE COPY

C-62886

No. B 150176

BLRA-17
(Rev 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

June 23, 1987
(date)

Permission is hereby granted to GULF STATES SERVICES, INC.
to use suite(s) N/A on the basement & first floor(s)
of the building located on lot(s) 5 square 4022
known as premises 1420 Rhode Island Avenue, Northeast for the following
purpose(s) Auto Lubrication & Auto Assessory Sales
Not sexually oriented. [SU]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C-2-A FEE $ 27.00

Donald G. Murray, Acting Director

By _____
Designee

86—P-3601- wd112

OFFICE COPY

C-62686

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. room 2100
Washington D.C. 20002
Tel: (202) 442 - 4470 Fax (202) 442 - 4862

Government of the District of Columbia
DLRA 414

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.
CO 72267

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

DATE : 3/16/2004

ADDRESS :	FLOOR(S) :	PRCLID : 4472 (square) 0000 0151 (lot)	
1111 BLADENSBURG RD NE	1ST & 2ND FLOORS	WARD 5	ZONE : C2A

PERMISSION IS HEREBY GRANTED TO :
CORPORATION : WONDER AUTOMOTIVE INC
ID No. : 240383

TRADING AS :
WONDER AUTOMOTIVE

APPROVED USES :
RETAIL

PREVIOUS USES :
RETAIL

TYPE :	BZA NO. :	OCCUPIED SQ. FOOTAGE:	OCCUP. LOAD:	EXPIRATION DATE :
CHANGE OF OWNERSHIP		6,000		NONE

DESCRIPTION OF USE :
RETAIL SALE OF TIRES & AUTO REPAIR SERVICE

FEE :
$79.00

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark
DIRECTOR

PERMIT CLERK :
LEON PAUL

No. B 152075

BLRA-17
(Rev. 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

December 11, 1987
(date)

Permission is hereby granted to YOUNG JOON HONG
to use suite(s) _____ on the first floor(s)
of the building located on lot(s) 829 square 2961
known as premises 7825 Georgia Avenue, N.W. for the following
purpose(s) Consumer Auto Repair - max. no. of employees - 5
Not sexually oriented [SU]

BZA #: 14526 EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C-2-A FEE $ 27.00

Donald G. Murray, Acting Director

By _____
Designee

86—P-3601 wd112

OFFICE COPY

C-62686

SCA AMED 5.15.89

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decision where based upon the prior statements on the record we clearly have to have the rights to do some repair functions, and no one's arguing in fact that we're doing anything outside the scope of a permissible use for 4225.

CHAIRPERSON GRIFFIS: Okay.

MS. MITTEN: Can I make a suggestion that just builds on what the Chair had said, which is that you take some time to think about what kind of outcome might be different for 4225 as it relates to the, what's the term that we're using here, automobile service center and then also in the meantime the zoning administrator give thought to what an appropriate Certificate of Occupancy would be given that there's another operation on the premises.

This was something like a gas station/automobile service center, so if I understood it correctly there's no Certificate of Occupancy that exists right now.

MR. DAMARI: No see that is what, I thought there was. The one thing that I would ask the Board and please don't take this the wrong way, I'm not asking anyone to do my research for me, but it's not in the regs because I've checked it, is

the issue of whether the issuance of the May 2002 C of O for an automobile service center in effect supercedes the C of O for the same property that I believe was issued February 17th.

CHAIRPERSON GRIFFIS: Same space same property?

MR. DAMARI: Same space same property.

CHAIRPERSON GRIFFIS: I think Mr. Crews can answer that for you fairly definitively. Does it supercede?

MR. CREWS: Yes.

MR. DAMARI: So then we've got a problem because if it didn't then your argument carries a lot more sway, which is no harm no foul, you've got a C of O for whatever it was, I think it was gasolene service center or motor fueling or whatever the applicable-

MS. MITTEN: Just to follow on the suggestion that I was making is if you evaluate the likelihood of success that you might have appealing the revocation of 4225 as it relates to automobile service center, perhaps you make an application for some other use, and Mr. Crews could then evaluate that application. And then perhaps you would decide that you don't need to come back and-