

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

KURI BROTHERS, INC.

*

Petitioner

*

v.

* Case No: _____

*

THE DISTRICT OF COLUMBIA BOARD OF
ZONING ADJUSTMENT

*

Respondent

*

PETITIONER'S RESPONSE TO COURT ORDER OF MAY 10, 2006

In response to this Court's Order of May 10, 2006, directing Petitioner Kuri Brothers, Inc. ("Petitioner") to submit "a copy of the Order being appealed", Petitioner hereby attaches (as **Exhibit 1** hereto) the relevant portion of the April 25, 2006 hearing transcript before the District of Columbia Board of Zoning Adjustment (the "BZA"), pursuant to which the BZA dismissed, on jurisdictional grounds, Petitioner's appeal of the decision of the District of Columbia Department of Consumer and Regulatory Affairs to revoke Petitioner's Certificate of Occupancy for 4221 Connecticut Avenue N.W., Washington, D.C. The BZA has yet to issue a written Order of dismissal.

DC. CT. OF APPEALS
2006 SEP 22 PM 3:21

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17444

EXHIBIT NO. 20

Board of Zoning Adjustment
District of Columbia
CASE NO. 17444
EXHIBIT NO. 20

Respectfully submitted,

Roetzel & Andress, LPA

By: 

Stanley H. Goldschmidt
D.C. Bar No. 376482
Tamir Damari
D.C. Bar No. 455744
1025 Connecticut Avenue NW
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Washington, D.C. 20036

Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent via U.S. mail, postage prepaid, this 17th day of May, 2006, to the following:

District of Columbia Board of Zoning Adjustment
441 4th Street N.W.
Suite 210-S
Washington, D.C. 20001

District of Columbia Department of Consumer and Regulatory Affairs
Office of Zoning
941 North Capitol Street N.E., Suite 2000
Washington, DC 20002

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

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

A handwritten signature in black ink, appearing to read 'Tamir Damari', written over a horizontal line.

Tamir Damari

1542.1.114572.0003

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 25, 2006

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS ETHERLY, JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Chairperson
(afternoon session)	

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Specialist
JOHN NYARKU	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

NEAL R. GROSS

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WASHINGTON, D.C. 20005-3701

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1 Okay. I think we're fairly clear and let me just
2 hear from the Board in terms of whether I correctly
3 stated the position in terms of 4221 Connecticut
4 Avenue, that would mean that that would not be part
5 of the continuation if we could have a motion on
6 that. Let's do that.

7 MS. MITTEN: All right. Since we
8 only have one number, as to appeal No. 17444 the
9 portion of the appeal that applies to 4221
10 Connecticut Avenue and relates to the revocation of
11 the Certificate of Occupancy 33951, I would move to
12 deny the appeal as it relates to that C of O in
13 that location for lack of jurisdiction.

14 BOARD MEMBER MANN: Second, Mr. Chair.

15 CHAIRPERSON GRIFFIS: Is there any
16 further discussion? Very well. If there's no
17 further discussion--

18 VICE CHAIRPERSON MILLER: I just want
19 to clarify something because the Court of Appeals
20 has decided those issues?

21 MS. MITTEN: Well, there are due
22 process issues that are not properly before the
23 Board based on the Koharas case that you mentioned
24 and perhaps others.

25 CHAIRPERSON GRIFFIS: Okay.

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1 VICE CHAIRPERSON MILLER: I would
2 concur on that.

3 CHAIRPERSON GRIFFIS: Excellent.
4 Anything else? Very well we do have a motion and a
5 second and all in favor signify by saying aye.

6 (Ayes.)

7 CHAIRPERSON GRIFFIS: Opposed?
8 Abstaining? Very well. Then moving on to 4225
9 Connecticut Avenue, and to be clear on this we are
10 receptive to the merits on this except to those
11 elements and factual elements that we needed to
12 clarify the position of the appeal. I believe that
13 this would be proper to continue this, noting that
14 with time restraints for this evening we need to
15 set this for a new date. Ms. Bailey, whenever
16 you're ready.

17 MS. BAILEY: Mr. Chairman, are you
18 looking for a date for the continuance? Mr.
19 Chairman, are you looking for an entire afternoon
20 or did you want to tag it along with other cases?

21 CHAIRPERSON GRIFFIS: I think we'll
22 call it first in the afternoon.

23 MS. BAILEY: June 13th?

24 CHAIRPERSON GRIFFIS: I think we've --
25 hadn't we decided to keep that entire day?

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