

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Appeal of Advisory Neighborhood Commission 3D
In Conjunction with the Chain Bridge Road/University Terrace Preservation
Committee**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF
December 5, 2005

I. BACKGROUND

The Subject Property, known as the former Murphy Estate, is located at 2800 and 2762 Chain Bridge Road, NW. The owner, Dorchester Associates (Morton Bender) proposes to develop the R-1-A property that includes a historic school house on the north end of the property (2762 Chain Bridge Road NW). (Exhibit 1).

On the weekend of October 23-24 of 2004, it became apparent to immediate neighbors and the Chain Bridge Road/University Terrace Preservation Committee (Preservation Committee) that a corral and stable with three stalls had been constructed to shelter two horses from the weather. The stable was constructed without a permit and in violation of Zoning Regulations:

208 Private Stables (R-1) Definition: an accessory building housing not more than (4) horses or other equine animals for private use and not for remuneration, hire, or sale. The building may also house not more than (4) horse-drawn vehicles.

208.1 Use as a private stable shall be permitted as an accessory use in an R-1 District if approved by the Board of Zoning Adjustment as a special exception under section 3104, subject to the provisions of this section

208.2 A private stable shall be set back fifty feet (50 ft.) from all lot lines

208.3 A private stable shall be located so as not to affect adversely the light and air of the building to which it is accessory or of adjacent land and buildings.

On October 31, 2004 the Historic Preservation Office was notified by the Preservation Committee of the construction of the stable since it was erected on a DC Landmark and a National Register Property.

On November 1, HPO inspector Keith Lambert photographed the stable and HPO staff, Tim Dennee stated the owner would have to seek a permit. (Exhibits 2 and 2A). Around Nov. 12, Keith Lambert sent a violation notice to Mr. Bender's office for construction without a permit. (Exhibit 3).

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 17465

EXHIBIT NO. 2

Simultaneously on November 4 and 10, 2004, two emails were sent by Judith H. Lanius, Board Member of the Preservation Committee, to John T. Drann, Acting Building and Land Regulation Administrator, DCRA, notifying him of the violation and requesting that a zoning inspector be sent to the site. (Exhibit 4). In his response of November 12, he agreed to send out an inspector. (Exhibit 5). A subsequent email from Mr. Drann of November 15 designated Toye Bello, Zoning Administrator to follow up on the violation (Exhibit 6).

The matter now having been brought to the attention of the Zoning Administrator, Toye Bello began an investigation into the complaint. The existence of horses and a stable were confirmed by a DCRA inspector on November 16, 2004. Two days later in a November 18 email Mr. Bello confirmed to Ms. Lanius that:

“The inspector found a horse stable, indeed, had been constructed without a building permit. In addition to a violation notice issued by a Historic preservation inspector, the zoning inspector has issued another Violation Notice, requiring the filing of a building permit 48 hours from the date of the receipt of the notice. The notice was sent by certified mail yesterday; a three day window is factored in for receipt. If a building permit is not filed in accordance with the violation notice, then it will be sent up to the next level of enforcement. Thanks again ” (Exhibits 7 and 7A).

On November 19, Mrs. Lanius reminded Mr. Bello by email that the construction of a stable in an R-1 District required a special exception, and referred him to the Zoning Regulations 204.1 and 208.1. The same day by email Mr. Bello confirmed that he was in agreement with Ms. Lanius’ statement about the zoning regulations. Mr. Bello further added that “The office aims to apprise the property owner of same subsequent to the filing of a building permit application.” (Exhibits 8 & 9). Mr. Bender did not respond to the Notice of Violation. In an email dated December 10, Mr. Bello confirmed that lack of response; and, assured Ms. Lanius that, “The office is poised to move the next level of enforcement this coming week, to include referral to the Office of General Counsel, and ultimately, if there is protracted un-abatement, referral to the Office of the Attorney General for criminal or civil prosecution, as appropriate. I will keep you informed. Thank you.” (Exhibit 10).

On December 20, after 10 days lacking a response from Mr. Bello about the status of the next level of enforcement, Robert Sussman, the Chair of the Preservation Committee and board member, Ms. Lanius and Alma Gates, ANC Single Member District Commissioner for 3DO5 (Exhibit 10A), continued to seek redress of the violation from Mr. Bello (Exhibits 11 & 12). On the same day in response, Mr. Bello stated that he had spoken to Mr. Bender and “apprised him of the need to either legitimize the stable by filing a building permit for it or remove it. In an email of January 5, 2005 referencing Mr. Bello’s telephone conversation with Mr. Bender on December 20, Mr. Bello reported that Mr. Bender “claimed ignorance of the existence of the stable on his property, or that its

construction was unauthorized, he requested the opportunity to look into it and get with me as soon as he returned from his out of town trip." (Exhibit 13).

"Mr. Bello also informed Mr. Sussman and Ms. Lanius: "This office will personally serve Mr. Bender a copy of the Notice of Violation and Abatement tomorrow." (Exhibit 14)

This was the second time since December that DCRA was to send a Notice of Violation by certified mail to Mr. Bender.

In a January 5, 2005 email Mr. Bello noted Mr. Bender's lack of follow up subsequent to the personal serving of the Violation and telephone conversation between them. Mr. Bello informed Judith Lanius that by January 7 a Corrective Order would be issued through the Office of the General Counsel to set a date certain for abatement of the violation. He also wrote to assure the Preservation Committee that his office "will see through the abatement of this violation of the zoning regulations as expeditiously as regulatory due process with permit... And thanked the Preservation Committee for its civic vigilance." (Exhibit 15).

By email January 10, Mr. Bello assured Ms. Lanius that the Corrective Order was in the Office of General Counsel and from whom he had requested an expedited process. It was his expectation to hear back from them in a week. He also reported that Mr. Bender had returned his phone call, originally placed by Mr. Bello December 20 (though he did not speak with him at that time). (Exhibit 15)

One month later Mr. Bello in an email of February 9, 2005, had nothing to report on the Corrective Order in the Office of the General Counsel. In addition, he stated that "Mr. Bender has eventually filed a building permit for what he calls a 'lean-to', but for zoning purposes what we deem a private stable. This application has, of course been denied and a referral letter advising Mr. Bender of the need for a special exception review by the BZA drafted and ready for pick up."

Mr. Bello went on to add that Mr. Bender would have the referral letter by close of business on Friday, February, 11, 2005, and that he intended "to advise Mr. Bender, as I have previously, of the need to file, expeditiously, an application before the BZA no later than the week after the receipt of the referral letter." (Exhibit 16)

On February 18 by email, Alma Gates followed up with Mr. Bello on the status of Mr. Bender's BZA filing and five days later, on February 23, Preservation Committee board member and Chair of the Palisades Zoning Committee, Alan Aiches did likewise. The latter received a response by email stating first that the Order to Correct would be served by COB 2/28. "The order shall require the removal or demolition of the stable within ten days (3/10/05) of the receipt of the Order." Secondly he stated, "Refusal to abate beyond the date above will result in the immediate referral of the case to the Housing Regulation Administration to act upon the removal of the violating structure and lien the property for the cost of work." (Exhibit 17)

On March 10, 2005, Paul J. Kiernan of Holland and Knight, the firm that represents Mr. Bender, informed the Office of Administrative Hearings by letter that a Notice of Violation dated February 28, 2005 was received by Dorchester Associates. Mr. Kiernan requested a hearing on the Notice of Violation to respond and demonstrate why it was issued in error. (Exhibit 18).

In an email of March 11, 2005, Ms. Lanius pointed out that the time frame for the Order to Correct had expired (March 10, 2005), and the stable remained in place. Consequently, Ms. Lanius reminded Mr. Bello to confirm that the Violation had been referred to the Housing Regulations Administration for the removal of the structure as per his email of February 23, 2005, that should the Order to Correct not be observed by Mr. Bender this would be the case. (Exhibit 19). Instead on March 15, the Zoning Administrator informed Judith Lanius by email that "an appeal of the Order had been filed at the Office of Administrative Hearings [and] ... serves to hold any further enforcement action in abeyance until resolution of the appeal." (Exhibit 20).

On March 21, Alma Gates sent an email to the Director of DCRA requesting information about the Office of Administrative Hearings. Patrick Canavan, responded that the Office of Administrative Hearings is "a recently created department within the DC Government that was designed to consolidate the administrative hearing function of the District within one department. ... Their records indicate that Mr. Bender has not been scheduled for a hearing." (Exhibit 21). Subsequent letters were sent by email to Mr. Bello by Preservation Committee Members. On April 8, Judith Lanius inquired about the status of the Administrative Hearing; and, on April 11 Robert Sussman expressed the community's frustration with DCRA's handling of the process. On April 11, Mr. Bello responded to both emails to the effect that the Office of Administrative Hearings "was a relatively new office... under which most administrative appeal hearings had been centralized ... it appears there may still be jurisdictional issues to be ironed out or that is still being vetted internally." (Exhibits 21 & 22).

An evidentiary hearing on the Notice of Violation took place at the Office of Administrative Hearings on September 29, 2005. However, the inspector failed to appear. On October 20, the Government's motion for continuance was denied and the respondent's motion to dismiss for want of prosecution was granted. The case was dismissed because J. Sinclair Long, representing the District, was unable to produce his witness, the inspector who issued the Notice of Violation. (Exhibit 23).

On October 3, 2005, Judith Lanius appeared before Advisory Neighborhood Commission 3D on behalf of the Preservation Committee and asked the commission to consider filing an Appeal (Form 125) with the Zoning Office to ensure the unpermitted construction of a stable is considered by the BZA. The commission called the matter up to the agenda and after discussion voted 6-0-0 to file an Appeal on behalf of the Preservation Committee (Exhibit 24).

II. NATURE OF RELIEF SOUGHT

Notice of Infraction No. N100086, served on April 20, 2005 was dismissed by the Office of Administrative Hearings on October 20, 2005 because the Government could not meet its burden of proof, and, "The foregoing considerations merit the dismissal of the case for want of prosecution." (Exhibit 23).

An unpermitted stable has been built and remained on the Chain Bridge property for one year in violation of the Zoning Code. The former Zoning Administrator ceased any enforcement in the matter once Dorchester Associates and Mr. Bender filed for a hearing before the Office of Administrative Hearings. The dismissal of the infraction by the Office of Administrative Hearings, dated October 20, 2005, opens the way for an Appeal to be filed by ANC 3D on behalf of the Preservation Committee for consideration by the Board of Zoning Adjustment.

ANC 3D and the Chain Bridge Road Preservation Committee wish to obtain administrative review from Board of Zoning Adjustment (BZA) in accordance with the rules and regulations of District of Columbia Zoning Code, Title 11, §§ 204.1 and 208.1

III. LIST OF EXHIBITS

1. Notice of Public Hearing from the BZA on the Application of Dorchester Associates for a special exception for 13 detached single family dwellings on a single subdivided lot at 2800 Chain Bridge Road, NW, dated March 3, 2005
2. Email from Judith Lanius to Timothy Dennee, dated 11/1/04.
- 2A. Email from Timothy Dennee to Judith Lanius, dated 11/1/04.
3. Email from Timothy Dennee to Judith Lanius, dated 11/12/04.
4. Email from Judith Lanius to John Drann, dated 11/10/04.
5. Email from John Drann to Judith Lanius, dated 11/12/04.
6. Email from Toye Bello to John Drann and Judith Lanius, dated 11/15/04
7. Email from Toye Bello to Judith Lanius and Maxine Brown-Roberts, dated 11/18/04.
- 7A. Notice of Violation and Notice to Abate, dated 11/16/04.
8. Email from Judith Lanius to Toye Bello, dated 11/19/04.
9. Email from Toye Bello to Judith Lanius, dated 11/19/04.
10. Email from Toye Bello to Judith Lanius, dated 12/10/04.
- 10A. Email from Alma H. Gates to Toye Bello, dated 12/11/04.
11. Email from Judith Lanius to Toye Bello, dated 12/20/04.
12. Email from Robert Sussman to Judith Lanius, dated 12/20/04.
13. Email from Toye Bello to Judith Lanius, dated 1/5/05.
14. Email from Toye Bello to Robert Sussman, dated 12/20/05.
15. Email from Toye Bello to Judith Lanius, dated 1/10/05.
16. Email from Toye Bello to Judith Lanius, dated 2/9/05.
17. Email from Toye Bello to Alan Aiches and Patrick Canavan, dated 2/23/05

18. Letter, dated 3/10/05, from Paul J. Kiernan, Holland and Knight, on behalf of Dorchester Associates, to the Office of Administrative Hearings, requesting a hearing to respond to the Notice of Violation.
19. Email from Judith Lanius to Alan Aiches, Toye Bello, Maxine Brown-Roberts, Timothy Dennee, Alma Gates and Teresa Greene, dated 3/11/05.
20. Email from Toye Bello to Judith Lanius, Alan Aiches, Maxine Brown-Roberts, Timothy Dennee, Alma Gates and Teresa Greene, dated 3/15/05.
21. Email from Robert Sussman to Toye Bello and Judith Lanius, dated 4/11/05
22. Email from Toye Bello to Robert Sussman and Judith Lanius, dated 4/11/05
23. Final Order, Office of Administrative Hearings for Case No. CR-1-05-N100086, dated 10/20/05.
24. Minutes of October 5, 2005 meeting of Advisory Neighborhood Commission 3D

Exh 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

MAR 03 2005

Alma Gates, Chairperson
Advisory Neighborhood Commission 3D
P.O. Box 40846-Palisades Station
Ernst Auditorium
Washington, DC 20016

Re: BZA Application No. 17309

Dear Ms. Gates:

This is to advise you that a public hearing has been scheduled by the Board of Zoning Adjustment to consider the following application which is located within the boundaries of your ANC area:

Application of Dorchester Associates LLC, pursuant to 11 DCMR § 3104.1, for a special exception under section 2516, to allow thirteen detached single-family dwellings on a single subdivided lot, including approval of two sixteen foot wide roadways rather than twenty-five foot wide roadways under subsection 2516 (d), in the CBUT/R-1-A District in the 2800 block of Chain Bridge Road, N.W. (Square 1425, Lot 827, Parcels 12/63, 12/293 and 12/294).

The hearing will be held on Tuesday, April 26, 2005, in Suite 220, 441 4th Street, N.W., Washington, D.C. 20001. This application will be heard between 1:00 p.m. and 6:00 p.m.

You are advised that 11 DCMR Section 3115.1 sets out certain requirements related to reports of ANCs, and specifically that Section 3115 requires that the written report of the ANC be filed with the Board at least seven days in advance of the hearing. A copy of Section 3115 is enclosed for your convenience. Information on the procedures which will govern consideration of this case are also available from the Office of Zoning, in Suite 210, 441 4th Street, N.W. Washington, D.C. 20001. The telephone number for the Office of Zoning is (202) 727-6311.

Subject: Re: Stable on Chain Bridge Road School

Date: Mon, 01 Nov 2004 17:56:57 -0500

From: "Judith H. Lanius" <Judith.Lanius@Worldnet.ATT.Net>

To: "Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>

Tim,

I tried reaching you after I got in late today, but left a message. What is the word of the inspector? You probably already know this, but we checked the Zoning Regulations (see attached) and they say for a private stable an exception has to be obtained from the BZA and there is a 50' setback requirement from all lot lines. I assume the owner in this case has to go to the HPRB, and that is in addition to BZA. Which board hears the case first? Are there any penalties for a violation?

Judith

"Dennee, Timothy (OP)" wrote:

>

> Thanks, Judith. An inspector is going to check it out today.

>

> Tim Dennee

>

> -----Original Message-----

> From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]

> Sent: Sunday, October 31, 2004 6:03 PM

> To: Dennee, Timothy

> Subject: Stable on Chain Bridge Road School

>

> Tim,

> Are you aware that a stable with stalls for three horses and a corral in

> front has been constructed in the last week on the Chain Bridge Road

> Schoolhouse property? Construction started last weekend and now that it

> is complete and a mare and a foal are in residence, it is clear what the

> structure is. There appear to be issues of zoning and historic

> preservation. For instance, I do not believe one can keep horses in an

> R1B residential section. We are trying to determine if a permit was

> issued for the stable. I look forward to hearing from you on this

> matter. I also can be reached by telephone at 202-686-1460.

> Judith



stable regulations.doc

Name: stable regulations.doc

Type: Winword File (application/msword)

Encoding: base64

204 ACCESSORY BUILDINGS (R-1)

204.1 The following buildings shall be permitted as accessory buildings in R-1 Districts incidental to the uses permitted in this chapter:

- (a) Private garage, subject to the special provisions of chapter 23 of this title,
- (b) Private stable as accessory use to a dwelling and under conditions specified in § 208; and**
- (c) Other buildings or structures customarily incidental to the uses permitted in R-1 Districts under the provisions of this chapter.

208 PRIVATE STABLES (R-1)

Definition: an accessory building housing not more than four (4) horses or other equine animals for private use and not for remuneration, hire, or sale. The building may also house not more than four (4) horse-drawn vehicles.

208.1 Use as a private stable shall be permitted as an accessory use in an R-1 District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

208.2 A private stable shall be set back fifty feet (50 ft.) from all lot lines.

208.3 A private stable shall be located so as not to affect adversely the light and air of the building to which it is accessory or of adjacent land and buildings.

Enforcement (Building Code, DCMR12A):

SECTION 113A VIOLATIONS AND INFRACTIONS

113.1 Unlawful Acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, raze, demolish, use, or occupy any building or structure or equipment regulated by the Construction Codes, or cause same to be done, in conflict with or in violation of any of the provisions of the Construction Codes.

113.2 Notice of Violation, Infraction, or Order. The code official is authorized to serve a notice of violation, notice of infraction, or order on the person responsible, for the erection, construction, alteration, extension, repair, razing, demolition, use, or occupancy of a building or structure in violation of the provisions of the Construction Codes, or in violation of a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of the Construction Codes. A notice of violation or order shall direct the discontinuance of the illegal action or condition and/or the abatement of the violation.

RE: Stable on Chain Bridge Road School

Subject: RE: Stable on Chain Bridge Road School

Date: Mon, 1 Nov 2004 20:08:54 -0500

From: "Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

Keith Lambert photographed it today.

The owner will have to seek a permit. I suppose I'll send it to the HPRB.

There is no particular required order. I'd just as soon BZA go first if it looks like they'd deny it--to save us time, of course. I don't know what position I'd take at this time, frankly.

Tim Dennee

-----Original Message-----

From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]

Sent: Monday, November 01, 2004 5:57 PM

To: Dennee, Timothy (OP)

Subject: Re: Stable on Chain Bridge Road School

Tim,

I tried reaching you after I got in late today, but left a message. What is the word of the inspector? You probably already know this, but we checked the Zoning Regulations (see attached) and they say for a private stable an exception has to be obtained from the BZA and there is a 50' setback requirement from all lot lines. I assume the owner in this case has to go to the HPRB, and that is in addition to BZA. Which board hears the case first? Are there any penalties for a violation?

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> front has been constructed in the last week on the Chain Bridge Road

> Schoolhouse property? Construction started last weekend and now that it

> is complete and a mare and a foal are in residence, it is clear what the

> structure is. There appear to be issues of zoning and historic

> preservation. For instance, I do not believe one can keep horses in an

> R1B residential section. We are trying to determine if a permit was

> issued for the stable. I look forward to hearing from you on this

> matter. I also can be reached by telephone at 202-686-1460.

> Judith

Subject: FW: Stable on Chain Bridge Road School

Date: Fri, 12 Nov 2004 13:24:12 -0500

From: "Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

Judith,

Keith Lambert has sent a violation notice to Bender's firm for construction without a permit. The matter can't be sent to the HPRB until he files a permit application in response. I don't imagine that I'll have strong preservation grounds to oppose such a structure, but I'd sure be interested in what he has in mind for the entire property. I don't know of any filing for BZA, but that will logically follow as he tries to get a permit.

Tim Dennee

-----Original Message-----

From: Judith H. Lanius [mailto:Judith_Lanius@Worldnet.ATT.Net]

Sent: Monday, November 08, 2004 1:20 PM

To: Dennee, Timothy (OP)

Subject: Re: Stable on Chain Bridge Road School

Tim,

Where are you now on this problem? Has the matter been sent to HPRB and BZA?

Judith

"Dennee, Timothy (OP)" wrote:

>

> Keith Lambert photographed it today.

>

> The owner will have to seek a permit. I suppose I'll send it to the HPRB.

>

> There is no particular required order. I'd just as soon BZA go first if it

> looks like they'd deny it--to save us time, of course. I don't know what position I'd take at this time, frankly.

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> Tim Dennee

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> From: Judith H. Lanius [mailto:Judith_Lanius@Worldnet.ATT.Net]

> Sent: Monday, November 01, 2004 5:57 PM

> To: Dennee, Timothy (OP)

> Subject: Re: Stable on Chain Bridge Road School

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> Tim,

> I tried reaching you after I got in late today, but left a message. What

> is the word of the inspector? You probably already know this, but we

> checked the Zoning Regulations (see attached) and they say for a private

> stable an exception has to be obtained from the BZA and there is a 50'

> setback requirement from all lot lines. I assume the owner in this case

> has to go to the HPRB, and that is in addition to BZA. Which board hears

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> > Tim Dennee

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> > Subject: Stable on Chain Bridge Road School

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> > Schoolhouse property? Construction started last weekend and now that it

> > is complete and a mare and a foal are in residence, it is clear what the

> > structure is. There appear to be issues of zoning and historic

> > preservation. For instance, I do not believe one can keep horses in an

> > R1B residential section. We are trying to determine if a permit was

> > issued for the stable. I look forward to hearing from you on this

> > matter. I also can be reached by telephone at 202-686-1460.

> > Judith

Subject: Status of Violation at 2800 Chain Bridge Road N.W.

Date: Wed, 10 Nov 2004 16:05:23 -0500

From: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

To: John.Drann@dc.gov, "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy" <timothy.dennee@dc.gov>, "Sussman, Bob" <Bob.Sussman@LW.com>,

"Wolf, Steven" <steven.wolf@starpower.net>

Dear Mr. Drann,

Tomorrow it will be a week since we notified you of the serious matter of the violation at 2800 Chain Bridge Road N.W. To date we have not heard from you or about whether an inspector has been sent to the property where a private stable has been constructed illegally. Could you please notify us as to the status of the investigation into this problem in our neighborhood.

Judith Lanius

"Judith H. Lanius" wrote:

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>
> > Subject: Violation at 2800 Chain Bridge Road
> > Date: Thu, 04 Nov 2004 14:42:27 -0500
> > From: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>
> > To: "\" Drann, John\" John.Drann@dc.gov
> > CC: "Dennee, Timothy" <timothy.dennee@dc.gov>,
> >      "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,
> >      "Sussman, Bob" <Bob.Sussman@LW.com>,
> >      "Wolf, Steven" <steven.wolf@starpower.net>
> >
> > Dear Mr. Drann,
> > As a member of the Chain Bridge Road/University Terrace Preservation
> > Committee, I am writing to inform you of a zoning violation at 2800
> > Chain Bridge Road. A week ago construction of a three stall
> > stable began on the DC Landmark property of the Chain Bridge Road
> > School. Investigation reveals the stable has been built and currently
> > houses two horses without a permit. In addition, no exceptions were
> > sought from BZA for the construction of a stable in an R1B neighborhood
> > nor from the Historic Preservation Review Board. The stable is in
> > complete violation of DC regulations.
> >
> > As soon as possible, please send an inspector to the site and inform us
> > of the status of the violations. If 2800 Chain Bridge Road is not open
> > (it is gated) access to the property can be obtained by walking to the
> > rear of 2824 Chain Bridge Road on the southern border parallel with the
> > rear of the schoolhouse and the tennis court of 2800.
> >
> > Attached is a copy of the DC regulations governing the construction of
> > residential stables.
> >
> > Thank you for your cooperation.
> >
> > Sincerely,
> > Judith H. Lanius
> >
> > -----
> >                                Name: stable regulations.doc
> > stable regulations.doc      Type: Winword File (application/msword)
> >                                Encoding: base64
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Subject: RE: Status of Violation at 2800 Chain Bridge Road N.W.

Date: Fri, 12 Nov 2004 14:30:14 -0500

From: "Drann, John (DCRA)" <John.Drann@dc.gov>

To: "Judith H. Lanais" <Judith_Lanais@Worldnet.ATT.Net>,

"Drann, John (DCRA)" <John.Drann@dc.gov>,

"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,

"Sussman, Bob" <Bob.Sussman@LW.com>, "Wolf, Steven" <steven.wolf@starpower.net>

Ms. Lanais:

Thank you for your email of November 4th and 10th, 2004. I have been out of the country from October 27 until today. Mr. Denzil Noble is resuming his post as the Building and Land Regulation Administrator for DCRA, and I as the Business and Professional Licensing Administrator.

I will forward your email to Joe McCarley and Elizabeth Carter for further action, and to send out an inspector.

If you have questions regarding this, please contact Mr. Abdullahi Barrow, as he is serving as the interim Chief Building Inspector. He can be reached at (202) 442-4541, via Ms. Toni Taylor.

Cordially,

John T. Drann

Acting Building and Land Regulation Administrator
Department of Consumer and Regulatory Affairs
(202) 442-4542

-----Original Message-----

From: Judith H. Lanais [mailto:Judith.Lanais@Worldnet.ATT.Net]

Sent: Wednesday, November 10, 2004 4:05 PM

To: John.Drann@dc.gov; Brown-Roberts, Maxine; Dennee, Timothy; Sussman, Bob; Wolf, Steven

Subject: Status of Violation at 2800 Chain Bridge Road N.W.

Dear Mr. Drann,

Tomorrow it will be a week since we notified you of the serious matter of the violation at 2800 Chain Bridge Road N.W. To date we have not heard from you or about whether an inspector has been sent to the property where a private stable has been constructed illegally. Could you please notify us as to the status of the investigation into this problem in our neighborhood.

Judith Lanais

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> > **Subject:** Violation at 2800 Chain Bridge Road

> > **Date:** Thu, 04 Nov 2004 14:42:27 -0500

> > **From:** "Judith H. Lanais" <Judith_Lanais@Worldnet.ATT.Net>

> > **To:** "\" Drann, John\" John.Drann@dc.gov

> > **CC:** "Dennee, Timothy" <timothy.dennee@dc.gov>,

> > "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,

> > "Sussman, Bob" <Bob.Sussman@LW.com>,

> > "Wolf, Steven" <steven.wolf@starpower.net>

> >

> > Dear Mr. Drann,

RE: Status of Violation at 2800 Chain Bridge Road N.V

> > As a member of the Chain Bridge Road/University Terrace Preservation
> > Committee, I am writing to inform you of a zoning violation at 2800
> > Chain Bridge Road. A week ago construction of a three stall stable
> > began on the DC Landmark property of the Chain Bridge Road School.
> > Investigation reveals the stable has been built and currently houses
> > two horses without a permit. In addition, no exceptions were sought
> > from BZA for the construction of a stable in an R1B neighborhood
> > nor from the Historic Preservation Review Board. The stable is in
> > complete violation of DC regulations.

> >
> > As soon as possible, please send an inspector to the site and inform
> > us of the status of the violations. If 2800 Chain Bridge Road is not
> > open (it is gated) access to the property can be obtained by walking
> > to the rear of 2824 Chain Bridge Road on the southern border
> > parallel with the rear of the schoolhouse and the tennis court of
> > 2800.

> >
> > Attached is a copy of the DC regulations governing the construction
> > of residential stables.

> >
> > Thank you for your cooperation.

> >
> > Sincerely,
> > Judith H. Lanius

> >
> >

> > Name: stable regulations.doc
> > stable regulations.doc Type: Winword File (application/msword)
> > Encoding: base64

Subject: RE: Violation at 2800 Chain Bridge Road N.W.

Date: Mon, 15 Nov 2004 18:32:32 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "Drann, John (DCRA)" <John.Drann@dc.gov>, "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

Thanks John. Ms. Lanius, a zoning inspector will be out tomorrow. Thank you for your civic vigilance.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Drann, John (DCRA)

Sent: Monday, November 15, 2004 3:42 PM

To: 'Judith H. Lanius'; Bello, Toye (DCRA)

Subject: RE: Violation at 2800 Chain Bridge Road N.W.

Judith, I have been out of the office for 2 weeks (and out of the country). I am forwarding this to Toye Bello, the Zoning Administrator for DCRA for followup.

In the future, I have resumed my post as the Business and Professional Licensing Administrator, and Mr. Denzil Noble is once again the BLRA administrator. Feel free to reach him via email at Denzil.Noble@dc.gov.

Thanks again.

John T. Drann

Business and Professional Licensing Administrator
Department of Consumer and Regulatory Affairs
(202) 442-4308

-----Original Message-----

From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

Sent: Thursday, November 04, 2004 3:55 PM

To: John.Drann@dc.gov

Subject: Violation at 2800 Chain Bridge Road N.W.

> Subject: Violation at 2800 Chain Bridge Road
> Date: Thu, 04 Nov 2004 14:42:27 -0500
> From: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>
> To: "\" Drann, John\" John.Drann@dc.gov
> CC: "Dennee, Timothy" <timothy.dennee@dc.gov>,
> "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,
> "Sussman, Bob" <Bob.Sussman@l.w.com>,
> "Wolf, Steven" <steven.volf@starpower.net>
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> Dear Mr. Drann,
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> Committee, I am writing to inform you of a zoning violation at 2800
> Chain Bridge Road. A week ago construction of a three stall stable

RE: Violation at 2800 Chain Bridge Road N.W.

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> from BZA for the construction of a stable in an R1B neighborhood nor
> from the Historic Preservation Review Board. The stable is in
> complete violation of DC regulations.

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> us of the status of the violations. If 2800 Chain Bridge Road is not
> open (it is gated) access to the property can be obtained by walking
> to the rear of 2824 Chain Bridge Road on the southern border parallel
> with the rear of the schoolhouse and the tennis court of 2800.

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> Thank you for your cooperation.

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> Sincerely,
> Judith H. Lanius

>
> -----
> Name: stable regulations.doc
> stable regulations.doc Type: Winword File (application/msword)
> Encoding: base64

Subject: RE: Violation at 2800 Chain Bridge Road N.W.

Date: Thu, 18 Nov 2004 15:27:22 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>,

"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>,

"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>

CC: "Drann, John (DCRA)" <John.Drann@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,

"Sussman, Bob" <Bob.Sussman@LW.com>, "Wolf, Steven" <steven.wolf@starpower.net>

The inspector found that a horse stable, indeed, had been constructed without a building permit. In addition to a violation notice issued by a Historic preservation inspector, the zoning inspector has issued another Violation Notice, requiring the filing of a building permit 48 hours from the date of receipt of the notice. The notice was sent by certified mail yesterday; a three day window is factored in for receipt. If a building permit is not filed in accordance with the violation notice, then it will be sent up to the next level of enforcement. Thanks again.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius (mailto:Judith.Lanius@Worldnet.ATT.Net)

Sent: Thursday, November 18, 2004 9:16 AM

To: Bello, Toye (DCRA); Brown-Roberts, Maxine

Cc: Drann, John (DCRA); Dennee, Timothy; Sussman, Bob; Wolf, Steven

Subject: Re: Violation at: 2800 Chain Bridge Road N.W.

Dear Mr. Bello,

Could you please let us know as soon as possible what the inspector found on Tuesday with regard to the construction of a stable at 2800 Chain Bridge Road?

Sincerely,

Judith H. Lanius

Chain Bridge Road/University Terrace Preservation Committee

"Bello, Toye (DCRA)" wrote:

>

> Thanks John. Ms. Lanius, a zoning inspector will be out tomorrow. Thank you

> for your civic vigilance.

>

> Toye Bello

> Zoning Administrator

> Dept. of Consumer and Regulatory Affairs

> 941 North Capitol Street, N.E.

> Suite 2000

> 202-442-4576

>

> -----Original Message-----

> From: Drann, John (DCRA)

> Sent: Monday, November 15, 2004 3:42 PM

> To: 'Judith H. Lanius'; Bello, Toye (DCRA)

RE: Violation at 2800 Chain Bridge Road N.W.

> Subject: RE: Violation at 2800 Chain Bridge Road N.W.
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> In the future, I have resumed my post as the Business and Professional
> Licensing Administrator, and Mr. Denzil Noble is once again the BLRA
> administrator. Feel free to reach him via email at Denzil.Noble@dc.gov.
>
> Thanks again.
>
> John T. Drann
>
> Business and Professional Licensing Administrator
> Department of Consumer and Regulatory Affairs
> (202) 442-4308
>
> -----Original Message-----
> From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]
> Sent: Thursday, November 04, 2004 3:55 PM
> To: John.Drann@dc.gov
> Subject: Violation at 2800 Chain Bridge Road N.W.
>
> > Subject: Violation at 2800 Chain Bridge Road
> > Date: Thu, 04 Nov 2004 14:42:27 -0500
> > From: "Judith H. Lanius" <Judith.Lanius@Worldnet.ATT.Net>
> > To: "\" Drann, John\" John.Drann@dc.gov
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> > "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,
> > "Sussman, Bob" <Bob.Sussman@LW.com>,
> > "Wolf, Steven" <steven.wolf@starpower.net>
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> > As a member of the Chain Bridge Road/University Terrace Preservation
> > Committee, I am writing to inform you of a zoning violation at 2800
> > Chain Bridge Road. A week ago construction of a three stall stable
> > began on the DC Landmark property of the Chain Bridge Road School.
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> > two horses without a permit. In addition, no exceptions were sought
> > from BZA for the construction of a stable in an R1B neighborhood nor
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> > with the rear of the schoolhouse and the tennis court of 2800.
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> > residential stables.
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> > Sincerely,
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RE: Violation at 2800 Chain Bridge Road N.W.

```
> >                                     Name: stable_regulations.doc
> >    stable_regulations.doc          Type: Winword File (application/msword)
> >                                     Encoding: base64
```

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

941 North Capitol Street, NE • Suite 2000 • Washington, DC 20001 • ☎ 202-442-4460

NOTICE OF VIOLATION AND NOTICE TO ABATE

ADDRESS OF VIOLATION <u>282C CHARLIE FORGE RD N.W.</u>		CONTROL NUMBER
BUSINESS NAME <u>CHARLIE BRIDGE SCHOOL</u>		TYPE OF INSPECTION
OWNER'S NAME <u>DORCHESTER ASSOCIATES LLC</u>		☐ CONSTRUCTION ☐ ELECTRICAL ☐ FIRE PROTECTION ☐ PLUMBING ☒ OTHER <u>20119</u>
DATE OF INSPECTION <u>11/16/04</u>	TIME OF INSPECTION <u>1:15 PM</u>	

An inspection of the ☐ Construction ☐ Electrical ☐ Fire Protection ☐ Plumbing ☒ 20119 features at the above address was performed on the above date. The inspection revealed the violation(s) cited hereafter. The owner is required to abate the violation(s) by taking the corrective action(s) specified below:

CODE SECTION	VIOLATION	REQUIRED CORRECTIVE ACTION
<u>(D.C.M.R. 12) 105.1</u>	<u>CONSTRUCTION w/o APPROVED Building Permit and PLANS</u>	<u>OBTAIN BUILDING PERMIT AND PLANS</u>

The cited violation(s) must be abated as ordered within ☐ 4/8 hours
☒ 7 days from receipt of this notice. Failure to comply will result in this notice being forwarded to the Office of Compliance for enforcement action.

NAME OF PERSON NOTIFIED (PLEASE PRINT)		DATE OF RECEIPT OF NOTICE
SIGNATURE OF PERSON RECEIVING NOTICE		POSITION
		TELEPHONE
INSPECTOR (PRINT) <u>ALLEN T. JAMES</u>	INSPECTOR'S TELEPHONE <u>202-442-4592</u>	
INSPECTOR'S BADGE # <u>790</u>	DATE OF NOTICE <u>11/16/04</u>	TIME OF RECEIPT OF NOTICE <u>1:15 PM</u>

TO REPORT WASTE, FRAUD OR ABUSE BY ANY D.C. GOVERNMENT OFFICE
OR OFFICIAL, CALL THE INSPECTOR GENERAL AT 1-800-521-1639.
ALL CALLS ARE CONFIDENTIAL.

EXHIBIT

100

Subject: Re: Violation at 2800 Chain Bridge Road N.W.

Date: Fri, 19 Nov 2004 14:16:06 -0500

From: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

To: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

CC: "Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Drann, John (DCRA)" <John.Drann@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,

"Sussman, Bob" <Bob.Sussman@LW.com>, "Wolf, Steven" <steven.wolf@starpower.net>

Dear Mr. Bello,

Thank you for your information about the confirmation of the violation of the stable construction at 2800 Chain Bridge Road N.W. As I am sure you are aware, the construction of a stable in a residential neighborhood (R-1) requires a special exception from the BZA before a building permit can be issued (See Sections, 204.1 and 208.1) Please confirm that this is your understanding, as well.

Judith Lanius

"Bello, Toye (DCRA)" wrote:

>
> The inspector found that a horse stable, indeed, had been constructed
> without a building permit. In addition to a violation notice issued by a
> Historic preservation inspector, the zoning inspector has issued another
> Violation Notice, requiring the filing of a building permit 48 hours from
> the date of receipt of the notice. The notice was sent by certified mail
> yesterday; a three day window is factored in for receipt. If a building
> permit is not filed in accordance with the violation notice, then it will be
> sent up to the next level of enforcement. Thanks again.

>
> Toye Bello
> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576

> -----Original Message-----

> From: Judith H. Lanius (mailto:Judith_Lanius@Worldnet.ATT.Net)
> Sent: Thursday, November 18, 2004 9:16 AM
> To: Bello, Toye (DCRA); Brown-Roberts, Maxine
> Cc: Drann, John (DCRA); Dennee, Timothy; Sussman, Bob; Wolf, Steven
> Subject: Re: Violation at 2800 Chain Bridge Road N.W.

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> Dear Mr. Bello,
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> > Toye Bello
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Re: Violation at 2800 Chain Bridge Road N.W

> > Dept. of Consumer and Regulatory Affairs
> > 941 North Capitol Street, N.E.
> > Suite 2000
> > 202-442-4576
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> > Sent: Monday, November 15, 2004 3:42 PM
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> > Subject: RE: Violation at 2800 Chain Bridge Road N.W.
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> >
> > Business and Professional Licensing Administrator
> > Department of Consumer and Regulatory Affairs
> > (202) 442-4308
> >
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> > From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]
> > Sent: Thursday, November 04, 2004 3:55 PM
> > To: John.Drann@dc.gov
> > Subject: Violation at 2800 Chain Bridge Road N.W.
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> > > To: "\" Drann, John\" John.Drann@dc.gov
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Re: Violation at 2800 Chain Bridge Road N.W.

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> -----

> > > Name: stable regulations.doc

> > > stable regulations.doc Type: Winword File (application/msword)

> > > Encoding: base64

Subject: RE: Violation at 2800 Chain Bridge Road N.W.

Date: Fri, 19 Nov 2004 16:08:06 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>,
"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

CC: "Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Drann, John (DCRA)" <John.Drann@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,

"Sussman, Bob" <Bob.Sussman@LW.com>, "Wolf, Steven" <steven.wolf@starpower.net>

Ms. Lanius,

Thank you for your information. I am in agreement with your understanding. The office aims to apprise the property owner of same subsequent to the filing of a building permit application. Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

Sent: Friday, November 19, 2004 2:16 PM

To: Bello, Toye (DCRA)

Cc: Brown-Roberts, Maxine (OP); Drann, John (DCRA); Dennee, Timothy (OP);
Sussman, Bob; Wolf, Steven

Subject: Re: Violation at 2800 Chain Bridge Road N.W.

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> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576

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> **From:** Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

RE: Violation at 2800 Chain Bridge Road N.W

> Sent: Thursday, November 18, 2004 9:15 AM
> To: Bello, Toye (DCRA); Brown-Roberts, Maxine
> Cc: Drann, John (DCRA); Dennee, Timothy; Sussman, Bob; Wolf, Steven
> Subject: Re: Violation at 2800 Chain Bridge Road N.W.
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> Dear Mr. Bello,
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> Chain Bridge Road/University Terrace Preservation Committee
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> > John T. Drann
> >
> > Business and Professional Licensing Administrator
> > Department of Consumer and Regulatory Affairs
> > (202) 442-4308
> >
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> > From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]
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> > To: John.Drann@dc.gov
> > Subject: Violation at 2800 Chain Bridge Road N.W.
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> > > Date: Thu, 04 Nov 2004 14:42:27 -0500
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> > > To: "\" Drann, John\" <John.Drann@dc.gov>
> > > CC: "Dennee, Timothy" <timothy.dennee@dc.gov>

RE: Violation at 2800 Chain Bridge Road N.W.

> > > "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,
> > > "Sussman, Bob" <Bob.Sussman@JMW.com>,
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> -----
> > > Name: stable regulations.doc
> > > stable regulations.doc Type: Winword File (application/msword)
> > > Encoding: base64

Subject: RE: Stable 2800 Chain Bridge Road

Date: Fri, 10 Dec 2004 16:42:21 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

Ms. Lanius,

Preliminary indications are that there has been no response to the Notice of Violation sent by certified mail to school at subject address. The office is poised to move the next level of enforcement this coming week, to include referral to the Office of the General Counsel, and ultimately, if there is protracted un-abatement, referral to the Office of the Attorney General for criminal or civil prosecution, as appropriate. I will keep you informed. Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius (mailto:Judith.Lanius@Worldnet.ATT.Net)

Sent: Friday, December 10, 2004 2:38 PM

To: Bello, Toye

Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman, Bob;
Gates, Alma; Wolf, Steven; Aiches, Alan

Subject: Stable 2800 Chain Bridge Road

Dear Mr. Bello,

What is the current status of the violation at 2800 Chain Bridge Road N.W., where your inspector confirmed the illegal stable during his inspection on November 16, 2004. I understand from your earlier email a certified notice was sent immediately to Mr. Bender with a prompt response due to your office. Has he responded to your office and has the matter been referred to the BZA for a special exception?

Thank you for your attention to this matter.

Judith Lanius

Chain Bridge Road/University Terrace Preservation Committee

Subject: Fwd: Stable 2800 Chain Bridge Road

Date: Sat, 11 Dec 2004 20:42:12 EST

From: AHG71139@aol.com

To: Judith_Lanius@Worldnet.ATT.Net, olutoye Bello@dc.gov, Maxine.Brown-Roberts@dc.gov,
John.Drann@dc.gov, timothy.dennee@dc.gov, Bob.Sussman@LW.com,
AHG71139@aol.com, steven.wolf@starpower.net, aiches@aichesdesign.com

CC: DavidA.Clark@dc.gov, theresa.lewis@dc.gov, jerrily.kress@dc.gov

Hello Toye Bello

On Monday I intend to file an appeal with the BZA if no notice has been filed by DCRA. Mr. Bender is well aware that he needs a special exception to construct a stable and house horses in an R-1-A or R-1-B district under section 3104.1.

Please let me know before the close of business on Monday, December 13, what action DCRA will be taking in this case so the ANC might meet the 60 day deadline for filing.

Thank you,

Alma Gates
ANC 3D05

Subject: Stable 2800 Chain Bridge Road

Date: Fri, 10 Dec 2004 14:37:52 -0500

From: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>

To: "Bello, Toye" <Toye.Bello@dc.gov>

CC: "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,
"Drann, John" <John.Drann@dc.gov>, "Dennee, Timothy" <timothy.dennee@dc.gov>,
"Sussman, Bob" <Bob.Sussman@LW.com>, "Gates, Alma" <AHG71139@aol.com>,
"Wolf, Steven" <steven.wolf@starpower.net>, "Aiches, Alan" <aiches@aichesdesign.com>

Dear Mr. Bello,

What is the current status of the violation at 2800 Chain Bridge Road N.W., where your inspector confirmed the illegal stable during his inspection on November 16, 2004. I understand from your earlier email a certified notice was sent immediately to Mr. Bender with a prompt response due to your office. Has he responded to your office and has the matter been referred to the BZA for a special exception?

Thank you for your attention to this matter.

Judith Lanius

Chain Bridge Road/University Terrace Preservation Committee

Subject: Re: Stable 2800 Chain Bridge Road

Date: Mon, 20 Dec 2004 11:38:42 -0500

From: "Judith H. Lanius" <Judith.Lanius@Worldnet.ATT.Net>

To: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

CC: "Aiches, Alan" <aiches@aichesdesign.com>,

"Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy" <timothy.dennee@dc.gov>, "Gates, Alma" <AHG71139@aol.com>,

"Sussman, Bob" <Bob.Sussman@LW.com>

Dear Mr. Bello,

Ten days ago we heard from you there had been not response to the Notice of Violation, and that you were prepared to move this violation to the next level of enforcement. Where does this matter now stand?

Judith H. Lanius

Chain Bridge Road/University Terrace Preservation Committee

"Bello, Toye (DCRA)" wrote:

>

> Ms. Lanius,

> Preliminary indications are that there has been no response to the
> Notice of Violation sent by certified mail to school at subject address. The
> office is poised to move the next level of enforcement this coming week, to
> include referral to the Office of the General Counsel, and ultimately, if
> there is protracted un-abatement, referral to the Office of the Attorney
> General for criminal or civil prosecution, as appropriate. I will keep you
> informed. Thank you.

>

> Toye Bello

> Zoning Administrator

> Dept. of Consumer and Regulatory Affairs

> 941 North Capitol Street, N.E.

> Suite 2000

> 202-442-4576

>

> -----Original Message-----

> From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]

> Sent: Friday, December 10, 2004 2:38 PM

> To: Bello, Toye

> Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman, Bob;

> Gates, Alma; Wolf, Steven; Aiches, Alan

> Subject: Stable 2800 Chain Bridge Road

>

> Dear Mr. Bello,

> What is the current status of the violation at 2800 Chain Bridge Road

> N.W., where your inspector confirmed the illegal stable during his

> inspection on November 16, 2004. I understand from your earlier email a

> certified notice was sent immediately to Mr. Bender with a prompt

> response due to your office. Has he responded to your office and has the

> matter been referred to the BZA for a special exception?

> Thank you for your attention to this matter.

> Judith Lanius

> Chain Bridge Road/University Terrace Preservation Committee

Subject: RE: Stable 2800 Chain Bridge Road

Date: Mon, 20 Dec 2004 11:42:13 -0500

From: BOB.SUSSMAN@LW.com

To: Judith_Lanius@Worldnet.ATT.Net, Toye.Bello@dc.gov

CC: aiches@aichesdesign.com, Maxine.Brown-Roberts@dc.gov, timothy.dennee@dc.gov, AHG71139@aol.com

I would hope, at a minimum, that immediate steps can be taken to remove the stable from the property. The property owner is Mr. Morton Bender of Dorchester Associates. He can be reached at (301) 674-2300. I would urge you to contact him as soon as possible.

Robert M. Sussman
LATHAM & WATKINS LLP
555 11th Street, NW
Washington, DC 20004-1304
Direct: (202) 637-2183
Fax: (202) 637-2201
Cell: (202) 716-018
E-mail: bob.sussman@lw.com
www.lw.com

-----Original Message-----

From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]
Sent: Monday, December 20, 2004 11:39 AM
To: Bello, Toye (DCRA)
Cc: Aiches, Alan; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma; Sussman, Bob (DC)
Subject: Re: Stable 2800 Chain Bridge Road

Dear Mr. Bello,
Ten days ago we heard from you there had been not response to the Notice of Violation, and that you were prepared to move this violation to the next level of enforcement. Where does this matter now stand?

Judith H. Lanius
Chain Bridge Road/University Terrace Preservation Committee

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> Counsel, and ultimately, if there is protracted un-abatement,
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> to the Office of the Attorney General for criminal or civil
> prosecution, as appropriate. I will keep you informed. Thank you.
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> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576

RE: Stable 2800 Chain Bridge Road

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> From: Judith H. Lanius (<mailto:Judith.Lanius@Worldnet.ATT.Net/>)

> Sent: Friday, December 10, 2004 2:38 PM

> To: Bello, Toye

> Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman, Bob;

> Gates, Alma; Wolf, Steven; Aiches, Alan

> Subject: Stable 2800 Chain Bridge Road

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> What is the current status of the violation at 2800 Chain Bridge Road

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> Thank you for your attention to this matter.

> Judith Lanius

> Chain Bridge Road/University Terrace Preservation Committee

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Latham & Watkins LLP

Subject: RE: Stable 2800 Chain Bridge Road

Date: Wed, 5 Jan 2005 20:11:51 -0500

From: "Bello, Tye (DCRA)" <Tye.Bello@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>,
"Bello, Tye (DCRA)" <Tye.Bello@dc.gov>

CC: "BOB.SUSSMAN@LW.com" <BOB.SUSSMAN@LW.com>, aiches@aichesdesign.com,
"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,
"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>, AHG71139@aol.com,
"Clark, David (DCRA)" <David.Clark@dc.gov>,
"Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>

Ms. Lanius,

Thank you for your e-mail. Please accept my apology for not updating you sooner. Whereas Mr. Bender, in my phone conversation on December 20, claimed ignorance of the existence of the stable on his property, or that its construction was unauthorized, he requested the opportunity to look into it and get with me as soon as he returned from his out of town trip.

I have no record of Mr. Bender's call or follow up on this issue. Therefore, this office is in the process of referring this case to our General Counsel (OGC) for issuance of an Order to Correct. This referral should be at the OGC by COB Friday 01/07/05. A Corrective Order would usually set a date certain for abatement of violation, after which the city may embark on the process of effecting such abatement as prescribed by law.

Let me take this opportunity to assure you that this office will see through the abatement of this violation of the zoning regulations as expeditiously as regulatory due process will permit. I will strive to keep you abreast of our enforcement actions as they escalate through the process, but nonetheless, feel free to contact me for an update as you may find expedient. Thank you for your civic vigilance.

Tye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius [mailto:Judith.Lanius@Worldnet.ATT.Net]

Sent: Tuesday, January 04, 2005 9:15 PM

To: Bello, Tye (DCRA)

Cc: 'BOB.SUSSMAN@LW.com'; aiches@aichesdesign.com; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP); AHG71139@aol.com; Clark, David (DCRA); Lewis, Theresa (DCRA)

Subject: Re: Stable 2800 Chain Bridge Road

January 4, 2005

Dear Mr. Bello,

Could you please apprise us of the substance of your meeting with Mr. Bender as relates to the illegal stable on his property. Did you serve him with the notice of zoning violation? How does he intend to respond? Will he be removing the stable, and if not, what action will your office take to secure the removal of the building and the horses? It is now more than a month since we notified DCRA of this violation. We assume Mr. Bender received your original notice some time ago, since mail is delivered to Mr. Bender at his 2800 Chain Bridge address where he has

tenants residing. We urge your office to bring this matter to closure promptly since the stabling of horses on residential property is a clear violation of the zoning regulations and is of immediate concern to Mr. Bender's neighbors.

Judith Lanius

Chain Bridge Road/University Terrace Preservation Committee

, Toye (DCRA)" wrote:

>
> Mr. Sussman, & Ms. Lanius,
> Thank you for providing Morton Bender's phone number. I have spoken to Mr.
> Bender since and apprised him of the need to either legitimize the stable
by
> filing a building permit for it, or remove it, if the intention is not to
> pursue a special exception to do so. I am scheduled to either meet with
him
> tomorrow or hear from him, upon his return from an out of town trip.
> Further, please find attached a copy of my e-mail response to Alma Gates'
> enquiry about the subject matter earlier today.

>
> This office will personally serve Mr. Bender a copy of the Notice of
> Violation and Abatement tomorrow. I will inform you of the direction of
> enforcement or any developments in the coming days, but certainly no later
> than Thursday of this week. Thank you.

>
> Toye Bello
> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576

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> -----Original Message-----

> From: BOB.SUSSMAN@LW.com [<mailto:BOB.SUSSMAN@LW.com>]
> Sent: Monday, December 20, 2004 11:42 AM
> To: Judith_Lanius@Worldnet.ATT.Net; Toye.Bello@dc.gov
> Cc: aiches@aichesdesign.com; Maxine.Brown-Roberts@dc.gov;
> timothy.dennee@dc.gov; AHG71139@aol.com
> Subject: RE: Stable 2800 Chain Bridge Road

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> I would hope, at a minimum, that immediate steps can be taken to
> remove the stable from the property. The property owner is Mr. Morton
> Bender of Dorchester Associates. He can be reached at (301) 674-2300.
> I would urge you to contact him as soon as possible.

>
> Robert M. Sussman
> LATHAM & WATKINS LLP
> 555 11th Street, NW
> Washington, DC 20004-1304
> Direct: (202) 637-2183
> Fax: (202) 637-2201
> Cell: (202) 716-018
> E-mail: bob.sussman@lw.com
> www.lw.com

>
> -----Original Message-----

> From: Judith H. Lanius [mailto:Judith_Lanius@Worldnet.ATT.Net]
> Sent: Monday, December 20, 2004 11:39 AM
> To: Bello, Toye (DCRA)
> Cc: Aiches, Alan; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma;
> Sussman, Bob (DC)

> Subject: Re: Stable 2800 Chain Bridge Road
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> Dear Mr. Bello,
> Ten days ago we heard from you there had been not response to the
> Notice of Violation, and that you were prepared to move this violation
> to the
> next level of enforcement. Where does this matter now stand?
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> Judith H. Lanius
> Chain Bridge Road/University Terrace Preservation Committee
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> > address. The office is poised to move the next level of enforcement
> > this coming week, to include referral to the Office of the General
> > Counsel, and ultimately, if there is protracted un-abatement,
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> > to the Office of the Attorney General for criminal or civil
> > prosecution, as appropriate. I will keep you informed. Thank you.
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> > Toye Bello
> > Zoning Administrator
> > Dept. of Consumer and Regulatory Affairs
> > 941 North Capitol Street, N.E.
> > Suite 2000
> > 202-442-4576
> >
> > -----Original Message-----
> > From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
> > Sent: Friday, December 10, 2004 2:38 PM
> > To: Bello, Toye
> > Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman,
> Bob;
> > Gates, Alma; Wolf, Steven; Aiches, Alan
> > Subject: Stable 2800 Chain Bridge Road
> >
> > Dear Mr. Bello,
> > What is the current status of the violation at 2800 Chain Bridge
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> > Thank you for your attention to this matter.
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> > Chain Bridge Road/University Terrace Preservation Committee
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> attorney work product for the sole use of the intended recipient. Any
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> permission is strictly prohibited. If you are not the intended recipient
> please contact the sender and delete all copies.

RE: Stable 2800 Chain Bridge Road

> *Latham & Watkins LLP*

>

> -----

> *Name: RE Stable on Chain Bridge
Road.htm*

> *RE Stable on Chain Bridge Road.htm Type: Hypertext Markup Language
(text/html)*

> *Encoding: quoted-printable*

Subject: RE: Stable 2800 Chain Bridge Road

Date: Mon, 20 Dec 2004 13:03:24 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "BOB.SUSSMAN@LW.com" <BOB.SUSSMAN@LW.com>,
Judith_Lanius@Worldnet.ATT.Net

CC: aiches@aichesdesign.com,

"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>, AHG71139@aol.com,

"Clark, David (DCRA)" <Davida.Clark@dc.gov>,

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

Mr. Sussman, & Ms. Lanius,

Thank you for providing Morton Bender's phone number. I have spoken to Mr. Bender since and apprised him of the need to either legitimize the stable by filing a building permit for it, or remove it, if the intention is not to pursue a special exception to do so. I am scheduled to either meet with him tomorrow or hear from him, upon his return from an out of town trip. Further, please find attached a copy of my e-mail response to Alma Gates' enquiry about the subject matter earlier today.

This office will personally serve Mr. Bender a copy of the Notice of Violation and Abatement tomorrow. I will inform you of the direction of enforcement or any developments in the coming days, but certainly no later than Thursday of this week. Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

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Sent: Monday, December 20, 2004 11:42 AM

To: Judith_Lanius@Worldnet.ATT.Net; Toye.Bello@dc.gov

Cc: aiches@aichesdesign.com; Maxine.Brown-Roberts@dc.gov;
timothy.dennee@dc.gov; AHG71139@aol.com

Subject: RE: Stable 2800 Chain Bridge Road

I would hope, at a minimum, that immediate steps can be taken to remove the stable from the property. The property owner is Mr. Morton Bender of Dorchester Associates. He can be reached at (301) 674-2300. I would urge you to contact him as soon as possible.

Robert M. Sussman
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Direct: (202) 637-2183
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Sent: Monday, December 20, 2004 11:39 AM

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Cc: Aiches, Alan; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma; Sussman, Bob (DC)
Subject: Re: Stable 2800 Chain Bridge Road

Dear Mr. Bello,
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Chain Bridge Road/University Terrace Preservation Committee

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> prosecution, as appropriate. I will keep you informed. Thank you.
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> Toye Bello
> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576
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> From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
> Sent: Friday, December 10, 2004 2:38 PM
> To: Bello, Toye
> Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman,
Bob;
> Gates, Alma; Wolf, Steven; Aiches, Alan
> Subject: Stable 2800 Chain Bridge Road
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> Dear Mr. Bello,
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> Thank you for your attention to this matter.
> Judith Lanius
> Chain Bridge Road/University Terrace Preservation Committee

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Latham & Watkins LLP



RE Stable on Chain Bridge Road.htm

Name: RE Stable on Chain Bridge Road.htm
Type: Hypertext Markup Language (text/html)
Encoding: quoted-printable

Subject: RE: Stable 2800 Chain Bridge Road**Date:** Mon, 10 Jan 2005 18:55:33 -0500**From:** "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>**To:** "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>,
"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>**CC:** "BOB.SUSSMAN@LW.com" <BOB.SUSSMAN@LW.com>, aiches@aichesdesign.com,
"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,
"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>, AHG71139@aol.com,
"Clark, David (DCRA)" <Davida.Clark@dc.gov>,
"Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>

Ms Lanius,

The referral is in the OGC office and indeed was forwarded Friday. I will, also, forward this issue to the Animal Control division of DOH as it has purview over the presence of the horses on subject premises. I have requested of the OGC an expedited process, and will inform you as soon as OGC is able to act upon it; for the sake of speculation, allow me a week.

Incidentally, Mr. Bender has returned my new call to him, though we are yet to communicate beyond leaving messages. If there is any development on that front (i.e. a decision to self abate), I will also let you know. Thanks.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

Sent: Monday, January 10, 2005 6:46 PM

To: Bello, Toye (DCRA)

Cc: 'BOB.SUSSMAN@LW.com'; aiches@aichesdesign.com; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP); AHG71139@aol.com; Clark, David (DCRA); Lewis, Theresa (DCRA)

Subject: Re: Stable 2800 Chain Bridge Road

Mr. Bello,

Please advise us if the referral for an Order to Correct was sent to the Office of General Counsel on Friday, Jan. 1, 2005. How long can be expect it to be before the Corrective Order is issued?

Judith Lanius

"Bello, Toye (DCRA)" wrote:

>

> Ms. Lanius,

>

> Thank you for your e-mail. Please accept my apology for not
> updating you sooner. Whereas Mr. Bender, in my phone conversation on
> December 20, claimed ignorance of the existence of the stable on his
> property, or that its construction was unauthorized, he requested the
> opportunity to look into it and get with me as soon as he returned from
his
> out of town trip.

>

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issue.

> Therefore, this office is in the process of referring this case to our
> General Counsel (OGC) for issuance of an Order to Correct. This referral

RE: Stable 2800 Chain Bridge Road

> should be at the OGC by COB Friday 01/07/05. A Corrective Order would
> usually set a date certain for abatement of violation, after which the
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law.
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> Let me take this opportunity to assure you that this office will
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> you abreast of our enforcement actions as they escalate through the
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> but nonetheless, feel free to contact me for an update as you may find
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> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
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> Sent: Tuesday, January 04, 2005 9:15 PM
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> Cc: 'BOB.SUSSMAN@LW.com'; aiches@aichesdesign.com; Brown-Roberts, Maxine
> (OP); Dennee, Timothy (OP); AHG71139@aol.com; Clark, David (DCRA); Lewis,
> Theresa (DCRA)
> Subject: Re: Stable 2800 Chain Bridge Road

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> take to secure the removal of the building and the horses? It is now
> more than a month since we notified DCRA of this violation. We assume
> Mr. Bender received your original notice some time ago, since mail is
> delivered to Mr. Bender at his 2800 Chain Bridge address where he has
> tenants residing. We urge your office to bring this matter to closure
> promptly since the stabling of horses on residential property is a clear
> violation of the zoning regulations and is of immediate concern to Mr.
> Bender's neighbors.

> Judith Lanius
> Chain Bridge Road/University Terrace Preservation Committee

> , Toye (DCRA)" wrote:

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> > Mr. Sussman, & Ms. Lanius,
> > Thank you for providing Morton Bender's phone number. I have spoken to
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> > Further, please find attached a copy of my e-mail response to Alma

Gates'

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> >

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later

> > than Thursday of this week. Thank you.

> >

> > Toye Bello

> > Zoning Administrator

> > Dept. of Consumer and Regulatory Affairs

> > 941 North Capitol Street, N.E.

> > Suite 2000

> > 202-442-4576

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> > -----Original Message-----

> > From: BOB.SUSSMAN@LW.com [<mailto:BOB.SUSSMAN@LW.com>]

> > Sent: Monday, December 20, 2004 11:42 AM

> > To: Judith_Lanius@Worldnet.ATT.Net; Toye.Bello@dc.gov

> > Cc: aiches@aichesdesign.com; Maxine.Brown-Roberts@dc.gov;

> > timothy.dennee@dc.gov; AHG71139@aol.com

> > Subject: RE: Stable 2800 Chain Bridge Road

> >

> > I would hope, at a minimum, that immediate steps can be taken to
> > remove the stable from the property. The property owner is Mr. Morton
> > Bender of Dorchester Associates. He can be reached at (301) 674-2300.
> > I would urge you to contact him as soon as possible.

> >

> > Robert M. Sussman

> > LATHAM & WATKINS LLP

> > 555 11th Street, NW

> > Washington, DC 20004-1304

> > Direct: (202) 637-2183

> > Fax: (202) 637-2201

> > Cell: (202) 716-018

> > E-mail: bob.sussman@lw.com

> > www.lw.com

> >

> > -----Original Message-----

> > From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

> > Sent: Monday, December 20, 2004 11:39 AM

> > To: Bello, Toye (DCRA)

> > Cc: Aiches, Alan; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma;

> > Sussman, Bob (DC)

> > Subject: Re: Stable 2800 Chain Bridge Road

> >

> > Dear Mr. Bello,

> > Ten days ago we heard from you there had been not response to the
> > Notice of Violation, and that you were prepared to move this violation
> > to the
> > next level of enforcement. Where does this matter now stand?

> >

> > Judith H. Lanius

> > Chain Bridge Road/University Terrace Preservation Committee

> >

> > "Bello, Toye (DCRA)" wrote:

> > >

> > > Ms. Lanius,

> > > Preliminary indications are that there has been no

> > response

> > > to the Notice of Violation sent by certified mail to school at
> > subject
> > > address. The office is poised to move the next level of enforcement
> > > this coming week, to include referral to the Office of the General
> > > Counsel, and ultimately, if there is protracted un-abatement,
> > referral
> > > to the Office of the Attorney General for criminal or civil
> > > prosecution, as appropriate. I will keep you informed. Thank you.
> > >
> > > Toye Bello
> > > Zoning Administrator
> > > Dept. of Consumer and Regulatory Affairs
> > > 941 North Capitol Street, N.E.
> > > Suite 2000
> > > 202-442-4576
> > >
> > > -----Original Message-----
> > > From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
> > > Sent: Friday, December 10, 2004 2:38 PM
> > > To: Bello, Toye
> > > Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman,
> > Bob;
> > > Gates, Alma; Wolf, Steven; Aiches, Alan
> > > Subject: Stable 2800 Chain Bridge Road
> > >
> > > Dear Mr. Bello,
> > > What is the current status of the violation at 2800 Chain Bridge
> > Road
> > > N.W., where your inspector confirmed the illegal stable during his
> > > inspection on November 16, 2004. I understand from your earlier
> > email
> > > a certified notice was sent immediately to Mr. Bender with a prompt
> > > response due to your office. Has he responded to your office and has
> > >
> > > the matter been referred to the BZA for a special exception?
> > > Thank you for your attention to this matter.
> > > Judith Lanius
> > > Chain Bridge Road/University Terrace Preservation Committee
> > >
> > This email may contain material that is confidential, privileged and/or
> > attorney work product for the sole use of the intended recipient. Any
> > review, reliance or distribution by others or forwarding without express
> > permission is strictly prohibited. If you are not the intended
recipient,
> > please contact the sender and delete all copies.
> > >
> > Latham & Watkins LLP
> > >
> > >

> > Name: RE Stable on Chain Bridge
> > Road.htm
> > RE Stable on Chain Bridge Road.htm Type: Hypertext Markup Language
> > (text/html)
> > Encoding: quoted-printable

Subject: RE: Stable 2800 Chain Bridge Road

Date: Wed, 9 Feb 2005 18:50:03 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>,
"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

CC: "BOB.SUSSMAN@LW.com" <BOB.SUSSMAN@LW.com>, aiches@aichesdesign.com,
"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,
"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>, AHG71139@aol.com,
"Canavan, Patrick (DCRA)" <Patrick.Canavan@dc.gov>,
"Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>,
"Wolf, Steven" <steven.wolf@starpower.net>

Ms. Lanius,

Mr. Bender has eventually filed a building permit for what he calls a "lien-to", but for zoning purposes what we deem a private stable. This application has, of course, been denied and a referral letter advising Mr. Bender of the need for a special exception review by the BZA drafted and ready for pick up.

As you well know, all property owners within 200 feet radius of the subject site will be provided notice of the public hearing of this case. Mr Bender will have the referral letter in hand by close of business Friday, 2/11/05. I intend to advise Mr. Bender, as I have previously, of the need to file, expeditiously, an application before the BZA no later than the week after receipt of the referral letter.

The General Counsel action is still active and I will enquire and inform you of its status tomorrow. I am sorry I am unable to provide you with the name of the assigned attorney for reasons of internal rules and protocol.

I ask your indulgence and patience in this matter because much as I wish for a more aggressive and expeditious enforcement action, the office is constrained by the statutory and regulatory due process to which the agency as a whole is subject. Accept my assurance that this office will see through the abatement of the violation one way or another. Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

Sent: Wednesday, February 09, 2005 6:14 PM

To: Bello, Toye (DCRA)

Cc: 'BOB.SUSSMAN@LW.com'; aiches@aichesdesign.com; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP); AHG71139@aol.com; Canavan, Patrick (DCRA); Lewis, Theresa (DCRA); Wolf, Steven

Subject: Re: Stable 2800 Chain Bridge Road

Dear Mr. Bello,

It is now more than a month since the referral went to the Office of General Council, how much longer is it going to be before they act on this violation? We also would like to know who is handling the case?
Judith Lanius

"Bello, Toye (DCRA)" wrote:

> Ms. Lanius,

>

> Thank you for your e-mail. Please accept my apology for not
> updating you sooner. Whereas Mr. Bender, in my phone conversation on
> December 20, claimed ignorance of the existence of the stable on his
> property, or that its construction was unauthorized, he requested the
> opportunity to look into it and get with me as soon as he returned from
his
> out of town trip.

>

> I have no record of Mr. Bender's call or follow up on this
issue.

> Therefore, this office is in the process of referring this case to our
> General Counsel (OGC) for issuance of an Order to Correct. This referral
> should be at the OGC by COB Friday 01/07/05. A Corrective Order would
> usually set a date certain for abatement of violation, after which the
city
> may embark on the process of effecting such abatement as prescribed by
law.

>

> Let me take this opportunity to assure you that this office will
> see through the abatement of this violation of the zoning regulations as
> expeditiously as regulatory due process will permit. I will strive to keep
> you abreast of our enforcement actions as they escalate through the
process,
> but nonetheless, feel free to contact me for an update as you may find
> expedient. Thank you for your civic vigilance.

>

> Toye Bello
> Zoning Administrator
> Dept. of Consumer and Regulatory Affairs
> 941 North Capitol Street, N.E.
> Suite 2000
> 202-442-4576

>

> -----Original Message-----

> From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]

> Sent: Tuesday, January 04, 2005 9:15 PM

> To: Bello, Toye (DCRA)

> Cc: 'BOB.SUSSMAN@LW.com'; aiches@aichesdesign.com; Brown-Roberts, Maxine
> (OP); Dennee, Timothy (OP); AHG71139@aol.com; Clark, David (DCRA); Lewis,
> Theresa (DCRA)

> Subject: Re: Stable 2800 Chain Bridge Road

>

> January 4, 2005

> Dear Mr. Bello,

> Could you please apprise us of the substance of your meeting with Mr.
> Bender as relates to the illegal stable on his property. Did you serve
> him with the notice of zoning violation? How does he intend to respond?
> Will he be removing the stable, and if not, what action will your office
> take to secure the removal of the building and the horses? It is now
> more than a month since we notified DCRA of this violation. We assume
> Mr. Bender received your original notice some time ago, since mail is
> delivered to Mr. Bender at his 2800 Chain Bridge address where he has
> tenants residing. We urge your office to bring this matter to closure
> promptly since the stabling of horses on residential property is a clear
> violation of the zoning regulations and is of immediate concern to Mr.
> Bender's neighbors.

> Judith Lanius

> Chain Bridge Road/University Terrace Preservation Committee

> , Toye (DCRA)" wrote:
> >
> > Mr. Sussman, & Ms. Lanius,
> > Thank you for providing Morton Bender's phone number. I have spoken to
Mr.
> > Bender since and apprised him of the need to either legitimize the
stable
> by
> > filing a building permit for it, or remove it, if the intention is not
to
> > pursue a special exception to do so. I am scheduled to either meet with
> him
> > tomorrow or hear from him, upon his return from an out of town trip.
> > Further, please find attached a copy of my e-mail response to Alma
Gates'
> > enquiry about the subject matter earlier today.
> >
> > This office will personally serve Mr. Bender a copy of the Notice of
> > Violation and Abatement tomorrow. I will inform you of the direction of
> > enforcement or any developments in the coming days, but certainly no
later
> > than Thursday of this week. Thank you.
> >
> > Toye Bello
> > Zoning Administrator
> > Dept. of Consumer and Regulatory Affairs
> > 941 North Capitol Street, N.E.
> > Suite 2000
> > 202-442-4576
> >
> > -----Original Message-----
> > From: BOB.SUSSMAN@LW.com [<mailto:BOB.SUSSMAN@LW.com>]
> > Sent: Monday, December 20, 2004 11:42 AM
> > To: Judith Lanius@Worldnet.ATT.Net; Toye.Bello@dc.gov
> > Cc: aiches@aichesdesign.com; Maxine.Brown-Roberts@dc.gov;
> > timothy.dennee@dc.gov; AHG71139@aol.com
> > Subject: RE: Stable 2800 Chain Bridge Road
> >
> > I would hope, at a minimum, that immediate steps can be taken to
> > remove the stable from the property. The property owner is Mr. Morton
> > Bender of Dorchester Associates. He can be reached at (301) 674-2300.
> > I would urge you to contact him as soon as possible.
> >
> > Robert M. Sussman
> > LATHAM & WATKINS LLP
> > 555 11th Street, NW
> > Washington, DC 20004-1304
> > Direct: (202) 637-2183
> > Fax: (202) 637-2201
> > Cell: (202) 716-018
> > E-mail: bob.sussman@lw.com
> > www.lw.com
> >
> > -----Original Message-----
> > From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
> > Sent: Monday, December 20, 2004 11:39 AM
> > To: Bello, Toye (DCRA)
> > Cc: Aiches, Alan; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma;
> > Sussman, Bob (DC)
> > Subject: Re: Stable 2800 Chain Bridge Road
> >

> > Dear Mr. Bello,
> > Ten days ago we heard from you there had been not response to the
> > Notice of Violation, and that you were prepared to move this violation
> > to the
> > next level of enforcement. Where does this matter now stand?
> >
> > Judith H. Lanius
> > Chain Bridge Road/University Terrace Preservation Committee
> >
> > "Bello, Toye (DCRA)" wrote:
> > >
> > > Ms. Lanius,
> > > Preliminary indications are that there has been no
> > response
> > > to the Notice of Violation sent by certified mail to school at
> > subject
> > > address. The office is poised to move the next level of enforcement
> > > this coming week, to include referral to the Office of the General
> > > Counsel, and ultimately, if there is protracted un-abatement,
> > referral
> > > to the Office of the Attorney General for criminal or civil
> > > prosecution, as appropriate. I will keep you informed. Thank you.
> > >
> > > Toye Bello
> > > Zoning Administrator
> > > Dept. of Consumer and Regulatory Affairs
> > > 941 North Capitol Street, N.E.
> > > Suite 2000
> > > 202-442-4576
> > >
> > > -----Original Message-----
> > > From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
> > > Sent: Friday, December 10, 2004 2:38 PM
> > > To: Bello, Toye
> > > Cc: Brown-Roberts, Maxine; Drann, John; Dennee, Timothy; Sussman,
> > Bob;
> > > Gates, Alma; Wolf, Steven; Aiches, Alan
> > > Subject: Stable 2800 Chain Bridge Road
> > >
> > > Dear Mr. Bello,
> > > What is the current status of the violation at 2800 Chain Bridge
> > Road
> > > N.W., where your inspector confirmed the illegal stable during his
> > > inspection on November 16, 2004. I understand from your earlier
> > email
> > > a certified notice was sent immediately to Mr. Bender with a prompt
> > > response due to your office. Has he responded to your office and has
> > >
> > > the matter been referred to the BZA for a special exception?
> > > Thank you for your attention to this matter.
> > > Judith Lanius
> > > Chain Bridge Road/University Terrace Preservation Committee
> > >
> > > This email may contain material that is confidential, privileged and/or
> > attorney work product for the sole use of the intended recipient. Any
> > review, reliance or distribution by others or forwarding without express
> > permission is strictly prohibited. If you are not the intended
recipient,
> > please contact the sender and delete all copies.
> >
> > Latham & Watkins LLP

RE: Stable 2800 Chain Bridge Road

> >
> >

> > *Name: RE Stable on Chain Bridge*
> *Road.htm*
> > *RE Stable on Chain Bridge Road.htm* *Type: Hypertext Markup Language*
> *(text/html)*
> > *Encoding: quoted-printable*

Subject: RE: Stable 2800 Chain Bridge Road

Date: Wed, 23 Feb 2005 20:00:55 -0500

From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>

To: "aiches@aichesdesign.com" <aiches@aichesdesign.com>,

"Canavan, Patrick (DCRA)" <Patrick.Canavan@dc.gov>,

"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>, AHG71139@aol.com

CC: BOB.SUSSMAN@LW.com,

"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,

"Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>, Judith_Lanius@Worldnet.ATT.Net,
steven.wolf@starpower.net

Mr. Aiches,

Having confirmed that an application has yet to be filed with the BZA, please find below the outline of enforcement action to abate the violation at subject property:

1. Order To Correct: This will be served by COB Monday 2/28. The Order shall require the removal or demolition of the stable within ten days (3/10/05) of the receipt of the Order.

2. Refusal to abate beyond the date above will result in the immediate referral of the case to the Housing Regulations Administration to act upon the removal of the violating structure and lien the property for the cost of work.

I will keep you informed. Thanks.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Alan Z Aiches [<mailto:aiches@aichesdesign.com>]

Sent: Wednesday, February 23, 2005 5:34 AM

To: Patrick.Canavan@dc.gov; Toye.Bello@dc.gov; AHG71139@aol.com

Cc: BOB.SUSSMAN@LW.com; Maxine.Brown-Roberts@dc.gov; Timothy.Dennee@dc.gov;

Patrick.Canavan@dc.gov; Theresa.Lewis@dc.gov;

Judith_Lanius@Worldnet.ATT.Net; steven.wolf@starpower.net

Subject: RE: Stable 2800 Chain Bridge Road

Mr. Canavan,

Thank you very much for your kind and prompt response.

Alan Aiches

----- Original Message -----

> From: "Canavan, Patrick (DCRA)" <Patrick.Canavan@dc.gov>

> To: aiches@aichesdesign.com, Toye.Bello@dc.gov, AHG71139@aol.com

> Cc: BOB.SUSSMAN@LW.com, Maxine.Brown-Roberts@dc.gov,

Timothy.Dennee@dc.gov,

> Patrick.Canavan@dc.gov, Theresa.Lewis@dc.gov,

RE: Stable 2800 Chain Bridge Road

> Judith_Lanius@Worldnet.ATT.Net, steven.wolf@starpower.net
> Subject: RE: Stable 2800 Chain Bridge Road
> Date: Mon, 21 Feb 2005 09:56:28 -0500
> MIME-Version: 1.0
> X-Mailer: Internet Mail Service (5.5.2657.72)
> Content-Type: text/plain
> X-Brightmail-Tracker: AAAAAQAAAAI=
> X-Whitelist: TRUE
>
> Mr. Aiches,
>
> I have asked Mr. Bello to outline the process for action going forward,
> including the minimum time frames required to get this done. We will work
> this from the minimum time required, rather than the maximum.
>
> Thank you,
>
> Patrick Canavan
>
> -----Original Message-----
> From: Alan Z Aiches [mailto:aiches@aichesdesign.com]
> Sent: Sunday, February 20, 2005 11:45 AM
> To: Toye.Bello@dc.gov; AHG71139@aol.com; Toye.Bello@dc.gov
> Cc: BOB.SUSSMAN@LW.com; Maxine.Brown-Roberts@dc.gov;
Timothy.Dennee@dc.gov;
> Patrick.Canavan@dc.gov; Theresa.Lewis@dc.gov;
> Judith_Lanius@WorldnetATT.Net; steven.wolf@starpower.net
> Subject: RE: Stable 2800 Chain Bridge Road
>
> Mr. Bello,
>
> With all due respect, I find it difficult to understand why resolving
> something as simple as this issue takes your office so long. This matter
> has been on going since November or earlier. Stop playing phone tag with
> Bender. I have been copied on all emails regarding this matter and the
> language in them and the lack of action on the part of your office is
> textbook obfuscation. The residents of this city expect your office to
take
> some action on this and other matters throughout the District. And that
> time is NOW.
>
> Alan Z Aiches, Chair
> Zoning Committee
> Palisades Citizens Association
>
> ----- Original Message -----
>> From: "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>
>> To: "'AHG71139@aol.com'" <AHG71139@aol.com>,
>> "Bello, Toye (DCRA)"
>> <Toye.Bello@dc.gov>
>> Cc: BOB.SUSSMAN@LW.com, aiches@aichesdesign.com,
>> "Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,
>> "Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>,
>> "Canavan, Patrick (DCRA)"
>> <Patrick.Canavan@dc.gov>,
>> "Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>,
>> Judith_Lanius@Worldnet.ATT.Net, steven.wolf@starpower.net
>> Subject: RE: Stable 2800 Chain Bridge Road
>> Date: Fri, 18 Feb 2005 18:45:14 -0500
>> MIME-Version: 1.0
>> X-Mailer: Internet Mail Service (5.5.2657.72)

RE: Stable 2800 Chain Bridge Road

> > Content-Type: multipart/alternative;
> > boundary="-----=_NextPart_001_01C51613.E4488998"
> > X-Brightmail-Tracker: AAAAAQAAAAI=
> > X-Whitelist: TRUE
> >
> > I will check with the BZA if an application has been filed with that
> > office.
> > It takes a few days to get the notice out, so we may be inside of this
> > lapse
> > period. If one has not been filed, then the referral to our General
> > Counsel
> > will be rejuvenated. Remember that the procession toward more punitive
> > enforcement action is simply held in abeyance on the condition that Mr
> > Bender is in judicious pursuit of the process of legitimizing the
> > existence
> > of the stable. I will update you next week. Thanks for your continued
> > patience.
> >
> >
> >
> > Toye Bello
> >
> > Zoning Administrator
> >
> > Dept. of Consumer and Regulatory Affairs
> >
> > 941 North Capitol Street, N.E.
> >
> > Suite 2000
> >
> > 202-442-4576
> >
> > -----Original Message-----
> > From: AHG71139@aol.com [<mailto:AHG71139@aol.com>]
> > Sent: Friday, February 18, 2005 10:56 AM
> > To: Toye.Bello@dc.gov
> > Cc: BOB.SUSSMAN@LW.com; aiches@aichesdesign.com;
> > Maxine.Brown-Roberts@dc.gov; Timothy.Dennee@dc.gov;
> > Patrick.Canavan@dc.gov;
> > Theresa.Lewis@dc.gov; Judith_Lanius@Worldnet.ATT.Net;
> > steven.wolf@starpower.net
> > Subject: Re: Stable 2800 Chain Bridge Road
> >
> >
> >
> > Mr. Bello,
> >
> > I have yet to receive any notice of a BZA filing. Would you please
follow
> > up and let us know what action you are prepared to take?
> >
> > Alma Gates
> > Chair
> > ANC 3D

DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

March 10, 2005

2005 MAR 10 P 2:03
PAUL J. KIERNAN
202-663-7276
paul.kiernan@hkllaw.com

VIA HAND-DELIVERY

Office of Administrative Hearings
941 North Capitol Street, N.E.
Washington, D.C. 20002

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

Re: NOTICE OF VIOLATION
2762 Chain Bridge Road, N.W.
Square 1425, Lot 822

Dear Sir or Madam:

This firm represents Dorchester Associates, the owner of the subject property.

Dorchester Associates has received the Notice of Violation dated as of February 28, 2005, and hereby requests a hearing to respond to the Notice and to demonstrate why the Notice was issued in error. At that hearing, Dorchester Associates plans to demonstrate that the construction and maintenance of the shed was not in violation of law.

Please direct future communications on this matter to the undersigned.

Very truly yours,

HOLLAND & KNIGHT LLP


Paul J. Kiernan

cc: Morton Bender
Toye Bello
Steven E. Sher

Subject: Stable**Date:** Fri, 11 Mar 2005 08:49:20 -0500**From:** "Judith H. Lanius" <Judith_Lanius@Worldnet.ATT.Net>**To:** "Aiches, Alan" <aiches@aichesdesign.com>, "Bello, Toye" <Toye.Bello@dc.gov>, "Brown-Roberts, Maxine" <Maxine.Brown-Roberts@dc.gov>, "Dennee, Timothy" <timothy.dennee@dc.gov>, "Gates, Alma" <AHG71139@aol.com>, "Greene, Teresa" <Tog@rbldcpa.com>**CC:** "Watson, Kim" <kmwatson@pepco.com>, Rachel <RachelWToo@aol.com>, Patrick.Canavan@dc.gov

Dear Mr. Bello,

The time frame for the Order to Correct served on Mr. Bender was up yesterday (March 10, 2005). Inspection this morning indicates the stable and horses are still in place. Please confirm (as per your email of 2/23/05) that you have immediately referred the violation to the Housing Regulations Administration for the removal of the violating structure and that the property will have a lien put on it for the cost of work.

Judith Lanius

Chain Bridge Road/University Terrace Preservation Committee

Subj: **RE: Stable**
Date: 3/15/2005 1:19:02 AM Eastern Standard Time
From:
To:

CC:
Sent from the Internet

Ms Lanius,

Mr. Bender's representative informs me that an appeal of the Order has been filed at the Office of Administrative Hearings. This serves to hold any further enforcement action in abeyance until resolution of the appeal. I will keep you informed of the progress.

Thanks.

-----Original Message-----

From: Judith H. Lanius
To: Aiches, Alan; Bello, Toye; Brown-Roberts, Maxine; Dennee, Timothy; Gates, Alma; Greene, Teresa
Cc: Watson, Kim; Rachel; Patrick.Canavan@dc.gov
Sent: 3/11/2005 8:49 AM
Subject: Stable
Importance: Low

Dear Mr. Bello,
The time frame for the Order to Correct served on Mr. Bender was up yesterday (March 10, 2005). Inspection this morning indicates the stable and horses are still in place. Please confirm (as per your email of 2/23/05) that you have immediately referred the violation to the Housing Regulations Administration for the removal of the violating structure and that the property will have a lien put on it for the cost of work.

Judith Lanius
Chain Bridge Road/University Terrace Preservation Committee

Subject: RE: Stable**Date:** Mon, 11 Apr 2005 18:51:34 -0400**From:** BOB.SUSSMAN@LW.com**To:** Toye.Bello@dc.gov, Judith_Lanius@Worldnet.ATT.Net**CC:** aiches@aichesdesign.com, Maxine.Brown-Roberts@dc.gov, Timothy.Dennee@dc.gov, AHG71139@aol.com, Tog@rblcpa.com, kmwatson@pepco.com, RachelWToo@aol.com, Patrick.Canavan@dc.gov, ssshap@starpower.net, JStern5000@aol.com, Dcra.Concerns@dc.gov

This is, unfortunately, the latest in an embarrassing and frustrating series of delays that have seemingly paralyzed the District government from responding to one of the most blatant and simple zoning violations one can imagine. It's now been over six months since the issue of the stable was first brought to your attention yet the stable and horses remain on Mr. Bender's property despite Mr. Bender's disregard of repeated communications from your office and the patent illegality of his actions. One has to ask: if DCRA cannot deal with this situation, what can it deal with? The message to the developer community is all too clear: ignore zoning regulations and DCRA and nothing will happen! Is that really the message you want to send?

-----Original Message-----

From: Bello, Toye (DCRA) [<mailto:Toye.Bello@dc.gov>]

Sent: Monday, April 11, 2005 4:42 PM

To: 'Judith H. Lanius'; Bello, Toye (DCRA)

Cc: 'Aiches, Alan '; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP); 'Gates, Alma '; 'Greene, Teresa '; 'Watson, Kim '; 'Rachel '; Canavan, Patrick (DCRA); Shapley, Sarah; Stern, Jill; Concerns, Dcra (DCRA)
Subject: RE: Stable

Good Afternoon, Ms. Lanius,

The General Counsel and I have also been pressing the Office of Administrative Hearings (OAH) for a hearing date and an update. The information that I have from OAH staff is that a hearing date has yet to be set, because the Chief Judge has to vet whether or not OAH has jurisdiction to hear the case and that that decision has not been made.

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As soon as I have an update from the OAH, I will let you know.

Thank you for your civic diligence.

RE: Stable

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----

From: Judith H. Lanius [<mailto:Judith.Lanius@Worldnet.ATT.Net>]
Sent: Friday, April 08, 2005 6:31 PM
To: Bello, Toye (DCRA)
Cc: 'Aiches, Alan '; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP);
'Gates, Alma '; 'Greene, Teresa '; 'Watson, Kim '; 'Rachel '; Canavan,
Patrick (DCRA); Shapley, Sarah; Stern, Jill
Subject: Re: Stable

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you please update us on the status of the appeal, since we continue to
press for
the enforcement of this violation.

Judith H. Lanius
Chain Bridge Road/University Terrace Preservation Committee

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> From: Judith H. Lanius
> To: Aiches, Alan; Bello, Toye; Brown-Roberts, Maxine; Dennee,
Timothy;
> Gates, Alma; Greene, Teresa
> Cc: Watson, Kim; Rachel; Patrick.Canavan@dc.gov
> Sent: 3/11/2005 8:49 AM
> Subject: Stable
> Importance: Low

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RE: Stable

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Latham & Watkins LLP

Subject: RE: Stable**Date:** Mon, 11 Apr 2005 21:25:00 -0400**From:** "Bello, Toye (DCRA)" <Toye.Bello@dc.gov>**To:** "BOB.SUSSMAN@LW.com" <BOB.SUSSMAN@LW.com>,

"Bello, Toye (DCRA)" <Toye.Bello@dc.gov>, Judith_Lanius@Worldnet.ATT.Net

CC: aiches@aichesdesign.com,

"Brown-Roberts, Maxine (OP)" <Maxine.Brown-Roberts@dc.gov>,

"Dennee, Timothy (OP)" <Timothy.Dennee@dc.gov>, AHG71139@aol.com,

Tog@rblcpa.com, kmwatson@pepco.com, RachelWToo@aol.com,

"Canavan, Patrick (DCRA)" <Patrick.Canavan@dc.gov>, ssshap@starpower.net,

JStern5000@aol.com, "Concerns, Dcra (DCRA)" <Dcra.Concerns@dc.gov>

Mr. Sussman,

I can appreciate the frustration expressed in this e-mail and I share it, but please recognize that the enforcement embarked upon entails the use of government authority to access private property in order to demolish an illegally constructed structure. In the instant case, it pertains to an ordinary stable structure, but it may very well be any size improvement upon the lot.

Unfortunately, the outlined due process for achieving this objective does not distinguish from one to another, based on severity of situation. Though the instant case peripherally involves also a zoning element, the central issue of enforcement is the fact that the property owner did not obtain a building permit for constructing a stable, as required by the building codes.

You will recall that in response to a Notice Of Violation and Notice to Abate issued by the zoning division, a building permit application was eventually filed by the owner. That application was issued a referral to the Board of Zoning Adjustment (BZA) for a special exception as required by the zoning regulations. Rather than pursuing an application before the BZA as referred, or appealing the referral itself, if it was thought to be in error, the applicant did neither. I, therefore, proceeded along the next stage of enforcement action available and, in conjunction with the General Counsel's office, issued an Order to Correct, which mandated a ten day period within which to proceed with an application or an appeal before the BZA or show cause why the agency should not invoke its authority to abate the violation as described in my e-mail below.

It is this Order that is under current appeal and the subject of OAH internal vetting and consideration. I believe I have followed every step of enforcement due process to which the division is statutorily bound, though I am resolved to improving on the minimum timelines possible. As in the instant case, such timeline may be constrained by factors outside my immediate control.

I agree with you that our enforcement tools and capability need to be strengthened; incidentally that is exactly what the new Director, Patrick Canavan, is pushing through the legislative process as amendments to the building codes and the Civil Infraction Act. Amendments will allow for swifter enforcement action and more punitive fines. At the time of the commencement of this enforcement action, the zoning inspector could only have issued a \$50.00 fine, hardly an incentive for compliance in this case.

Ironically, the choice of using this enforcement action as a test case for the use of Agency authority as described above, though protracted, holds a more profound impact on the perception of agency enforcement ability. Once resolved, I expect that this may set the precedence for Agency authority to enforce by demolishing illegally constructed structures, the due process

RE: Stable

steps and estimated timeline within which such action may be brought.

Finally, we aim to send a different message than your e-mail suggests; one of zero tolerance for illegal construction and its attendant impunity. The zoning division is being expanded to include an illegal construction unit with the flexible hours to match what has been determined to hours of propensity for illegal construction activity; the phone number 202-442-STOP where complaints can be lodged will soon be accessible around the clock. I point these out to impress upon you that we are working to improve on our program function. I ask for the indulgence of your patience. As soon as I have an update, I shall pass it along.

Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
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Sent: Monday, April 11, 2005 6:52 PM
To: Toye.Bello@dc.gov; Judith_Lanius@Worldnet.ATT.Net
Cc: aiches@aichesdesign.com; Maxine.Brown-Roberts@dc.gov;
Timothy.Dennee@dc.gov; AHG71139@aol.com; Tog@rblcpa.com; kmwatson@pepco.com;
RachelWToo@aol.com; Patrick.Canavan@dc.gov; ssshap@starpower.net;
JStern5000@aol.com; Dcra.Concerns@dc.gov
Subject: RE: Stable

This is, unfortunately, the latest in an embarrassing and frustrating series of delays that have seemingly paralyzed the District government from responding to one of the most blatant and simple zoning violations one can imagine. It's now been over six months since the issue of the stable was first brought to your attention yet the stable and horses remain on Mr. Bender's property despite Mr. Bender's disregard of repeated communications from your office and the patent illegality of his actions. One has to ask: if DCRA cannot deal with this situation, what can it deal with? The message to the developer community is all too clear: ignore zoning regulations and DCRA and nothing will happen! Is that really the message you want to send?

-----Original Message-----

From: Bello, Toye (DCRA) [<mailto:Toye.Bello@dc.gov>]
Sent: Monday, April 11, 2005 4:42 PM
To: 'Judith H. Lanius'; Bello, Toye (DCRA)
Cc: 'Aiches, Alan '; Brown-Roberts, Maxine (OP); Dennee, Timothy (OP);
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Latham & Watkins LLP

¹ D.C. Official Code § 6-641.09 provides in pertinent part that: “[i]t shall be unlawful to erect, construct, reconstruct, convert, or alter any building or structure or part thereof within the District of Columbia without obtaining a building permit from the Inspector of Buildings, and said Inspector shall not issue any permit for the erection, construction, reconstruction, conversion, or alteration of any building structure, or part thereof, unless the plans for the proposed erection, construction, reconstruction, conversion, or alteration fully conform to the provisions of this subchapter [Subchapter IV] and of the regulations adopted under said sections....”

Respondent entered a plea of Deny, and this court set an evidentiary hearing for September 29, 2005 at 3:00 p.m. Attorney J. Sinclair Long appeared for the Government. However, the Government's charging inspector did not appear. Attorneys Paul J. Kiernan and Judith F. Bonilla appeared for the Respondent, along with Respondent's witnesses. Shortly after the hearing commenced, the Government moved for a continuance on the grounds that it could not proceed without the charging inspector's testimony. The Government offered no explanation for the inspector's absence. Respondent opposed the continuance and moved to dismiss the case for want of prosecution.

The court advised the parties that it would deny the continuance and grant Respondent's motion to dismiss. The inspector's unexplained failure to appear, standing alone, did not justify continuing the hearing. The court notes that it called another case ahead of this matter to afford additional time to locate the inspector. Nevertheless, approximately 40 minutes after the scheduled 3:00 p.m. hearing, the Government could not account for the inspector's whereabouts or secure his attendance. This unexplained absence violated the following provision of the Case Management Order:

All parties and any counsel shall at [the scheduled hearing] time be prepared to proceed with an evidentiary hearing on the merits and shall have available to them at that time all witnesses and evidence they may offer ...

Where, as here, the Government fails to timely comply with the Case Management Order, the Order instructs that the case "shall be subject to dismissal for want of prosecution." The operative provision reads as follows:

[B]ecause timely compliance with this Order is necessary to ensure a fair, just, prompt, and orderly trial on the merits, should the Government, as prosecuting agent, fail to timely comply with the requirements of this Order, this case shall be

subject to dismissal for want of prosecution for the Government's failure to indicate the existence and availability of evidence through which it can meet its burden of proof and burden of going forward with the evidence under the Civil Infractions Act of 1985 and other applicable law. *See* D.C. Official Code § 2-1802.03(a); 1 DCMR 2818.1.

The foregoing considerations merit the dismissal of the case for want of prosecution.² The Government bears the burden of proving its case by a preponderance of the evidence. *See* D.C. Official Code § 2-1802.03(a). Here, the Government cannot meet its burden due to the unexplained absence of its key witness. Accordingly, this case shall be dismissed pursuant to Rule 2818.1³ and D.C. Official Code § 2-1802.03(c).

Therefore, it is this 20th day of October 2005

ORDERED, that the Government's motion for continuance is **DENIED**; and it is further

ORDERED, that the Respondent's motion to dismiss for want of prosecution is **GRANTED**; and it is further

ORDERED, that this case is **DISMISSED WITH PREJUDICE**; and it is further

² The court stresses that it has no reason to impute the absence of the Government's witness to Attorney Long. Indeed, nothing suggests any shortcoming in Attorney Long's preparedness or any other element of his performance as the Government's attorney in this case.

³ OAH Rule 2818.1 provides as follows:

For failure of the petitioner to prosecute or to comply with these Rules or any order of this administrative court, a respondent may move for dismissal of an action or of any claim against the respondent, or the presiding Administrative Law Judge may order such dismissal on his or her own motion. Subject to the limitations of Section 2818.2, and unless otherwise specified, a dismissal under this Section, other than a dismissal for lack of jurisdiction, constitutes an adjudication on the merits. 1 DCMR 2818.1

ORDERED, that pursuant to OAH Rule 2818.2, 1 DCMR 2818.2, this Order shall not take effect until fourteen (14) days after the date of its mailing, and shall be vacated upon the granting of a motion filed by the Government within such fourteen (14) day period showing good cause why the case should not be dismissed; and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated below.



Scott A. Harvey
Administrative Law Judge

Certificate of Service:

By Facsimile and U.S. Mail (Postage Paid):

Dorchester Associates and Morton Bender
1025 Connecticut Avenue, N.W.
Washington, DC 20016

Paul J. Kierman and Judith F. Bonilla
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, DC 20006
FAX: (202) 955-5564

I hereby certify that on 10/25,
2005 this document was served upon the
parties on this page at the addresses listed and
by the means stated.


Clerk / Deputy Clerk

By Facsimile and Inter-Agency Mail:

James Aldridge
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, NE
Washington, DC 20002

Julie Lee, Esq., General Counsel
Attn: J. Sinclair Long, Esq.
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, NE, Suite 9400
Washington, DC 20002
FAX: (202) 442-9447

ADVISORY NEIGHBORHOOD COMMISSION 3D

Minute:

October 5, 2005

The regularly scheduled monthly meeting of Advisory Neighborhood Commission 3D was held on Wednesday, October 5, 2005 at Sibley Memorial Hospital's Ernst Auditorium. Commissioners present: Alma Gates, Ann Haas, Ann Heuer, Hugh Mullane, Jill Stern and Rachel Thompson. Absent: Sarah Shapley and Carl Ross, both by prior notice.

There were about 65 community members in the audience.

The meeting was called to order at 7 PM by Chair Alma Gates.

Police Report

Officer Tony McElwee noted that in the past month our area has experienced a 130 percent increase in crime, mostly thefts --including thefts from autos, but also two robberies.

Police are continuing enforcement efforts to address speeding along Foxhall Road, Canal Road, and MacArthur Boulevard. Of 35 motorists cited for violations on MacArthur Boulevard, 31 were out of state. The highest speed was 47 mph. On Canal Road, 21 of 28 people who received tickets were from out of state. The highest speed was 56 mph. The chair asked that attention be paid to Massachusetts Avenue in the coming weeks.

Community Concerns

1, **Aircraft Noise Abatement:** Matt Thorpe, Chair of the Palisades Citizens Association's Committee on Aircraft Noise, reported that Palisades has been invited to join the Partnership for Air Transportation Noise and Emissions Reduction (PARTNER). PCA is the only citizens association to be represented in PARTNER that includes a broad cross-section of industrial, governmental and professional organizations in the aviation community. The PARTNER Center of Excellence (COE) for Aircraft Noise and Aviation Emissions Mitigation fosters breakthrough technical, operations, and workforce capabilities enabling quieter and cleaner aircraft. The COE is a long-term partnership of academia, industry, and government established to create a world-class consortium that will identify solutions for existing and anticipated noise and emission-s related problems. Palisades is the only citizens association invited to become a member. Matt Thorpe will represent PCA at a meeting in Chicago early next year.

2. **American University's 5K Run through Spring Valley:** Jonathan Brady, an AU student, asked the Commission to support the race on October 22, 2005. The run will include parts of Rockwood Parkway, Glenbrook Road, Upton Street, 47th Street, Tilden, University Terrace, Quebec, and back to Glenbrook Road and Rockwood Parkway. Commission Action: The Commission voted 6-0-0 to support the AU 5K race.

→ **3. Construction of an Illegal Stable at 2800 Chain Bridge Road:** Judith Lanius of the Chain Bridge Road Preservation Committee asked ANC3D to appeal the dismissal by the Office of Administrative Hearings of the violation issued by DCRA against Morton Bender for constructing a stable in a residential area without a permit and a special exception. The Department of Consumer and Regulator Affairs issued a notice of infraction at the beginning of November 2004, confirming that the structure was in violation of the Zoning Code. Mrs. Lanius reported that neighbors also reported the illegal construction of a stable to the Historic Preservation Review Board which sent an inspector. ←

The Zoning Administrator agreed to permit Mr. Bender to have a hearing before the Office of Administrative Hearings (OAH) on September 29, 2005. The OAH judge dismissed the case because the District was unable to produce the inspector who issued the Notice of Violation.

Commission Action: The Commission voted 6-0-0 to "call the matter up to the agenda." The Commission also voted 6-0-0 to file a Form 300 with the Compliance Officer of the Office of Zoning to ensure the necessary hearing before the BZA takes place.

4. Historic Preservation Possibility for Foxhall Village: Paul DonVito, Chairman of the Foxhall Village Preservation Committee, discussed its exploration of a historic designation to protect the architecture of the neighborhood built in the Tudor style in the 1920's and 1930's. He mentioned the current construction boom and real estate boom and the resulting development pressure. A third-generation Washington resident, Mr. DonVito visited the Cotswolds last year to learn more about the inspiration for creating a village within the city. He noted that Dick Conn, a Foxhall Village resident, recognized the historical significance of the neighborhood and its architectural value in 1979 when he wrote a booklet about the community. The Foxhall Citizens' Association will have a formal meeting on the prospect of historic preservation on Tuesday, October 18, 2005, featuring David Maloney from the District and a representative of the firm Traceries. Mr. DonVito gave each commissioner a packet containing the 1979 booklet, a cover letter to area residents, and information about what a historic designation means.

5. Georgetown Day School's Quarterly Meeting with the Community: Kate Lindsey, Chief Financial Officer of Georgetown Day School, announced the quarterly meeting on Tuesday, October 18, 2005, at 7 p.m. in the library of the lower school at 4530 MacArthur Boulevard. She said that a notice would be mailed the next day to immediate neighbors.

6. Community letter requesting speed bump at Norton and Sherier Streets

Rachel Thompson, commissioner for ANC 3D 04, read into the record a letter to DDOT infrastructure program manager Muhammed Khalid requesting a new speed bump on Norton Street at Sherier Place where drivers routinely accelerate from Potomac Avenue

to the light on MacArthur and Loughboro. The letter was signed by a dozen neighbors. The commission voted 6-0 to transmit the letter to DDOT with a cover letter supporting the request for a traffic study.

AGENDA ITEMS

Revised permit application for a driveway cut at 5024 Upton Street NW.

In response to Buzz Cooper's request to be permitted to construct a second driveway to accommodate a medical condition, the Commission voted to send a letter to the District's Public Space Office citing the Commission's discomfort with sidestepping department policy to allow only one driveway cut per property.

Commission Action: ANC 3D voted 6-0-0 to conditionally approve the second driveway cut at 5024 conditioned on the approval by the Public Space Office.

DC is Electric Campaign

Zula Evans of the Public Service Commission presented facts regarding the deregulation and the choice that consumers have about their supplier of electricity. The campaign's objectives are to provide clear, concise, and unbiased information to District of Columbia consumers regarding the changes taking place in the electricity market. The goal is to help consumers make informed choices about their energy supplier. Pepco is the default provider, in the event that consumers do not make another choice.

Sibley Hospital's Proposed Expansion Plans: Initial Presentation

Jerry Price, Chief Operating Officer of Sibley Hospital, described its "ambitious expansion program" and noted that the community has been asking Sibley for its "campus plan" for some time. Accompanied by a zoning attorney and architect, he outlined the campus master plan and the request to have the hospital's zoning changed from R-1-B to R-5-A to provide Special Purpose Zoning through a PUD and permit increased density for a new hospital, doctor's office building and parking lot.

The medical office building for 100 doctors and parking structure is planned to retain doctors who might otherwise be leaving the District because medical facilities like the Yater Clinic are closing. Also concerns over insurance rates are creating a change in the way doctor's practice medicine.

A new main entrance is planned for Dalecarlia Parkway. Metrobus traffic will be diverted from Loughboro Road onto Little Falls Road at the back of the site, where there will be a bus layover and turnaround site. The need for these upgrades will require a zoning change. Overall lot density will double.

Expanded outpatient services and a new conference center are also planned. Retail space is being considered for the first floor of the medical office building and might include a pharmacy, optometry, a cafeteria and deli and dry cleaning services.

Mr. Price noted that hospitals typically lose money on in-patient activities. Sibley is the only hospital in the District that operates "in the black." The plan is to bond the hospital

and doctors. Georgetown and George Washington Hospitals both have office buildings. The hospital plans to file its application with the Zoning Commission on November 1, 2005 and expects a hearing in late March or April 2006. The development team will address the Palisades Citizens' Association on November 2. Sibley provided \$4 million in charity cases this year, according to Mr. Price. It was the number one hospital in supporting Catholic charities, he said.

Zoning Commission #02-27 - American University's Planned Expansion of the School of International Service

David Taylor, chief of staff, Office of the President at American University and Jorge Abud discussed the proposed expansion of the School of International Service, citing the "importance of the structure for the academic program." Founded in 1957, the school now has 2000 students. It offers bachelors and masters degrees and doctorates. The proposed building would have 65,400 square feet of space and a parking garage for 300 cars.

The 2000 campus plan imposed conditions including widening Nebraska Avenue to minimize the impact of traffic. The university's current proposal does not add a lane on Nebraska, with the stated reason of not reducing green space on Nebraska Avenue.

American University's 2005 traffic study stopped collecting data at 5 p.m. and concluded that the new structure would have no noticeable effect on traffic, an analysis that one commissioner observed was baseless. The comment was that the university had marshaled its data to support its proposal, working backwards from the conclusion. The intersection of Nebraska Avenue and New Mexico Avenue is currently at a D level of service. A neighbor, citing existing congestion, commented that even a 5 percent backup would be a problem and suggested entering the garage from elsewhere on campus.

Failure to communicate with the community was another issue. Representatives of the university commented that they had talked with the President of the Spring Valley-Wesley Heights Citizens Association, but Commissioner Stern did not receive a single notice about the plan or any of the community meetings. One element of the campus plan requires the university to work with the community.

Commission Action: The Commission voted 6-0-0 to oppose American University's proposal to build a new School for International Service. This vote reflected concern about the impacts of increased traffic, inadequate communication with neighbors, future development on the site of the current SIS building (which is not being removed as cited in the plan), and unilateral modifications to the campus plan. The Zoning Commission will take up consideration of the SIS building on November 7.

BZA # 17383 – The Lab School of Washington

Alison Prince, an attorney representing the school, described The Lab School's plan to "solve a very real problem" of the need for staff parking, which at 182, is well over its current approved cap of 95.

Having searched unsuccessfully off-site for a solution, The Lab School is proposing to create 47 diagonal parking spaces on Whitehaven Parkway in what is currently public parking space, as a temporary solution, paying annual rent to the District of Columbia for the use of public space. The school would build a sidewalk behind the parking spaces for pedestrian safety. A long-term solution could be constructing a garage on site.

Allyn Kilsheimer, a Lab School board member, showed drawings of the parking plan. With a combination of angled spaces and on-site spaces, the school would provide 144 spaces; it is required to provide 130. The Lab School's proposed temporary parking project would carry a price tag of \$250,00. The school is asking for time to raise the money for the new on site parking garage.

Among the concerns expressed was a question about what the community would do for parking if public space is converted to private use. The Lab School's current BZA Order prohibits school use for parking on Whitehaven Parkway. It also required the school to create a safe walkway from the school to MacArthur Boulevard on its own property. This walk currently exists. The school was also required to appoint a staff community liaison.

The Lab School will return to the commission on November 2 when a vote will be taken of its application to: install 47 diagonal parking spaces on Whitehaven Parkway; use a newly purchased property on Whitehaven Parkway for administrative services; increase its student cap from 310 to 330 students; and, increase its staff cap from 90 to 182.

Commission Business:

The minutes from the September meeting were read and approved 6-0-0. The treasurer's report was presented. There is currently a balance of \$17,708.90 in the Bank of America checking account. We should be receiving a quarterly allotment by the end of October. The fourth quarter report for FY-05 (July-September) will be presented at the November meeting.

Due to the absence of the Secretary, the minutes were prepared by the Acting Secretary and Treasurer, Commissioner Ann Haas.

Respectfully Submitted

Ann Haas
Treasurer

IV. PHOTOGRAPHS





CERTIFICATE OF SERVICE:

Delivered by US Mail:

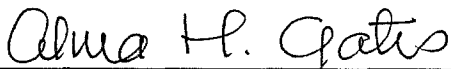
Dorchester Associates and Morton Bender
1025 Connecticut Avenue, NW
Washington, DC 20006

Mr. Paul J. Kiernan
Holland + Knight LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006

Ms. Julie Lee, General Counsel
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE
Suite 9400
Washington, DC 20002

Mr. Robert Sussman
President
Chain Bridge Road University Terrace Preservation Committee
2824 Chain Bridge Road, NW
Washington, DC 20016

I hereby certify that on 12/5/2005 this document was served upon the parties on this page at the addresses listed and by the means stated.



Alma H. Gates
Chair, ANC 3D