

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



September 12, 2006

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VIA PERSONAL SERVICE
U.S. FIRST CLASS MAIL and
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To: Mr. Edward B. Rooths
Ms. Nancy N. Dao
1312 13th Street, NW, # 201
Washington, DC 20010-2604

**NOTICE OF REVOCATION
BUILDING PERMITS AND CERTIFICATE OF OCCUPANCY**

Dear Mr. Rooths and Ms. Dao:

This Notice is sent: (1) to notify you of the revocation of Building Permit No. 91813; (2) to notify you of the revocation of Building Permit No. 92428; and (3) to notify you of the revocation of Certificate of Occupancy No. CO 109753.

On April 7, 2006, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") issued Building Permit No. 91813, allowing you to install an overhead clothes carrier for a new pick up laundry. DCRA issued this permit on the basis that your application indicated that the location was currently being used as a "laundry pickup."

On May 11, 2006, DCRA issued Building Permit No. 92428, allowing you to install a store sign on the front of the building. DCRA issued this permit on the basis that your application indicated that the location was currently being used as a "pick up laundry."

On December 22, 2005, DCRA issued Certificate of Occupancy No. CO 109753, stating that the basement of 1312 13th Street, NW, Washington, DC (the "location") met the legal requirements for use as a "Dry Cleaning Pick-Up Only." DCRA issued the Certificate of Occupancy ("C/O") on the basis that (1) your application indicated that the location was currently being used as a "Pick up Laundry" and (2) on the basis that C/O No. CO 64701, the C/O then in effect was issued on November 7, 2003, to Floyd A. Smith, Sr., approving his operating a "Dry Cleaning Pick-Up Only" at the location.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17581
EXHIBIT NO. 2

941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002
Phone: (202) 442-4576 Fax: (202) 442-4871

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FedEx Kinko's

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Subsequently, DCRA has learned through its investigation that the location has not been used for operation of a "Dry Cleaning Pick-Up Only" since at least December 22, 2002, Moreover, the location likely has not been used for operation of a "Dry Cleaning Pick-Up Only" since being approved for use as a housing accommodation October 5, 1970.

The location, the basement of 1312 13th Street, NW, Washington, DC, is sited in an R-5-C Zone. The zoning regulations became effective on May 12, 1958. Under those regulations, use as a "Dry Cleaning Pick-Up Only" is not permitted as a matter of right in an R-5-C Zone. However, because the location was approved as a "Pressing establishment, Not more than five persons employed" by C/O No. A-909, issued on November 1, 1949, that use was permitted as a continuing nonconforming use after May 12, 1958.¹

The use of the location changed to that of an apartment dwelling on October 5, 1970, with the issuance of C/O No. B-73932. The location continued to be used as an apartment dwelling for over eighteen years. Title 11, Section 2005.1, of the District of Columbia Municipal Regulations states:

Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for a period of more than three (3) years, shall be construed as prima facie evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located.

Because the use of the location as a "Pressing establishment" was discontinued for more than three years, the location could no longer be approved for such a use without the Board of Zoning Adjustment granting a Special Exception. To date, the BZA has not granted a Special Exception for the location.

Despite the discontinued nonconforming use, C/O No. 1890948, issued June 23, 1989, approved the location to be used as an "Industrial Laundry Service." Several Certificates listing some form of laundry use have been issued since 1989, including C/O No. CO 109753. Because use of the location as a laundry is not permitted as a matter of right in an R-5-C zone and no Special Exception has been granted by the Board of Zoning Adjustment, each of these Certificates issued on or after June 23, 1989, has been issued in error. DCRA must revoke a C/O issued in error.

Even if the C/O issued June 23, 1989, had been properly issued, DCRA issued C/O No. CO 109753 in error because the use of the location as a laundry had been discontinued

¹ 11 DCMR 199: Nonconforming use - any use of land or of a structure, or of a structure and land in combination, lawfully in existence at the time this title or any amendment to this title became effective, that does not conform to the use provisions for the district in which the use is located. A use lawfully in existence at the time of adoption or amendment of this title that would thereafter require special exception approval from the Board of Zoning Adjustment shall not be deemed a nonconforming use. That nonconforming use shall be considered a conforming use, subject to the further provisions of §§ 3104.2 and 3104.3.

for at least three years prior to issuance. DCRA records show that no business license to use the location for any purpose has been in effect during the past three years. Moreover, neighborhood residents have stated under oath that the location has not been used as a "Pick up Laundry" during the past three years. DCRA must revoke a C/O issued in error.

Furthermore, the application for C/O No. 109753 contained a material misrepresentation. According to the application, a change in ownership of the location served as the only reason for a new C/O to be issued. The application indicates that the location has been used, and will continue to be used, as a "Pick up Laundry." As detailed in the previous paragraph, this statement is not correct, and the statement materially misleads as to the previous use of the location. DCRA must revoke a C/O issued on the basis of a material misrepresentation.²

Finally, 11 DCMR 3203.8(b) requires that the location must be put to the use for which a C/O is issued within six months of the date of issue.³ Certificate No. CO 109753 was issued December 22, 2005, for use as a "Dry Cleaning Pick-Up Only." Therefore, a failure to use the location for that purpose by June 22, 2006, was a violation of the terms of the C/O.

DCRA is revoking Certificate of Occupancy No. CO 109753. The revocation will be effective September 26, 2006, ten (10) business days from the mailing of this notice.

The applications for Building Permits Nos. 91813 and 92428 falsely state and misrepresent that the current uses of the location are as a "laundry pickup" and a "pick up laundry" respectively. DCRA relied upon the inaccurate and misleading statements in issuing the permits. When false, misrepresenting, or significantly inaccurate statements affect DCRA's approval of the permits, DCRA has the authority to revoke the permits.⁴

In addition, DCRA may only issue building permits when the location is in conformance with the zoning regulations.⁵ Because, as detailed above, use of the location as a "Dry

² See 12A DCMR 110.5.2: Misleading Declaration by Applicant. Any certificate of occupancy previously issued or issued pursuant to Section 110 shall be revoked by the Director, after notice, if the Director determines that it was obtained based on an application that contained any misrepresentation having a substantial bearing on the safety of the occupancy. See 11 DCMR 3203.8(b): The use shall be established within six (6) months of the date on which the certificate is issued.

³ See 12A DCMR 105.6(1): Revocation of Permits. The code official is authorized to revoke a permit or approval issued under the Construction Codes, for any of the following conditions:

1. Where there is a false statement or misrepresentation of fact, or other significant inaccuracy, in the application or on the plans on which a permit or approval was based, that substantially affected the approval.

See 11 DCMR 3202.1: Except as provided in §§ 3202.5, 3202.7, or 3202.8, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless that structure complies with the provisions of this title.

Cleaning Pick-Up Only" does not conform to the zoning regulations, the permit was issued in error and should be revoked.⁶

DCRA is revoking Building Permits Nos. 91813 and 92428. The revocation will be effective ten (10) business days after you legally receive this Notice.

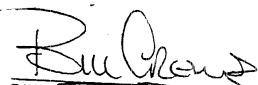
RIGHT TO APPEAL AND SHOW CAUSE

You have the right to appeal the revocation of your building permits. To appeal, your appeal must be mailed to the Office of Administrative Hearings at P.O. Box 77718, Washington, DC 20002. Alternatively, you may hand-deliver your appeal or request to the Office of Administrative Hearings at 941 North Capitol Street, NE, Suite 9100, Washington, DC 20002. The deadline for such an appeal or request is ten (10) business days following your receipt of this Notice.

You have the right to appeal the revocation of your Certificate of Occupancy. To appeal, you must file the appeal with the Board of Zoning Adjustment within sixty (60) days of this notice. Complete filing instructions may be found at 11 DCMR 3112.

Any questions about this Notice and Order may be directed to the Building and Land Regulation Administration at (202) 442-4541.

09.12.06
Date


Bill Crews
Zoning Administrator

9-12-06
Date


Lennox Douglas
BLRA Administrator

⁶ See 12A DCMR 105.6(6): Revocation of Permits. The code official is authorized to revoke a permit or approval issued under the Construction Codes, for any of the following conditions:

6. When the permit has been issued in error.