



Government of the District of Columbia

Advisory Neighborhood Commission 6C

July 20, 2009

Mr. Mark Loud, Chairperson
Board of Zoning Adjustment
441 4th St NW
Suite 210 South
Washington DC 20001

RE: BZA Application No. 17902

Dear Chairman Loud and Board Members:

At Advisory Neighborhood Commission 6C's duly noticed, regularly scheduled monthly meeting on July 8, 2009, with a quorum of six of nine commissioners and the public present, ANC 6C discussed the following decision, rendered May 12, 2009:

BZA Application No. 17902

Appeal of Joseph Park from an August 29, 2008 decision of the Zoning Administrator ("ZA"), to revoke Certificate of Occupancy No. 167331, for a liquor store (Oasis Liquors) in the R-4 District at premises 1179 3rd Street NE (Square 773, Lot 277).

ANC 6C voted 6:0:0 to file for reconsideration of this decision.

From the written order filed by the Board on July 10, 2009 (but not mailed to the ANC until July 13, 2009, thus shortening our time frame within which to reply), the Board makes several findings of fact that we have issue with:

10. Through September, 2006, the Appellant continued to operate his store only sporadically – one or two days a week, or less – as his health permitted.

There was no evidence presented to support the applicant's testimony on this point and several witnesses testified that they never saw the store open, even though their schedules varied by date and time. It seems this is less a fact than an assertion by the applicant.

15. A "Merchant Financial Activity Statement" from American Express for Appellant's store during the period of December 12, 2007 to January 11, 2008, shows one transaction with a sales amount of \$5.95.

This statement was not made available to the ANC, was not presented during the hearing, and as such, was unsworn testimony.

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District of Columbia

CASE NO. 17902
EXHIBIT NO. 34

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16. Through the year 2008, the Appellant filed with the D.C. government Unincorporated Business Franchise Tax Returns for his store. The 2004 and 2005 returns show income from the business, while the 2006 return shows no income, but shows that repairs were made to the subject property.

Again, this information was not provided to the ANC, a party in this case, was not presented during the hearing, and as such, was unsworn testimony. Our representative, Commissioner Anne Phelps, objected to the allowance of any post-hearing submissions.

25. The Appellant spent approximately \$30,000 repairing and renovating the subject property in preparation for the operation of the liquor store business by Mikyung Yoon. Hrg. Trans., at 133.

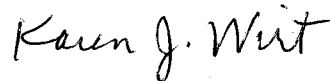
Once again, this is based solely on the Applicant's testimony, with no supporting documentation.

The Board bases much of its decision regarding the question of discontinuance on documentation provided to the Board after the hearing – this is documentation that was never provided to the ANC. As such, it is ex parte communication and unsworn testimony and is a wholly improper basis for a decision. Accordingly, as a party, the ANC objects and asks the Board to reconsider its decision.

ANC 6C authorizes Commissioner Anne Phelps or Planning/Zoning Committee Chair Rob Amos to represent the Commission in this matter.

Thank you for giving great weight to the recommendations of ANC 6C.

On behalf of the commission,



Karen Wirt
Chair, ANC 6C



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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17902 *FA*
EXHIBIT NO. 34 *✓*



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Advisory Neighborhood Commission 6C

Fax Cover Sheet

Date: 7-20-09

Time: 11:50 am

To:

Name

Mr. Mark Ford

Office

Chairman BZA

From:

Name

Karen Wirt

Phone

Fax

(202) 727-6072

Phone

Fax

(202) 707-8479

Message:

Original follows by mail. Please note this
was sent within the 10 days required by BZA.

ANC 6C, page 2

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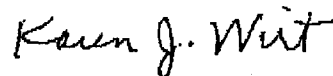
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Karen Wirt
Chair, ANC 6C