

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

Appeal of 1231 Morse Street, Inc.

BZA Appeal No. _____
ANC 5B

STATEMENT OF APPEAL

The Appellant, 1231 Morse Street, Inc., by and through undersigned counsel, respectfully submits this Board of Zoning Adjustment ("Board") Appeal of the April 15, 2009 determination by Ms. Linda K. Argo, Director of the Department of Consumer and Regulatory Affairs ("DCRA"), that the existing "structure" located on the Property is not in compliance with the Zoning Regulations and must be removed based on the decision in BZA Appeal No. 17657. As a result, Ms. Argo claims that DCRA is authorized to completely raze all structures on the Property if Appellant has not done so by May 15, 2009. Exhibit A.

I. BACKGROUND

The Appellant, 1231 Morse Street, Inc., is the owner of 1233 Morse Street, N.E. (Square 4069, Lot 130) ("Property"). The Property is zoned R-4 and has a lot area of 10,443 square feet. The Appellant acquired the Property in November 2004. At that time, the Property was improved with a vacant single-family dwelling constructed in 1940. On September 6, 2005, the Department of Consumer and Regulatory Affairs ("DCRA") issued the Original Building Permit authorizing the Appellant to "BUILD ADDITION TO SFD/CONVERT SFD TO 11-UNIT APT." As authorized by the Original Building Permit, the Appellant began construction of the addition at the rear of the Property. During the course of the authorized construction activities (apartment conversion/addition under roof), in February 2006 the existing single-family dwelling was destroyed as a result of authorized action under an emergency demolition permit and

BOARD OF ZONING ADJUSTMENT
District of Columbia

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EXHIBIT NO. 3

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Board of Zoning Adjustment
District of Columbia
CASE NO. 17965
EXHIBIT NO. 33

subsequent collapse. The partially constructed structure that remains on the Property is framed in and under roof and complies with the applicable area restrictions.

In BZA Appeal No. 17657, the Board determined that once the existing single-family dwelling ceased to exist, the apartment building conversion was no longer authorized.

II. ARGUMENT

Ms. Argo's letter constitutes a separate and independent "decision" or "determination" in the enforcement of the Zoning Regulations which may be appealed to the BZA. 11 DCMR § 3100.2, 12A DCMR § 112.1. As a result, Ms. Argo was required, but failed, to advise the Appellant of its absolute right to appeal this decision to the BZA.

The decision by Ms. Argo is not supported by the BZA's narrow decision in Appeal No. 17657 or the facts. The BZA's decision only concluded that the conversion and use of the structure as an eleven-unit apartment building is not authorized. The Board made no findings or conclusion about whether the existing "structure" complies with the Zoning Regulations which regulate uses and structures separately. In fact, the structure that currently exists at the Property complies with all the applicable area restrictions (e.g. lot area, lot width, lot occupancy, height, rear yard, side yard and parking) and can be used for any permitted purpose allowed in the R-4 zone, including a single-family dwelling, Church, Public School, certain community based residential facilities, child/elderly development center for sixteen individuals, adult day treatment facility, hospital, sanitarium, clinic for humans, private club, lodge, fraternity or sorority house, dormitory, museum, and rooming or boarding house.

In addition to there being no legal or factual basis for DCRA to raze the structure, DCRA has acted prematurely for several reasons. First, the Appellant's period to appeal the BZA decision in Appeal No. 17657 to the D.C. Court of Appeals has not run. Second, three

consolidated Office of Administrative Hearing cases (CR-C-07-100063, 100069 and 100075) involving the Property have been stayed and are still pending. And most importantly, the Appellant on March 23, 2009, filed a building permit application with DCRA (DCRA Id. No. B0904296) for adaptive re-use of the existing structure as a matter-of-right as a boarding house. Exhibit B.

III. CONCLUSION

For the foregoing reasons, the Director of DCRA's decision is incorrect and therefore, the Appeal must be GRANTED and DCRA is NOT authorized to raze the structure on the Property.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.



John Patrick Brown, Jr.
Kate M. Olson
1620 L Street, N.W.
Suite 900
Washington, D.C. 20036
(202) 452-1400

Counsel for Appellant – 1231 Morse Street

2009/03/23 PM 2:10

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Appeal and Statement in Support of Appeal was served by first-class mail, this 24th day of April 2009, upon the following:

Ms. Linda K. Argo
Director
Department of Consumer and Regulatory
Affairs
941 North Capitol Street, N.E.
Suite 9500
Washington, D.C. 20002

Mr. Matthew LeGrant, Zoning Administrator
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E.
Suite 2000
Washington, D.C. 20002

Bennett Rushkoff, Esq.
Matthew J. Green, Jr., Esq.
Melinda Bolling, Esq.
Doris Parker-Woolridge, Esq.
Office of the General Counsel
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002

Chairperson
Advisory Neighborhood Commission 5B
1355 New York Avenue, N.E.
Washington, D.C. 20002



John Patrick Brown, Jr.

EXHIBIT A

2011-02-11-07

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs



Office of the Director

VIA PERSONAL SERVICE and
U.S. FIRST CLASS MAIL

April 15, 2009

Taiwo Demuren, Owner
1231 Morse Street, Inc.
3202 Shortridge Lane
Bowie, MD 20721-2574

Re: Razing of structures located at 1233 Morse Street, NE (Square 4069, Lot 130)

Dear Mr. Demuren:

Following the D.C. Board of Zoning Adjustment ("BZA") dismissal of your appeal (*1231 Morse Street, Inc. v. D.C. Department of Consumer & Regulatory Affairs*), BZA Case No. 17657, on March 30, 2009, the D.C. Department of Consumer and Regulatory Affairs ("DCRA") is authorized to completely raze all structures located at 1233 Morse Street, NE., Washington, D.C. The BZA denied your appeal of the Zoning Administrator's decision to deny a building permit application for revisions to an existing building permit allowing for the reconstruction of collapsed walls for a single-family dwelling with addition and a conversion to an 11 unit apartment building in the R-4 District. As a result of the BZA's decision, the structure is not in compliance with the zoning regulations and must be removed. Please be advised that, as owner of the structure, you still have the opportunity to raze the structure yourself.

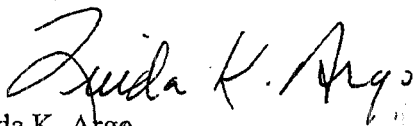
If you are able and willing to complete the work by May 15, 2009, DCRA will allow you to proceed with the work. To perform the work yourself, please contact Zoning Administrator Matthew LeGrant by Monday, April 20, 2009, and he will provide you with a description of the complete scope of the required work.

If you attempt to raze the structure and for any reason do not raze the entire structure and remove all debris by May 15, 2009, DCRA will have its contractor complete the razing and cleanup process. Once the contractor commences work, the contractor will not stop until the full scope of work is completed. In that event, all costs incurred by DCRA will be assessed against the property in the form of a lien. You are advised that if the lien is not paid within the statutory time limit, the property may be sold at auction to satisfy the amount of the lien.

Please feel free to contact Zoning Administrator Matthew LeGrant with any questions or concerns you may have regarding zoning related matter at (202) 442-4576, Lennox Douglas for obtaining a raze

permit or other related permits at (202) 442-4589, or Don Masoero for razing the structure at (202) 481 3545. If you have further questions, please contact my office on (202) 442-8947.

Sincerely,



Linda K. Argo
Director

cc:

Councilmember Harry Thomas, Jr., Ward 5
Matthew LeGrant, Zoning Administrator, DCRA
Bennett Rushkoff, Acting General Counsel, DCRA
John Patrick Brown, Jr., Esq., Greenstein DeLorme & Luchs, P.C.
Don Masoero, Chief Building Inspector, DCRA/ICA
Lennox Douglas, Chief of Permit Operations, DCRA

2007.04.17 2:40

EXHIBIT B



Department of Consumer and Regulatory Affairs

Permit Operations Division

941 North Capitol Street NE Room 2100

Washington DC 20002

Tel: (202) 442 - 4589

Fax (202) 442 - 4862

Received:

Plans: Application

Date: 3/23/2009



Engineering Coordinator: Steven Davis

Applicant/Agent: 1231 MORSE STREET INC

/ taiwo demuren-d taiwo dem

Address of Project:

Job Classification:

Job No:

1233 MORSE ST NE

TPR

B0904296

B

Required Reviews. (Checked boxes only)	Reviewer:	Completion Time:	Review Status:
☐ Fine Arts:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Historic:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Public Space/DDOT:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DPW ☐ Conf. w/Applicant
☒ Zoning:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to BZA ☐ Ref. to Zoning Administrator ☐ Conf. w/Applicant
☐ Soil Erosion/DDOE: ☐ Storm Water Mgmt.		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant ☐ Ref. to DOH ☐ DDoe D eposit
☐ Air Quality: ☐ EIS:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Water & Sewer/WASA:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Mechanical/Plumbing:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Health/DOH:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Electrical:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Elevator:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☐ Fire Protection:		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☒ Structural:	<i>Gu</i>	☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant
☒ Other:	<i>File</i>	☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/Applicant

Remarks

Roll

B0904296

TPR



Department of Consumer and Regulatory Affairs
Permit Operations Division
941 North Capitol Street NE Room 2100
Washington DC 20002
Tel. (202) 442 - 4589 Fax (202) 442 - 4862

Remittance Source Document

OFFICE OF FINANCE AND TREASURY
Date: 3/23/2009 2:20 PM
Office: 941NCap Term: D6JPDLB1
Batch: 3926 Batch Date: 03/23/09
Cashier: ncap25
Trans #: 61
DCRA Rept: 00402441
Comment/Document:
Payment Total: \$165.00
Payment Distribution:
2103 CRO-(3012)-1000L BUILD \$165.00
CK Tendered: \$165.00

Date: March 23, 2009

INVOICE

Invoice Number: 187947

Customer: 1231 MORSE STREET INC
Mailing Address: 3202 SHORTRIDGE LN
MITCHELLVILLE, MD 20721-2574

Address of Work: 1233 MORSE ST NE
WASHINGTON, DC 20002

Permit: B0904296

Type of Permit: Alteration and Repair

Acct Code:	Fees:	Description:
3012-3012-1000	\$165.00	Filing Fee
Invoice Total:	165.00	

Office of Finance
and Treasury

Date: 3/23/2009 2:20 PM
Office: 941NCap Term: D6JPDLB1
Batch: 39 Batch Date: 03/23/09
Cashier: ncap25
Trans #: 61

DCRA

Rept: 00402441

Comment/Document:

Payment Total: \$165.00

Payment Distribution:

2103 CRO-(3012)-1000L BUILD \$165.00
CK Tendered: \$165.00

Thank you for your payment.
Have a nice day!

2009 MAR 23 PM 4:01

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
N.C.P.C. No.	O.G. No.	R4		B0904296	By:
H.P.A. No.	S.L. No.	Ward No. 5	Receipt No:	Date:	Receipt No:



HERA-33
(Rev. 2/04)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION PERMIT SERVICE CENTER
Tel 202-442-4589 Fax 202-442-4862

FJ-7813061

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY
(PRINT IN INK OR TYPE. DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

CLEARANCE TO FILE
By _____ Date _____

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1 Address of Proposed Work: 1223 Morse St NE		Suite No.	2. Lot 130	3. Square 4069	4. Application Date 03/19/09
5 Owner of Building or Property Taiwo Demuren-Daimler Inc.		6 Address (include Zip Code) 3233 Shortridge Lane Mitchellville, MD 20721			7 Phone 240-832-4315
8 Agent for Owner: (if applicable) Bello, Bello & Associates, LLC		9. Address (include Zip Code) 900 2nd St NE Suite 6 WDC 20002			10. Phone 202-289-1663
11. Type of Proposed Work (check all applicable boxes)					
☐ New Building ☐ Retaining Wall ☐ Garage ☐ Addition ☐ Fence ☐ Sign ☒ Alteration and Repair ☐ Shed ☐ Projection ☐ Raze Building ☐ Awning ☐ Other (Specify) _____					
12. Description of Proposed Work					
Adaptive use of existing structure for purposes of occupancy as a boarding house ; per plans					
13 Existing Use(s) of Building or Property N/A (existing unfurnished structure)		14 Ex. No of Stories of Bldg 2 + cellar	15 Ex No of Dwelling Units 11	Official Use Only Miscellaneous FEE \$	
16 Proposed Use(s) of Building or Property Boarding house - 36 rooms		17 Prop No of Stories of Bldg 2 + cellar	18 Prop. No of Dwelling Units 36	By:	Date:
19 Starting Date	20 Completion Date of work	21 Method of Removing Construction Debris ☒ Pick-up Truck ☐ Dumpster ☐ Other (specify)		22 Does the proposed work involve disturbing the earth or razing a building? ☐ Yes, answer q. 23 ☐ No, SKIP q. 23-27	
23. Is the area of disturbed earth more than 50 sq. ft? ☐ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	24. Soil Erosion Control Methods		25. Area of Offsite Drainage sq. ft	26. No of Footings or Columns	27 Size of Footings or Columns

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I)

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

OFFICIAL USE ONLY					
	R	P	H	A	
M					
P					
E					W Yes No
F					PLANS
S					☐ No ☐ Sm ☐ Lg