

Friends of Francis Field
2501 M Street NW
Washington, DC 20037

2009 OCT 28 PM 3: 25

October 28, 2009

Hand Delivered

Clifford Moy, Secretary
Board of Zoning Adjustment
441 Fourth Street NW
Washington, DC 20001

Dear Secretary Moy and Members of the Board:

Enclosed please find the original and twenty copies of an Appeal.

We look forward to the Board's scheduling a hearing on this Appeal. If you have any questions, or need further information, please contact the undersigned.

Sincerely,



Gary Griffith
Secretary, Friends of Francis Field
2501 M Street NW #609
Washington, DC 20037

email: gary@smart.net

202 659-4561

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18029

EXHIBIT NO. 1

Board of Zoning Adjustment
District of Columbia
CASE NO. 180299
EXHIBIT NO. 11

**CERTIFICATE OF SERVICE
TO APPELLEE AND PARTIES**

As secretary of the Friends of Francis Field, I hereby attest that on October 28, 2009, a copy of this form was mailed by first-class, postage pre-paid mail or electronic mail, pursuant to 11 DCMR §§3111.1, 3111.3(c) and 3111.3(e) to each party listed below:

Linda K. Argo
Director, DCRA
941 North Capitol Street NE
Washington, DC 20002

Matthew Le Grant
DCRA Zoning Administrator
941 North Capitol Street NE
Washington, DC 20002

Richard B. Smith
Vornado/Charles E. Smith
2345 Crystal Drive #1000
Arlington, VA 22202-4801

Carla Delbusso (12 copies)
Property Manager
1255 25th Street NW
Washington, DC 20037

Armando Irizarry
Chair, ANC-2A
c/o West End Library
1101 24th Street NW
Washington, DC 20037

James O'Connell
Whitman Place Resident Owners
Association
1275 25th Street NW #703
Washington, DC 20037


Gary Griffith
Secretary, Friends of Francis Field



BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



APPEAL

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated.

Pursuant to Section (s) §3100 and §3101 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken

from the administrative decision of:	Name of administrative officer and title Linda K. Argo, Director, DCRA and/or Matthew Le Grant, Zoning Administrator, DCRA		
made on	Date of decision 09/25/2009	, to the effect that	Certificate of Occupancy #CO0903586 was issued

in error before conditions 10b and 10c of Order in ZC 06-35 were satisfied. Additional pages are attached.

Address(es) of Affected Premises	Square(s)	Lot(s)	Zoning Districts
1255 25th Street NW	24	883	CR

Present use of Property: Apartment House R-2

Proposed use of Property:

Owner of Property: Vornado/Charles E. Smith Telephone No.: 703 769-1129

Address of Owner: 2345 Crystal Dr #1000, Arlington, VA 22202

Name, address and telephone number of lessee:

Name, address and telephone number of appellant, if other than owner: Friends of Francis Field

2501 M Street NW #609, Washington, DC, 20037 202 659-4561

State specifically manner in which appellant is aggrieved by the administrative decision, the allegations of error in the administrative decision, and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation).

Please use a separate piece of 8 ½" x 11" to respond and attach it to the Form 125 Appeal.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22-2405)

Date: October 28, 2009

Signature:

Gary Griffith Appellant*

* If appeal is filed by agent of the Appellant, Form 125 Appeal shall be accompanied by a letter signed by the appellant authorizing the agent to act on his behalf in this appeal.

To be notified of hearing and decision (Appellant or Authorized Agent*):

Name: Gary Griffith, Secretary, Friends of Francis Field

Address: 2501 M Street NW #609 Washington, DC 20037

Phone No.: 202 659-4561

Fax No.:

E-Mail:

gary.griffith@verizon.net

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

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

Pursuant to 11 DCMR §§3100 and 3101, Friends of Francis Field, a party and aggrieved person below, appeals from the administrative decision of the Department of Consumer and Regulatory Affairs (DCRA) in the issuance of Certificate of Occupancy (CO), Permit No. CO0903586, dated September 25, 2009, to 1229-1231 25th Street LLC, a subsidiary corporation of Vornado/Charles E. Smith (Vornado). The CO covers 116 units at 1255 25th Street NW, on floors B-1, 1, 2, 3, and 4.

The basis for this appeal is that the CO was improperly issued. Vornado failed to deliver proffered community amenities in Zoning Commission Planned Unit Development Case No. 06-35 (ZC 06-35). Delivery of the amenities was an express precondition to be met prior to issuance of any CO. In ignoring this failure by Vornado, DCRA erred or exceeded its authority in issuing the CO. The CO must be withdrawn as invalid.

Further, although Appellant does not know DCRA's rationale in issuing the CO, if DCRA concluded that an escrow rather than actual delivery of the amenities was sufficient, Appellant states as an additional ground of appeal that such a decision would be invalid as a modification of the zoning order not approved by ZC, and as such, would be outside DCRA's authority pursuant to 11 DCMR §§ 2409.7 and 2409.9, and would deprive the public and parties in the case of an opportunity to be heard both on the propriety of accepting an escrow in lieu of performance, and on deficiencies in any such escrow.

APPELLANT'S STATEMENTS OF FACT

01. The address of the subject property was 1229-1231 25th Street NW, as stated in the in the order in ZC 06-35 (the Order), but that address has since been changed to 1255 25th Street NW.

02. ZC explicitly conditioned approval of the PUD project for 1229-1231 25th Street NW as follows:

"No certificate of occupancy for any building approved by this Order shall be issued until the following amenities have been provided:"

The Order listed among the sub-conditions in Condition 10, two that relate to this Appeal:

"b. Francis Field: contribution of design, materials, and labor for improvements to Francis Field to (1) prepare a landscape plan for

Francis Field that includes the addition of trees, park lighting, furniture, trash receptacles, and a drinking fountain and (2) following approval by DPR, install the improvements, consistent with the Memorandum of Understanding included with Exhibit 40 of the record, valued at \$150,000.

"c. The landscape and streetscape improvements to 25th Street, N.W., in accordance with the plans marked as Exhibits 27, 31, and 40 of the record. These improvements shall include, subject to approval by the appropriate District agency or agencies, the removal of the existing chain-link fence along the west side of 25th Street N.W. and replacement with an ornamental metal fence."

03. That ZC intended that no CO be issued until the proffered amenities actually were provided was corroborated by ZC Chair Carol Mitten at the setdown hearing on Vornado's application:

"... I just want to emphasize the fact that we discourage open-ended contributions and that we prefer that they be tied to actual delivery of an amenity, concurrently with the issuance of the C of O."

04. The amenities which are the subject of conditions 10b and 10c of the Order were voluntarily proffered by Vornado. More specifically, on March 6, 2007, Vornado proffered, 1) streetscape improvements on both sides of 25th Street NW, and the removal and replacement of a fence, with a total value of \$200,000; and, 2) improvements to Francis Field, a recreational space opposite the subject property, with a total value of \$150,000. These proffers are documented in Exhibits 27 and 31 of ZC 06-35.

05. On March 27, 2007, ZC held a public hearing on Vornado's application. Appellant, Friends of Francis Field (FFF), was recognized as a party in support. Whitman Place Residential Owners Association was recognized as a party in opposition. Advisory Neighborhood Commission 2A (ANC-2A) was recognized as an automatic party.

Testifying for Vornado was principal Richard B. Smith, who, according to the official transcript, described the proffered amenities and added an additional amenity not stated in Vornado's March 6 proffer:

"We have committed our landscape architect, Oculus, to work on these plans with neighbors' thought and input."

06. On April 5, 2007, the Department of Parks and Recreation (DPR) filed a letter with ZC expressing its willingness to accept Vornado's proffer of an architectural plan for Francis Field as well as specific field improvements selected by DPR, FFF, and ANC-2A. This letter, which became Exhibit 40 of ZC 06-35, states in part:

"... you will arrange for the preparation of a landscape plan that will

include the addition of trees, park lighting, furniture, trash receptacles and a drinking fountain."

07. ZC issued the Order on July 9, 2007, conditioning among the amenities to be delivered before the issuance of "any certificate of occupancy" those stated in §02 above. The Order became final and effective on October 12, 2007

08. Vornado applied for a new address for the subject property on April 8, 2009. The new address, 1255 25th Street NW, was approved by DCRA on May 1, 2009.

09. Sometime after May 1, 2009, Vornado applied for three COs for the subject property. In applying for these COs Vornado did not use the address under which ZC approval, conditioned on delivery of the proffered amenities, had been obtained (1229-1231 25th Street NW). Rather Vornado applied for the certificates using the new address.

10. Between June 6, 2009, and September 8, 2009, DCRA issued three certificates of occupancy for the subject property, as follows:

#CO0902392, dated 06/26/09, issued to "West End 25 Temporary Leasing Office" for part of the first floor at 1255 25th Street NW.

#CO0903063, dated 08/12/09, issued to Rh 1239-1231 25th Street LLC, for 52 units on the first and second floors, and 18 parking spaces at 1255 25th Street NW.

#CO0903410, dated 09/08/09, issued to Vno 1229-1231 25th Street LLC, for 32 units on the third floor at 1255 25th Street NW.

11. On September 15, 2009, Appellant contacted the DCRA Zoning Administrator (ZA) about the issuance of the COs, stating in part in an email message:

"we believe we can demonstrate conclusively that neither condition 10b nor condition 10c of the zoning order has been fulfilled with respect to the delivery of the amenities."

12. On September 16, 2009, ANC-2A, with a quorum present, passed a resolution in letter form to ZA, asking ZA to withdraw the issued certificates and to issue no further certificates because of the failure of Vornado to deliver the amenities in condition 10b and 10c of the Order. The ANC resolution stated in part:

"As to condition 10b: Visual inspection of Francis Field ... shows none of the improvements to have been installed.

"As to condition 10c: Visual inspection shows that the chain-link fence has not been removed, that the ornamental fence has not been installed, and that no streetscape improvements whatever have been made on the west

side of 25th Street NW."

13. On September 17, 2009, ZA revoked certificates of occupancy #CO0903063 and #CO0903410, stating:

"Due to an address change for the building to 1255 25th Street NW, DCRA did not know, *and you did not disclose*, that the Certificate of Occupancy would not comply with PUD No. 06-35. Therefore, the Certificate of Occupancy has been issued in error." [Emphasis added.]

14. On September 23, 2009, the *Foggy Bottom Current*, a local newspaper, published an article about the revocation of the COs. Included in the article were quotations from Mike Rupert, DCRA Communications Manager. In the context of the revocation of the COs, the article stated:

"... because the agency did not revoke the certificates due to health or safety violations, he [Rupert] noted, residents of 1255 25th St. will be allowed to remain in their homes. 'There won't be enforcement in this case,' he said."

15. On September 25, 2009, Appellant contacted DCRA spokesperson Rupert to confirm the accuracy of the newspaper quotation cited directly above. The same day, Rupert replied by email that the quotation was accurate and the author of the do-not-enforce order was "Department of Consumer and Regulatory Affairs Director Linda K. Argo."

16. On September 25, 2009, two days before the revocation of the certificates cited above became effective pursuant to 14 DCMR §1406.3, DCRA issued a new CO as follows:

#CO0903586, dated 09/25/09, issued to 1229-1231 25th Street LLC, for 116 units on floors B-1, 1, 2, 3, and 4.

This certificate was signed by DCRA Director Linda K. Argo.

It is the issuance of this new certificate of occupancy that is the administrative decision to which Appellant takes an appeal.

STANDING AND TIMELINESS

17. Appellant has standing to file an appeal as an aggrieved person pursuant to 11 DCMR §3112.2.

Appellant, FFF, is a corporation, organized not for profit, in the District of Columbia. FFF established its party status in ZC 06-35 as being comprised of residents who lived

within 200 feet of the subject property and would be directly affected by the PUD if approved. FFF retains those original members, and has added additional members.

Testimony during the hearing in ZC 06-35 showed that nearby residents would lose light, view, sun exposure, and that some resident owners would also have related losses in property value due to the addition of four floors to the subject property, which would block views from resident's apartments and balconies. The testimony also showed that all nearby residents would be affected by density, traffic, parking, and short-term construction issues.

Appellant is aggrieved by DCRA's issuance of the CO since it provides Vornado with the full zoning relief it sought, and the use of the building in violation of §3205.4, while depriving Appellant--as well as all intended recipients of the amenities--of the timely delivery of the amenities Vornado proffered pursuant to 11 DCMR §§2403.5, 2403.7, and 2403.9.

Appellant is further aggrieved by DCRA's issuance of the CO, since it will give Vornado no further incentive to deliver the proffered amenities specified in condition 10b and 10c of the Order.

Even if the proffered amenities are to be delivered at some future point, DCRA's issuance of the CO removed "the teeth" from the Order and the penalty to Vornado for delaying the delivery of the proffered amenities. Appellant and other intended recipients had the right to assume timely delivery of the amenities in condition 10b and 10c of the Order, and the right to make plans and decisions based on the Order's condition that the delivery of the amenities would occur before the building was issued any CO.

Appellant is further aggrieved by DCRA's issuance of the CO because other plans, actions, and desires of Appellant to make improvements to Francis Field were precluded by the expectation that Vornado would provide the proffered amenities according to the timing stated in the Order.

18. Appellant's appeal is timely pursuant to 11 DCMR §3112.2, having been made within 60 days of the administrative action to which it is taking appeal.

ARGUMENTS AND MANNERS OF PROOF

19. ZC's "Conditions in Orders" is recognized in 11 DCMR §3205, and §3205.1 cites their application.

20. Appellant states that the Order is clear in its language, and meant what it says: that no certificates of occupancy were to be issued until the actual delivery of the physical amenities.

Appellant will show further that the conditions in the Order were not included without reason and prior experience, and that the delivery of amenities in previous PUD cases in the West End and Foggy Bottom neighborhoods had been troubling to the neighborhood and to ZC.

Applicant will show that in preparation for the setdown hearing in the case, the ANC-2A chair wrote in an email message to the Office of Planning:

"Generally, I join those who believe that the 'public benefits' or amenities have been one of the real problem areas for PUDs, with many amenities being illusionary or more trouble that they are worth (the feeding program and green spaces programs in F[oggy] B[ottom] come to mind)"

The "feeding program" to which the email refers was appealed to BZA because of alleged delays and deficiencies in the delivery of amenities and was the subject of BZA Order No. 16950.

The "green spaces" case to which the email refers required two hearings by ZC before it issued ZC Order No. 960; and then was returned to ZC twice for modifications relating to amenities, resulting in Orders 960A and 960B. In those four hearings, which began in 2002 and ended in 2005, ZC commissioners Mitten, Parsons, and Hood all took part.

Thus, ZC Chair Mitten's setdown hearing instructions, as stated in §03 above for "actual delivery" of the amenities, was understood as germane, relevant, and timely to Mitten as well as to commissioners Parsons and Hood, who heard ZC 06-35 and participated in the formulation of the Order.

Thus, Appellant asserts, ZC intended that specific physical amenities be selected, and that these express amenities be put in place before any CO was issued--not delayed for months or years as previous amenities had been in the same neighborhood represented by the same ANC. The Order itself also makes this clear in its express wording.

21. As proof that condition 10b of the Order had not been satisfied before the issuance of any CO, Appellant will offer photographs of Francis Field, showing that no change of condition took place between October 12, 2007, and September 25, 2009, relating to the addition of trees, park lighting, furniture, trash receptacles, or a drinking fountain. Testimony of residents familiar with the field will also be presented.

22. As proof that condition 10c of the Order had not been satisfied before the issuance of any CO, Appellant will offer photographs of 25th Street NW showing that no change of condition took place between October 12, 2007, and September 25, 2009, relating to the streetscape on the west side of 25th Street NW, or to the removal of the existing chain-link fence, or to the replacement of that fence with an ornamental metal fence. Testimony of residents familiar with the field will also be presented.

23. Appellant states that neither ZA nor DCRA has the authority to waive conditions in a ZC order, or to modify orders as they relate to the delivery of amenities.

ZA's authority in implementation of zoning cases is clearly stated in 11 DCMR §2409.6, and is limited to modifications of physical plans within narrow ranges of feet, or to small percentages of apartment units, or to small percentages of parking spaces. Furthermore, §2409.9 states:

"Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission."

Nor do ZA and/or DCRA have authority to modify or overrule ZC orders regarding the timing of the delivery of amenities, or the timing of satisfying conditions of an order.

24. Appellant states that the zoning regulations, as indicated immediately above, make provision for both minor and substantial modifications of ZC orders. These provisions are found at 11DCMR §§3030 and 2409.9, and require application to ZC for modifications.

Appellant states further that there is no record of Vornado applying to ZC for a minor modification pursuant to 11 DCMR §3030, or for a substantial modification pursuant to §2409.9.

25. Appellant states that DCRA's revocation of the two certificates of occupancy as related in §13 above, and the language used, demonstrate both that as of September 17, 2009, Vornado was not in compliance with the Order, and that ZA *had determined that Vornado was not in compliance the Order.*

26. Appellant will prove by means of photographs and testimony that no deliveries of amenities to Francis Field or 25th Street NW that would satisfy conditions 10b and 10c of the Order were made between September 17, 2009, when the previous COs were revoked and September 25, 2009, when the new CO was issued.

27. Appellant states further that with or without a CO for the subject property, Vornado, in occupying or using the building, is in violation of the Order.

The municipal regulations treat this matter in two different chapters. With regard to the building code, 12A DCMR §110.1 states:

"Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the applicable Construction Codes, Zoning Regulations or other laws or regulations of the District."

With regard to zoning regulations, 11 DCMR §3205, which is titled "Compliance with Conditions in Orders," states at §3205.4:

"Any person who owns, controls, occupies, maintains, or uses any building, structure, or land, or any part of any building, structure, or land, shall at all times comply with any condition to the issuance of the certificate of occupancy for the building, structure, or land, or part thereof."

Thus, Appellant argues that Vornado, which has not complied with conditions 10b and 10c, is in violation of the Order in occupying or using the building.

Appellant argues further, that pursuant to the regulations stated immediately above, and with regard to Vornado's failure to deliver the amenities in conditions 10b and 10c of the Order, that Vornado also knew or should have known that it was not in compliance with the Order when it made application for each of the four COs that were issued.

EXISTENCE OF AN ESCROW AGREEMENT

30. Appellant does not know how DCRA has reached or could have reached a determination that Vornado was in compliance with the Order before issuing the September 25, 2009, CO. DCRA has provided no information on this topic to Appellant.

Appellant has requested an explanation from ZA and DCRA, and has filed two Freedom of Information Act (FOIA) requests with DCRA for this purpose; but those FOIA requests have not yet resulted in any information or explanation from DCRA.

31. On September 4, 2009, in response to a FOIA request to DPR, Appellant received a copy of an escrow agreement executed on June 18, 2009, between Vornado and DPR which refers to ZC 06-35.

Appellant finds errors of fact, and errors in financial accounting in that escrow.

However, Appellant does not know whether or not this escrow--or some other agreement or agreements that have not been provided to the parties in the case--were considered by ZA or DCRA in issuing the September 25, 2009, CO.

As stated in §§23 and 24 above, Appellant argues that neither ZA nor DCRA have authority to make use of any post-order escrow in this case that is not submitted to ZC pursuant to 11 DCMR §3030 or §2409.9.

Thus, Appellant believes that arguments and matters of proof relating to errors of fact and errors of financial accounting in the escrow itself--or to errors by ZA or DCRA in considering the escrow without providing it to ZC and the parties--are not ripe issues for BZA's consideration at this point.

32. Should DCRA or Vornado offer the escrow as a defense, or should BZA find that DCRA does have the authority to substitute an escrow for delivery of the actual

amenities, Appellant would reserve the right to make its statement of facts and its arguments concerning the use of the escrow, and deficiencies in the escrow, at that time.

RELIEF REQUESTED

33. Appellant requests that the September 25, 2009, CO be revoked pursuant to 12A DCMR §110.5.

Appellant further requests that no other CO be issued until Vornado either, 1) delivers the proffered amenities according to conditions 10b or 10c of the Order; or, 2) applies to ZC pursuant to 11 DCMR §2409.9 for a modification of the Order and receives modification after the public and parties are given an opportunity to be heard; or, 3) applies to BZA in the course of this Appeal, pursuant to 11 DCMR §3100.4, for modification of the Order and receives modification after the public and parties are given an opportunity to be heard.

Appellant states here that it does not seek the removal of tenants from the subject property at this time, and would seek that drastic relief only as a last resort.

Rather, Appellant is requesting that any modification of the Order be made according to the municipal regulations, and in a venue in which ZA and DCRA are required to produce and serve to the parties any and all documents, escrows, or other agreements that would influence ZA and DCRA to issue a CO for the subject property without requiring the actual delivery of the proffered amenities in conditions 10b and 10c of the Order.

Appellant believes that this Appeal represents the most efficient and least disruptive venue for addressing this matter and seeking relief. BZA has both the authority to, 1) revoke the current CO pursuant to 11 DCMR §3100.1, and, 2) to modify the conditions of the Order pursuant to §3100.4, which would allow DCRA to issue a new CO before the revocation of the current CO became effective. Thus, Appellant believes the matter could be settled without the need to remove tenants from the building.

Appellant also states here that tenants in the subject property are near neighbors and potential members of FFF, constituents of ANC-2A, and pursuant to 11 DCMR §2403.7, specifically among the intended recipients of the very amenities that Appellant is attempting to secure and have delivered in the most timely manner possible. Thus, tenants in the subject property are potential beneficiaries of this Appeal.

LESSEES

34. Appellant does not know whether or not lessees exist for the subject property.

A visual inspection of the subject property on October 12, 2009, showed the building to be occupied and used, with a rental office and a concierge desk on the first floor.

Appellant has only hearsay information that there are tenants in the building, and the newspaper report referenced in §14 above refers to "residents." But Appellant does not know, and has been unable to learn, if any of said tenants or residents are lessees.

On October 13, 2009, Appellant made a request for a list of lessees from the management office of the subject property, and was refused. On the same date, Appellant made a request to Vornado by telephone and email for a list of lessees, to which Vornado has not responded.

Vornado is required, pursuant to 14 DCMR §1202.1, to keep a record book of tenants, and, pursuant to §1202.2 to make the record book open to inspection by departments of the DC government. However, there appears to be no municipal regulation requiring Vornado to make the book of tenants open to public inspection, nor does there appear to be any regulation requiring Vornado to provide a list of lessees to Appellant.

However, in an effort to assure notification of the filing of this Appeal and service to any John Doe lessees that might exist at the subject property, Appellant has sent copies of this Appeal to the property manager at the subject property, with a letter requesting that she provide copies to any lessees that exist at the property. A copy of the letter is attached here as Exhibit A.

FILING FEE NOT REQUIRED

35. Appellant states that it is a citizens association created for civic purposes and not for profit, and, pursuant to 11 DCMR §3180.4(c), is not required to pay a filing fee for this Appeal. Its recognition for party status in ZC 06-35 reflects that status.

As further proof of its not-for-profit status and its civic purpose, Appellant attaches as Exhibit B, a copy of the incorporation certificate of the Friends of Francis Field, certifying its compliance with the Non-Profit Corporation Act of the District of Columbia, dated June 16, 2008, and a copy of its articles of incorporation, as filed with DCRA for that certification, which state the civic purposes for which the corporation was organized.

EXHIBIT A

Friends of Francis Field
2501 M Street NW
Washington, DC 20037

October 27, 2009

Carla Delbusso
Property Manager
1255 25th Street NW
Washington, DC 20037

Dear Ms Delbusso:

Enclosed please find 12 copies of the Appeal of Friends of Francis Field to the District of Columbia Board of Zoning Adjustment.

These are for distribution to any lessees that may exist at 1255 25th Street NW, which is the subject property of our Appeal.

As you may remember, I telephoned you on October 13, 2009, asking for a listing of lessees at the property. You referred me to the building owner, Vornado. I telephoned Vornado, and also made a written request by email that same day, but I have received no response from Vornado.

This letter to you, in your position as property manager, and the copies provided, represent our good-faith effort to notify lessees at 1255 25th Street NW of our Appeal to the Board of Zoning Adjustment pursuant to the District of Columbia municipal regulations which are stated and explained in the copies of the Appeal provided.

We will be happy to provide you with additional copies of the Appeal, or with an electronic copy of the same document.

Sincerely,



Gary Griffith
Secretary, Friends of Francis Field
2501 M Street NW #609
Washington, DC 20037

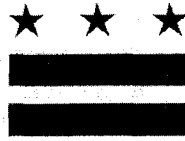
email: gary@smart.net

202 659-4561

EXHIBIT B

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS



C E R T I F I C A T E

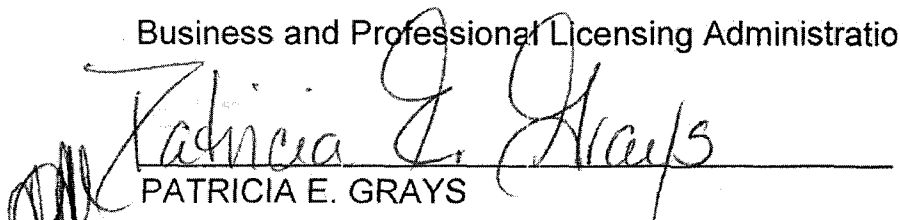
THIS IS TO CERTIFY that all applicable provisions of the District of Columbia NonProfit Corporation Act have been complied with and accordingly, this ***CERTIFICATE OF INCORPORATION*** is hereby issued to:

FRIENDS OF FRANCIS FIELD (THE)

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of this office to be affixed as of the **16th** day of **June, 2008**.

LINDA K. ARGO
Director

Business and Professional Licensing Administration


PATRICIA E. GRAYS
Superintendent of Corporations
Corporations Division

Adrian M. Fenty
Mayor

The Friends of Francis Field

Articles of Incorporation

We the undersigned natural persons of the age of eighteen years or more, acting as Incorporators of a corporation under the Non-Profit Corporation Act (D.C. Code, 2001 edition, Title 29, Chapter 3), adopt the following Articles of Incorporation:

- First: The name of this corporation is: The Friends of Francis Field.
- Second: The period of duration of this corporation shall be perpetual.
- Third: The purposes for which this corporation has been organized are:
- To preserve and improve the quality of the West End neighborhood, in general, and specifically to preserve and improve the quality of the public space known as Francis Field, which lies north of M Street NW, south of P Street NW, east of Rock Creek Park, and west of 23rd Street NW. This space includes playing fields, tennis courts, green space, a swimming pool, bathhouse, and other public amenities.
- Fourth: The corporation will have members, all of a single class, which will have voting rights. Membership is limited to persons of the age of eighteen years or more.
- Fifth: Directors shall be elected by the members, according to the corporation's by-laws.
- Sixth: The corporation shall be regulated internally by its board of directors. The corporation may be dissolved by a two-thirds vote of the board. Upon dissolution, remaining assets of the corporation will be distributed to the Treasury of the District of Columbia, or to a non-profit corporation chosen by the board of directors.
- Seventh: The name and address of the initial registered agent is:
- Gary Griffith
2501 M Street NW #609
Washington, DC 20037
- Eighth: The number of initial directors constituting the initial board of directors is seven, who will serve until their successors are elected. Their names are addresses are:
- Rebecca Coder
2501 M Street NW #721
Washington, DC 20037
- Gary Griffith
2501 M Street NW #609
Washington, DC 20037
- April Harding
2501 M Street NW #601
Washington, DC 20037

FILE COPY
6/16/08

James O'Connell
1275 25th Street NW #703
Washington, DC 20037

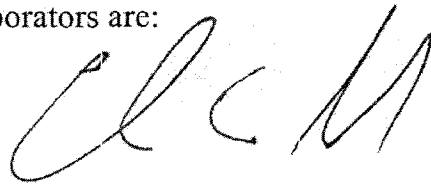
Michele Wiltse
2501 M Street NW #704
Washington, DC 20037

Jane Wilner
2501 M Street NW #717
Washington, DC 20037

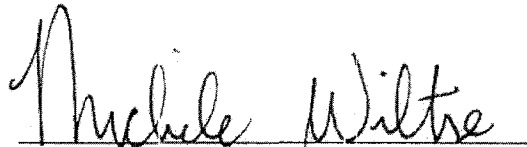
Thomas Wilner
2501 M Street NW #717
Washington, DC 20037

Ninth: The names and addresses of our incorporators are:

Christopher Haspel
2501 M Street NW #721
Washington, DC 20037



Michele Wiltse
2501 M Street NW #704
Washington, DC 20037



Gary Griffith
2501 M Street NW #609
Washington, DC 20037



Date: May 22, 2008

I, Diana Howard A Notary Public, hereby certify that on the 22nd day of may, 2008, the above listed incorporators appeared before me and signed the foregoing document as incorporators, and have averred that the statements therein contained are true.

(Seal)

Diana G. Howard
Notary Public, District of Columbia
My Commission Expires 6/14/2010