

2010 FEB 19 PM 12:01

CASE NO. 18031 Board of Zoning Adjustment
EXHIBIT NO. 17 District of Columbia
CASE NO. 18031
EXHIBIT NO. 177

In this appeal, Appellant makes two arguments to support its claim that DCRA erred in issuing the November 4 CO. First, Appellant argues that in order for Foggy Bottom Grocery to operate an “accessory prepared food shop” it must obtain variance relief from the Board. Second, Appellant contends that the November 4 CO unlawfully expands the non-conforming grocery use from one story to three. Both of Appellant’s arguments are incorrect and should be rejected by this Board.

ARGUMENT

1) Retail Groceries Are Permitted To Sell Prepared Food As A Matter Of Right

Under the Zoning Regulations, “prepared food shop” is defined as:

A place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor.

See 11 DCMR 199.1.

“Prepared food” is defined as:

Food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop.

See 11 DCMR 199.1.

In Application of Se Y. Jeong, the Board held that the sale of prepared food is permitted in a non-conforming, retail grocery without the need for any special exception or variance relief. *See Application No. 17906 of Se Y. Jeong* (April 14, 2009). In that case, the applicant was applying for a special exception to add the sale of prepared sandwiches, donuts, hot coffee, tea, and cooked hot dogs to his existing, non-conforming grocery store. *Id.* at 3. In order to accommodate the addition of prepared food to his store, the applicant needed to install a coffee machine and a “hot dog machine” to warm and turn the hot dogs. *Id.* The Board rejected the

applicant's application as unnecessary stating, "the proposal [to sell prepared food] does not amount to any sort of new use, but is an inherent part of a grocery store use." *Id.* at 5.

In reaching that conclusion, the Board recognized that modern grocery stores sell a "multiplicity of items," including periodicals, flowers, DVDs, and "hot coffee or tea or even hot dogs or other simple food items." *Id.* at 4. Consequently, the sale of prepared food is permitted in a grocery store as an inherent part of the grocery use. *Id.* at 4. The Board went on to say that, "because the sale of prepared food is part of the principal use, no new C of O or amendment to the existing C of O is required." *Id.* at 5. The only limitation set forth by the Board is that the sale of prepared food must not rise to the level where it is considered a separate principal use. *Id.* at 4.

Here, the November 4 CO authorizes Foggy Bottom Grocery to operate a grocery with an accessory prepared food component. Those facts are indistinguishable from Se Y. Jeong. Additionally, DCRA's Zoning Administrator, in approving the November 4 CO, set forth certain criteria to ensure that the prepared food component of the grocery would not become a separate principal use or include the sale of food items that would not constitute prepared food. *See* Exhibit B. These criteria include limiting the sale of prepared food to 15% of the use of the Property and prohibiting the use of any cooking equipment aside from "warming ovens, toasters, microwaves." *See Id.* Based on the plans submitted to DCRA, only approximately 240 sq. ft., or 13% of the total area of the Property (1835 sq. ft.) will be used for the preparation and sale of prepared food. *See* Exhibit C. This Board has traditionally considered a use consisting of less than 15% of a property as not constituting a separate principal use. *See e.g. Appeal No. 17675 of Reed-Cooke Neighborhood Ass'n* (2008) (sale of beer and wine in a grocery store); *Application*

No. 16333 of Richard T. Ross (1998) (holding social events in a bed and breakfast as an accessory use).

In its appeal, Appellant misapplies Application of George Washington University, a prior case before the Board concerning the Property. In that case, the university was applying for a special exception to add a delicatessen component to the existing grocery store. *Application No. 16259 of George Washington University* (1997). The Board rejected the application because the use described at the hearing was not that of a delicatessen, but was actually a food delivery service. *Id.* at 3. The applicant was preparing and selling pizza, with about 50% of the pizzas being delivered. *Id.* Since a food delivery service is first permitted in a C-2-B District, the Board properly concluded that a grocery store could not be converted to a food delivery service in an R-5-E District without variance relief. *Id.* Since the November 4 CO permits the operation of an accessory prepared food shop and not a food delivery service, the Board's analysis in Application of George Washington University is not controlling or even relevant to this appeal.

Appellant's reliance on DCRA's revocation of Foggy Bottom Grocery's August 21, 2008 CO is also misplaced. On October 14, 2009, the Zoning Administrator issued a notice to revoke certificate of occupancy no. 0800102, which was issued by DCRA on August 21, 2008 for a grocery store with a "sandwich shop" (the "August 21, 2008 CO"). *See* Exhibit D. DCRA sought to revoke the August 21, 2008 CO because the application stated that the prior use of the Property was "grocery store same as proposed" and the Zoning Administrator was concerned that his office had improperly approved a sandwich shop without first obtaining sufficient information from the applicant to determine if the proposed sandwich shop was permitted. *See* Exhibit E. After reviewing Foggy Bottom Grocery's plans, the Zoning Administrator

determined that the proposed use of the property constituted an allowable accessory use to a grocery store and issued the November 4 CO.

In Se Y. Jeong, the Board made it clear that grocery stores are permitted as a matter of right to sell prepared food. As a result, the Board must find that DCRA did not err by permitting Foggy Bottom Grocery to operate an accessory prepared food shop as a part of its grocery business.

2) The November 4 CO Does Not Permit The Unlawful Expansion Of A Non-Conforming Use

The Appellant alleges that the November 4 CO permits the unlawful expansion of the non-conforming grocery store use from one floor to all three. Attachment F to Appellant's Appeal indicates that the "old" Foggy Bottom Grocery operated solely on the first floor and not in the basement or second floor. Although Appellant has the burden of proving this fact, it proffers no evidence to support this statement. Further, Appellant offers no explanation as to what use, if any, historically occupied the other two floors.

More importantly, Appellant's unsupported allegation is contradicted by several sources. First, DCRA received a letter dated October 28, 2009 from the former owner of Foggy Bottom Grocery, which indicates that she used the basement and first floor for retail purposes. *See* Exhibit F. Second, the 1997 BZA case concerning the Property, Application of George Washington University, states that at that time both the basement and first floor were used for retail purposes. Both of these sources support Foggy Bottom Grocery's position that the former owner used the basement and first floor as retail and the second floor for inventory storage and an office. *See* Pre-hearing submission of Foggy Bottom Grocery dated December 2, 2009 at p. 5

The past certificates of occupancies for this property also shed light on the historical use of the Property. A search of DCRA's records revealed that eleven (excluding the November 4 and August 21, 2008 COs) certificates of occupancy have been issued for the Property. All of these certificates are attached as Exhibit G. The certificates of occupancy show that the use of the Property has always been a grocery store and that no other use has ever been established there. *See* Exhibit G. The certificates also reveal inconsistency as to which floors were used for the grocery store over the past 50 years. This inconsistency can be partially explained by the fact that applicants for certificates of occupancy would not typically include storage space on their applications, even though storage space is a part of the principal grocery use. While these certificates of occupancy do not provide a definitive record as to how the property was historically used, they convincingly show that the grocery store has not been limited to the first floor and that no other use has ever been established in the basement or the second floor. Based on these facts, the Zoning Administrator reasonably determined that all three floors have been historically used (even if only for storage of inventory) as part of the grocery store. Therefore, the Zoning Administrator did not permit an unlawful expansion of the grocery store.

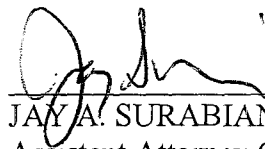
For the reasons set forth above, the Zoning Administrator did not err in issuing the November 4 CO to Foggy Bottom Grocery and this appeal should be denied.

Respectfully Submitted,

PETER J. NICKLES
Attorney General
for the District of Columbia

MELINDA M. BOLLING
Acting General Counsel

February 19, 2010



JAY A. SURABIAN (DC Bar # 977657)

Assistant Attorney General

Department Of Consumer And

Regulatory Affairs

Office of General Counsel

941 North Capitol Street, NE, Suite 9400

Washington, DC 20002

(202) 442-8403 (office)

(202) 442-9447 (fax)

jay.surabian@dc.gov

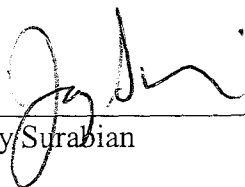
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Pre-Hearing Statement was served by first class mail, postage prepaid, this 17th day of February, to the following:

West End Citizens Association
c/o Barbara Kahlow
800 25th St., NW, #704
Washington, DC 20037

Rebecca Coder
Chair, ANC 2A
2501 M St., NW, #721
Washington, DC 20037

Constance Miller, Esq.
Manning and Sossamon PLLC
1120 20th Street, NW, Suite 700
Washington, DC 20036



Jay Surabian

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

TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557

EXHIBIT

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C_oF O

CERTIFICATE OF OCCUPANCY

THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE

PERMIT NO. CO1000323

Date: 11/04/2009

Address of Use:		Zone:	Ward:	Square:	Suffix:	Lot:
2140 F ST NW		R-5-E	2	0081		0811
Description of Occupancy:						
Retail Grocery Store (sales of cigarettes and medicine) with accessory prepared food shop						
Permission Is Hereby Granted To:		Trading As:		Floor(s) Occupied		PERMIT FEE:
Foggy Bottom Grocery, Llc		FO BO GRO		3		\$76.00
Property Owner:		Previous Use(s):		Occupant Load:		BZA Number:
George Washington University		Retail or Wholesale Store - M		0		
Type of Occupancy:	Occupied Sq. Footage:	Approved Use(1):				
Use Change	1835	Retail or Wholesale Store - M				
Conditions/ Restrictions:						
Retail Grocery Store (sales of cigarettes and medicine) with accessory prepared food shop						
As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.						
Director:		Permit Clerk:		Expiration Date:		
Linda K. Argo		Stacie Williams				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639						
FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557						
TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.						

CO 1000323

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 11/2/09

Receipt No. _____

Application Fee \$33.00 Non Refundable
Certificate Fee is Based on square footage

Cashier=s No. _____

INFORMATION

ON

PROPOSED

BUSINESS

1. Premise Address 2140 F St. NW Suite/Room No. N/A
2. Business Telephone No. 2/296-0125 Fax No. N/A Lot 0811 Square 0081
3. Trade Name of Business FOBO GRO
4. Is Business Incorporated? Y/N Y Partnership? Y/N _____ Sole Proprietor? Y/N _____ New/Existing EXISTING
5. Corporate Name FOGLEY BOTTOM GROCERY, LLC
6. President KRIS HAUT Vice President _____ Secretary _____
7. Sole Proprietor _____
8. Business Owner=s Mailing Address 2112 F St. NW #101 phone # (daytime) (215) 740-2663
WASH, DC 20037

INFORMATION

ON

OCCUPANCY

9. Ownership Change Partial Occupancy New Bldg. Use change Load Change B.Z.A No. _____
10. Proposed Use of Premises RETAIL GROCERY, CIGARETTES AND MEDICINE AND SANDWICH PREPARED FOOD SHOP.
11. Prior Use of Premises RETAIL, CIGARETTES AND MEDICINE GROCERY STORE, SANDWICH SHOP
12. Proposed Occupancy Load 45 Square Feet Occupied 1835
13. Floors to be Occupied BASEMENT, 1ST, 2ND Basement? ☒ Yes ☐ No
14. Is this Business Sexually Oriented according to the DC Zoning Regulations? Yes ☒ No ☐

INFORMATION

ON
ENTIRE
BUILDING

15. Building Owner THE GEORGE WASHINGTON UNIV. Telephone No. (202)-994-1000
16. Building Owner=s Address: _____
17. Square feet 1835 Numbers of floors 3 Basement YES

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.

ATTESTATION

&

SIGNATURE

18. Owner of Business K. D. H. H. Date 11/2/09
Signature

If Authorized Agent for owner of Business (Attach Authorization)

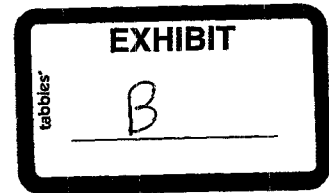
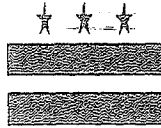
19. Agent=s Name _____ Date _____

Print Clearly

Signature

20. Agent=s Address _____

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



**Criteria Applicable for Accessory Prepared Food Shop Use for
Foggy Bottom Grocery at 2140 F St NW**

Certificate of Occupancy #1000323 (As per OZA, 11-4-2009)

1. No more than 15% of the total floor area should be utilized for the preparation of food to be sold from the prepared food shop.
2. No more than 15% of the sales for the overall grocery/prepared food shop should be from prepared food sales.
3. Prepared food shall remain an accessory use to the grocery use.
4. No cooking is permitted within the prepared food shop. All food must be prepared via warming ovens, toasters, microwaves, etc.

Bellow, Justin (DCRA)



From: Bellow, Justin (DCRA)
Sent: Thursday, November 05, 2009 9:27 AM
To: LeGrant, Matt (DCRA)
Subject: FW: FoBo - Basement/Kitchen Sq. ft.
Attachments: BASEMENT KITCHEN SQ. FT..pdf; Form Design FoBo Grocery 8-18-09.pdf

Justin Bellow
 Government of the District of Columbia
 Office of the Zoning Administrator | Department of Consumer and Regulatory Affairs
 941 N. Capitol St NE, Suite 2000 | Washington, DC 20002
 W 202.442.4648 | F 202.442.4871 | justin.bellow@dc.gov

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message.

From: Kris Hart [<mailto:khart@fobogro.com>]
Sent: Tuesday, November 03, 2009 11:48 AM
To: Bellow, Justin (DCRA)
Cc: 'Constance Miller'; 'M. Devlin Keating'; 'Daniel Blake'
Subject: FW: FoBo - Basement/Kitchen Sq. ft.

Justin:

Attached is the drawing of the kitchen area. As you can see, 236 square feet are allocated to preparing and cooking food. The total square footage of the business is 1835. That would make the prepared food accessory use at 12.86%. The remaining basement floor area is not exclusive to the prepared food shop use because there will be groceries on that level as well. I also attached the drawings of the business which were already submitted in more detail to DCRA.

Please let me know if you need anything else.

Best,

Kris

--

Kris Hart
 Owner
 FoBoGro
 Foggy Bottom Grocery
 est. 1946
 2140 F Street, NW
 Washington, DC 20037
 c. 215.740.2663

Owner
relaxed Spa & Tans
2112 F Street, NW Suite 101 & 306
Washington, DC 20037
c. (215) 740-2663
o. (202) 785-0006
f. (202) 775-1117
www.dcrelaxed.com

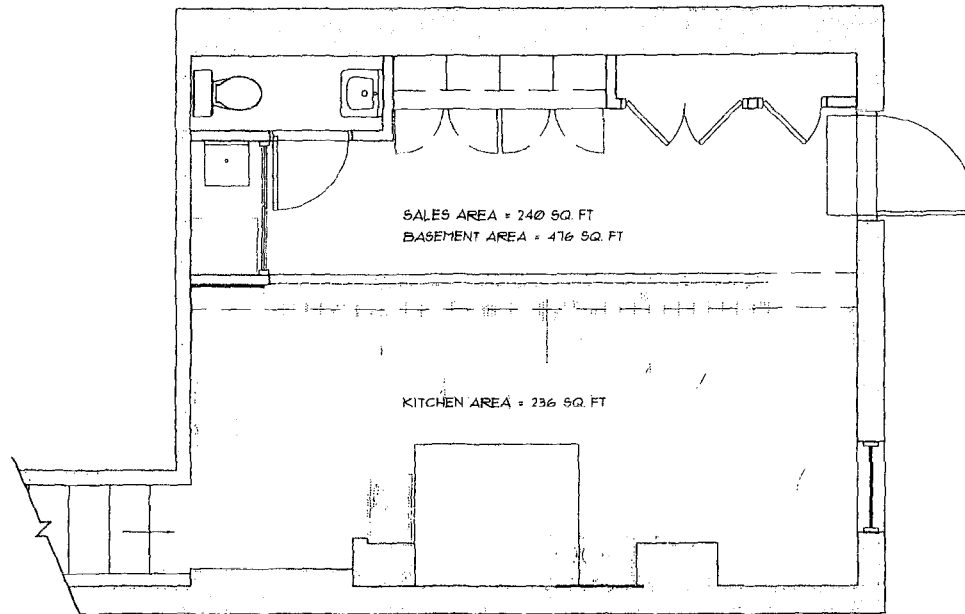
There is no better testimonial to our services than our grateful customers. Please go to our FoBo Facebook page to leave a comment or a review.

From: Anokhi Chandarana [mailto:achandarana@formdesign.net]
Sent: Tuesday, November 03, 2009 11:33 AM
To: khart@fobogro.com
Subject: FoBo - Basement/Kitchen Sq. ft.

Kris,
Please find the attached sketch with kitchen sq. ft. I hope this is what you are looking for.

Thank you,





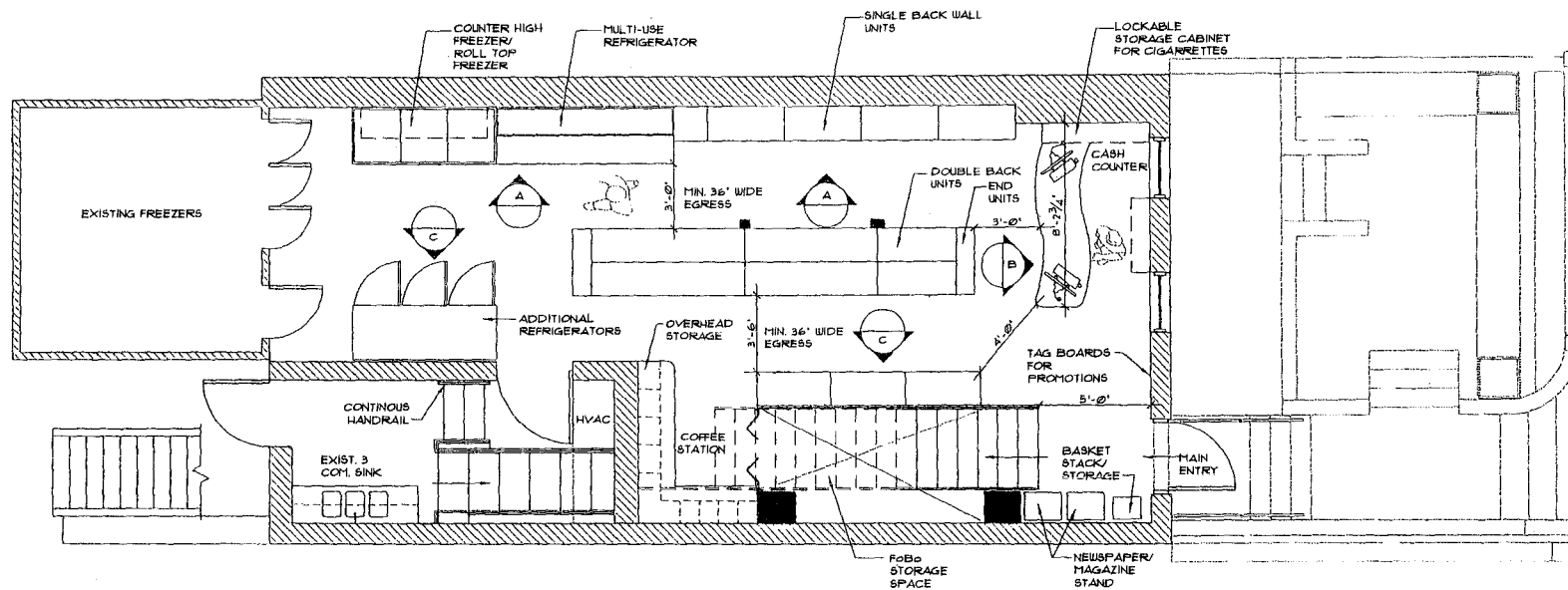
BASEMENT PLAN

SCALE: 1/4" = 1'-0"

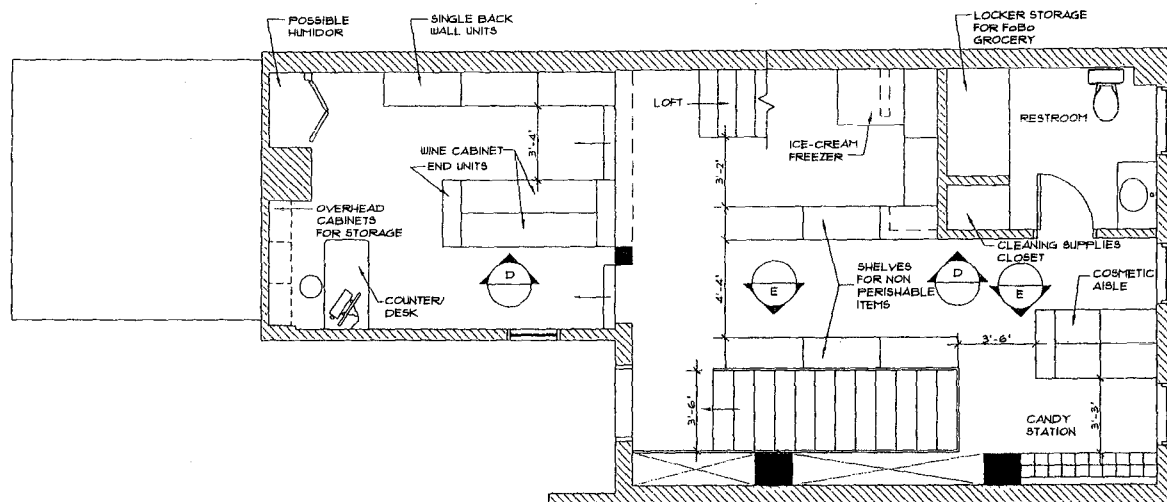
FOGGY BOTTOM GROCERY

FORMDESIGN 9669 MAIN STREET FAIRFAX VA 22031 PH: (703) 503 5185 FX: (703) 503 2055 FORMDESIGN.NET

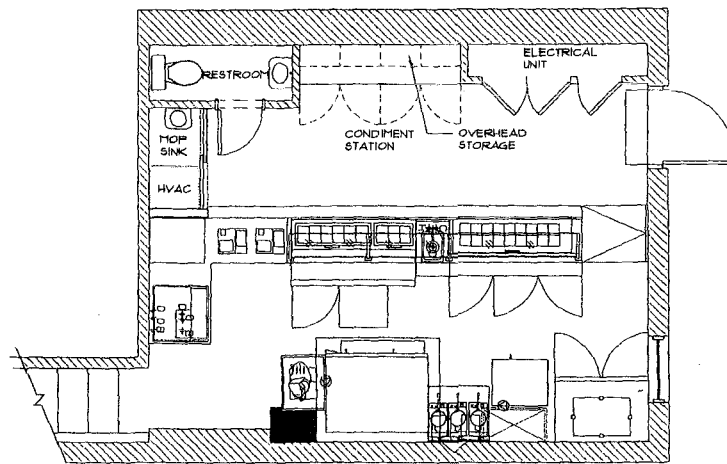
JOB NUMBER: 09-513
 DRAWING NUMBER: -
 DRAWN BY: AC DATE: 11/03/09
 SCALE: 1/4"=1' ISSUED: #1



FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"



SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"



BASEMENT - NEW WORK PLAN

SCALE: 3/16" = 1'-0"

FORMDESIGN 9669 MAIN STREET FAIRFAX VA 22031 PH: (703) 503 5185 FX: (703) 503 2055 FORMDESIGN.NET

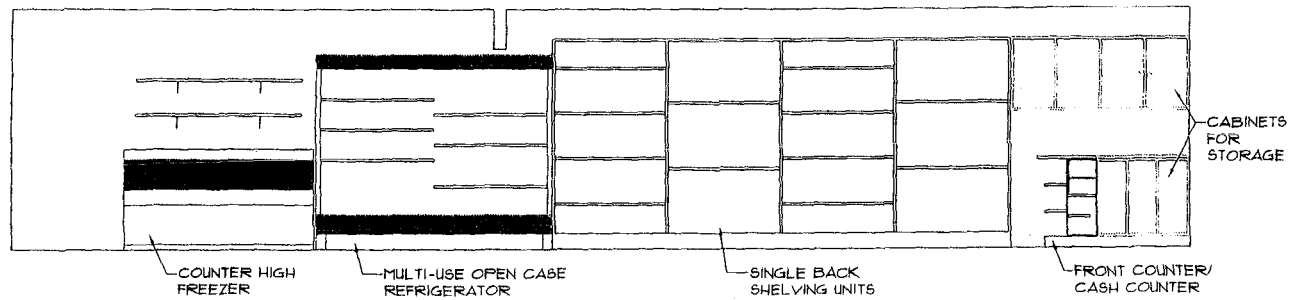
FoBo GROCERY

JOB NUMBER: 09-513

DRAWING NUMBER:

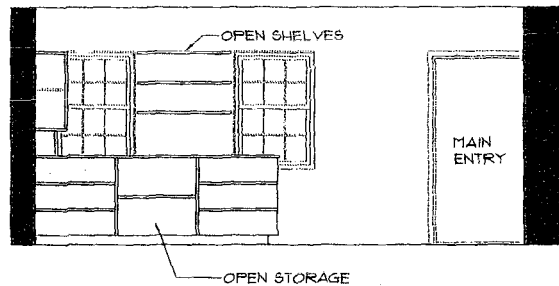
DRAWN BY: AC DATE: 08/06/09

SCALE: 3/16" = 1' ISSUED: #1



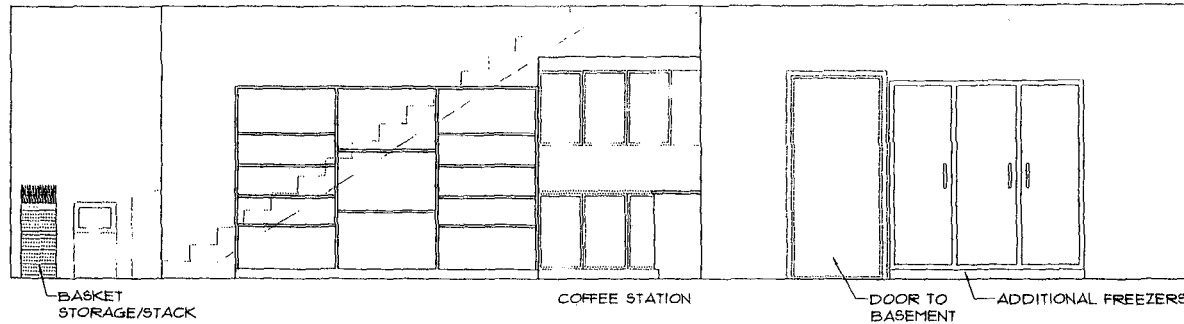
ELEVATION A

SCALE: 1/4" = 1'-0"



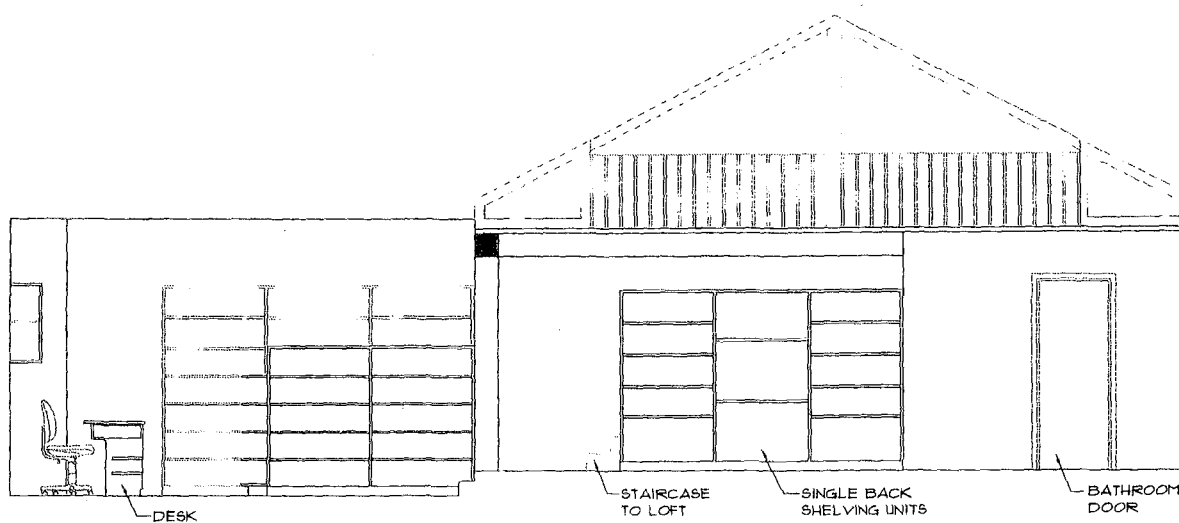
ELEVATION B

SCALE: 1/4" = 1'-0"



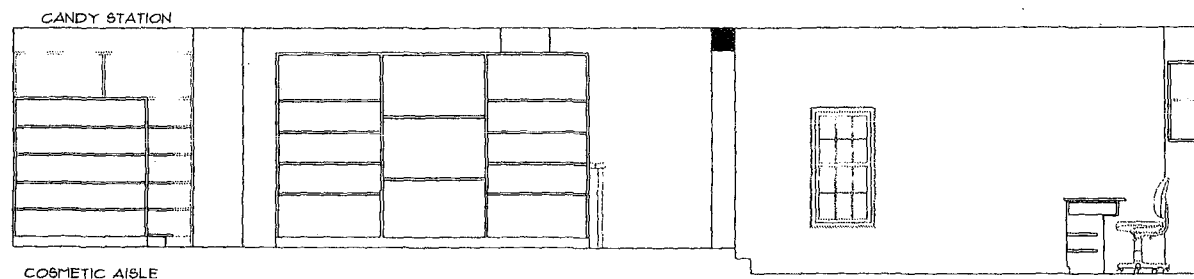
ELEVATION C

SCALE: 1/4" = 1'-0"



ELEVATION D

SCALE: 1/4" = 1'-0"



ELEVATION E

SCALE: 1/4" = 1'-0"

FORMDESIGN

9669 MAIN STREET FAIRFAX VA 22031 PH: (703) 503 5185 FX: (703) 503 2055 FORMDESIGN.NET

FoBo GROCERY

JOB NUMBER: 09-513

DRAWING NUMBER:

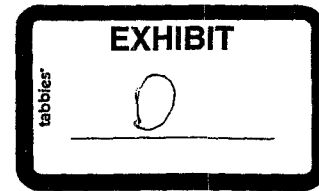
DRAWN BY: AC DATE: 08/06/09

SCALE: 1/4" = 1' ISSUED:

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

October 14, 2009

**VIA PERSONAL SERVICE and
U.S. FIRST CLASS MAIL**



To: George Washington University, Owner
Foggy Bottom Grocery, LLC
2140 F Street, NW
Washington, DC 20037-2712

Foggy Bottom Grocery, LLC
c/o Kristopher D. Hart
2112 F Street, NW
Washington, DC 20037-2712

Foggy Bottom Grocery, LLC
c/o Kristopher D. Hart, Registered Agent
2140 F Street, NW
Washington, DC 20037-2712

NOTICE TO REVOKE CERTIFICATE OF OCCUPANCY No. 0800102

This is official notice ("Notice") from the Department of Consumer and Regulatory Affairs ("DCRA"), that Certificate of Occupancy ("CofO") No. 0800102 is revoked. The specific grounds for the revocation are found in 12A DCMR §110.1.2.1, which states that "the Department may review change of ownership applications ... to determine if there has been a change in use ... and certificates of occupancy that have been determined to have been erroneously issued on the basis of a change in ownership shall be revoked."

On August 21, 2008, you submitted a change of ownership application for the property located at 2140 F Street, NW ("the Property"). Your application indicated that the prior use of the premises was a "Grocery Store (same as proposed)". DCRA approved your application and issued you a new certificate, No. 0800102, that day.

Pursuant to 12A DCMR §110.1.2.1, DCRA reviewed your change of ownership application to determine if there was a change in use of the Property. Subsequently, DCRA determined that the formerly approved use for a "cigarettes and medicine/grocery store" was changed in your change of ownership application by the addition of the terms "sandwich shop". Use of a structure as a "sandwich shop" in an R-5-A zone is not a matter-of-right use, and requires a variance from the Board of Zoning Adjustment before a CofO authorizing such use may be issued. Therefore, CofO No. 0800102 was issued in error pursuant to 12A DCMR § 110.1.2, which states that "[f]or changes in ownership of

structures ...with an existing valid Certificate of Occupancy, a new Certificate of Occupancy shall be issued in the name of the new owner (without re-inspection), provided there is no proposed change in use." Because you changed the prior use of the Property in your application by the adding a proposed "sandwich shop use", CofO No. 0800102 was issued in error.

Therefore, DCRA is revoking CofO No. 0800102 effective ten (10) business days from the mailing of this Notice.

Pursuant to D.C. Official Code § 6-641.09(a), it is unlawful to use a building without a valid Certificate of Occupancy, other than as a single-family dwelling. Violations are punishable by a civil fine of \$2,000.

RIGHT TO APPEAL AND SHOW CAUSE

You have the right to appeal the revocation of your CofO. 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. Filing an appeal of this revocation does not automatically stay the execution of the revocation. Any questions about this Notice may be directed to the Office of the Zoning Administrator at (202) 442-4576.

Oct 14, 2009
Date

Matthew LeGrant
Matthew LeGrant
Zoning Administrator

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 -

EXHIBIT

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C_{of}O

CERTIFICATE OF OCCUPANCY

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL
WORK IS COMPLETED AND APPROVED

PERMIT NO. CO0800102

Date: 08/21/2008

Address of Use:		Zipcode:	Zone:	Ward:	Square:	Suffix:	Lot:
2140 F ST NW				2	0081		0811
Description of Occupancy:							
retail,clgarettes and medicine,grocery store,sandwich shop							
Permission Is Hereby Granted To:		Trading As:		Floor(s) Occupied		PERMIT FEE:	
Foggy Bottom Grocery Ltc						\$76.00	
Previous Use(s):		Approved Use(1):		Approved Use(2):			
Retail or Wholesale Store - M		Retail or Wholesale Store - M					
Type of Occupancy:		BZA Number:		Occupied Sq. Footage:		Occupant Load:	
Ownership Change				1835			
Conditions/ Restrictions:							
THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHNAGE in the type of business, ownership of business, or part of premises used therefore, will render this Certificate VOID and a new Certificate must be obtained.							
Director: Linda K. Argo		Permit Clerk Joseph Bemby		Expiration Date:			
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.							

CO 29016

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
APPLICATION FOR CERTIFICATE OF OCCUPANCY**

Date 08/21/2008

Receipt No. _____

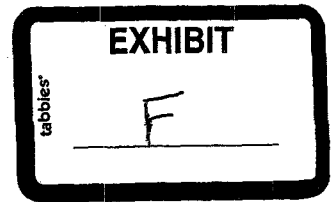
Application Fee \$33.00 Non Refundable
Certificate Fee is Based on square footage

CO 0800102

Cashier's No. _____

INFORMATION ON PROPOSED BUSINESS	1 Premise Address <u>2140 F STREET NW</u> Suite/Room No. <u>—</u>	
	2 Business Telephone No. <u>(202) 317-4652</u> Fax No. <u>—</u> Lot <u>—</u> Square <u>—</u>	
	3 Trade Name of Business <u>—</u>	
	4. Is Business Incorporated? ☒ Y ☐ N Partnership? ☐ Y ☐ N Sole Proprietor? ☐ Y ☐ N New/Existing <u>—</u>	
	5 Corporate Name <u>FOGGY BOTTOM GROCERY, LLC</u>	
	6 President <u>KRIS HART</u> Vice President <u>—</u> Secretary <u>—</u>	
	7 Sole Proprietor <u>—</u>	
	8. Business Owner's Mailing Address <u>2112 F STREET, NW #101</u> phone # (daytime) <u>—</u>	
INFORMATION ON OCCUPANCY	9. ☒ Ownership Change ☐ Partial Occupancy ☐ New Bldg. ☐ Use change ☐ Load Change ☐ B Z A No <u>—</u>	
	10. Proposed Use of Premises <u>GROCERY / RETAIL SALES / SANDWICH SHOP</u> <u>CIGARETTES AND MEDICINE / GROCERY STORE NOT SEXUALLY ORIENTED</u>	
	11 Prior Use of Premises <u>GROCERY STORE (same as proposed)</u>	
	12 Proposed Occupancy Load <u>15</u> Square Feet Occupied <u>1835</u>	
	13. Floors to be Occupied <u>2</u> Basement? ☒ Yes ☐ No	
INFORMATION ON ENTIRE BUILDING	14 Is this Business Sexually Oriented according to the DC Zoning Regulations? ☐ Yes ☒ No	
	15 Building Owner <u>GEORGE WASHINGTON UNIV.</u> Telephone No. <u>(202) 994-1000</u>	
	16 Building Owner's Address <u>—</u>	
ATTESTATION & SIGNATURE	17 Square feet <u>1835</u> Numbers of floors <u>3</u> Basement <u>YES</u>	
	I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.	
	18 Owner of Business <u>[Signature]</u> Date <u>8.21.08</u>	
	If Authorized Agent for owner of Business (Attach Authorization)	
	19 Agent's Name <u>—</u> Date <u>—</u> Print Clearly Signature	
20 Agent's Address <u>—</u>		

October 28, 2009



To Whom It May Concern:

As the former owner and tenant of the Foggy Bottom Grocery, I write to inform you of my knowledge of the ongoing operations in the building that occurred prior to my selling the business to Kris Hart. In the past the basement was used to prepare and sell sandwiches for people to eat off-premises.

An owner previous to me was known particularly well for their Italian and Roast Beef sandwiches and even catered events with their meals. I used the downstairs kitchen to make and sell pizza, which I was ordered by the BZA not to do when the primary purpose became delivering pizzas to off-campus locations; this portion of the business was over 50%. We also were found in violation for allowing students to use the benches on the front patio. Regardless, I maintained my delicatessen license until the day I sold the business and continued to advertise and sell sandwiches, subs and salads from my store. The license was valid at the date of sale.

I hope this serves to give you better clarification of the operations at 2140 F Street, NW, Foggy Bottom Grocery, which I still love dearly to this day!

Sincerely,

A handwritten signature in cursive script, appearing to read "Meseret Bekele".

Meseret Bekele

Form 601 - CPB

CERTIFICATE OF OCCUPANCY

No. **B 13685**

Washington, D.C., **OCTOBER 2, 19 58**

Permission is hereby granted to **JAMES LOUIS RUTHERFORD**
 to use the **FIRST** floor(s) of the building located on Lot **811** Square **81**
 known as premises **2140 F STREET, N.W.** for the following
 purpose(s): **GROCERY STORE**

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE **R-5-C**

FEE **\$ 10.00**

DEPT. OF LICENSES & INSPECTIONS, GOVT. OF DIST. OF COL.

CHIEF ~~XXXXXXXXXX~~ of Permits.

By Mary O. Savage
 Permit Clerk

OFFICE COPY

EXHIBIT

tabbies

6

CERTIFICATE OF OCCUPANCY

No. **B 30215**Washington, D.C., **JULY 18TH**, 19**61**Permission is hereby granted to **JOHN THOMAS HENDERSON**to use the **FIRST** floor(s) of the building located on Lot **811** Square **81**known as premises **2140 F STREET, N.W.** for the followingpurpose(s): **GROCERY STORE**

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF LICENSES & INSPECTIONS, GOV'T. OF DIST. OF COL.

SEE IMPORTANT NOTICE ON REVERSE SIDE HEREOF

ZONE **R-5-D**FEE \$ **10.00**

Chief, Permit Branch

By

Mary Savage

Permit Clerk

CERTIFICATE OF OCCUPANCY

No. B 83019

Washington, D.C., AUGUST 30, 19 72

Permission is hereby granted to DEB OCK WITH
to use the FIRST floor(s) of the building located on Lot 811 Square 81
known as premises 2140 W STREET, N. W. for the following
purpose(s): GROCERY STORE, RETAIL SALES

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

ZON:

R-5-D

FEE \$ 16.00

Chief, Permit Branch

By

Lane M. Patterson

Permit Clerk

OFFICE COPY

CERTIFICATE OF OCCUPANCY

No. **D 96079**Washington, D.C., 12 19 75, 19Permission is hereby granted Sun unig Kimto use the 1st floor(s) of the building located on Lot 811 Square 81known as premises 2140 F STNW for the followingpurpose(s): Retail Grocery

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

ZONE

R 5 D

FEE \$ 16.00

Chief, Permit Branch

By

[Signature]
Permit Clerk

OFFICE COPY

Form ED-9-601

CERTIFICATE OF OCCUPANCY

No. B104086

Washington, D.C., ~~SEPTEMBER 29~~ 19 ~~77~~

Permission is hereby granted to Lloyd Louis Courbis & John Louis Courbis
 to use the first & second floor(s) of the building located on Lot 811 Square 81
 known as premises 2140 F Street NW for the following
 purpose(s): RETAIL GROCERY

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
 AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
 ONLY for the premises, or part thereof, and for the purpose(s), indicated
 above, and IS NOT TRANSFERABLE to another person or premises under ANY
 conditions. ANY CHANGE in the type of business, ownership of business, or
 part of premises used therefor, will render this Certificate VOID and a NEW
 Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE

FEE \$ 20.10

R-5-D

By Richard Syon Chief, Permit Branch
 Permit Clerk

CERTIFICATE OF OCCUPANCY

No. B104099

Washington, D.C., ~~SEPTEMBER 30~~, 19 ~~77~~

Permission is hereby granted to Lloyd Louis Courembia & John Louis Courembia
to use the 1st & 2nd floor(s) of the building located on Lot 811 Square 81
known as premises 2140 F Street NW for the following
purpose(s): RETAIL GROCERY

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
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conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

OFFICE COPY

ZONE

FEE \$ no-fee

R-5-D

Chief, Permit Branch

By

R. A. Horak
Permit Clerk

CERTIFICATE OF OCCUPANCY

No. B131917

Washington, D.C., 8-16-82, 19

Permission is hereby granted to ~~RYH~~ Lloyd L. Courembie & John L. Courembie

to use the 2nd floor(s) of the building located on Lot 811 Square 81

known as premises 2140 F St. N. W for the following

purpose(s): Retail Grocery---- Business is not sexually

Oriented.----- Dup. to B104099----Iss. 9-30-77

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or
part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained

ZONE

FEE \$ 7.00

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT OF DIST OF COL
OFFICE COPY

By

Chief, Permit Branch

Permit Clerk

Form LHP-501
(Rev. 9/79)

CERTIFICATE OF OCCUPANCY

No. **E121228**
9/9

Washington, D.C.

Permission is hereby granted to Dorothy Welch Conkumble
 to use the 1st floor floor(s) of the building located on Lot 81E Square 81
 known as premises 2140 9th St. N.W. for the following
 purpose(s): Grocery Retail

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
 AT ALL TIMES. IT IS VOID DEFINITELY, unless an expiration date is stated,
 ONLY for the premises or part thereof, and for the purpose(s) indicated
 above, and IS NOT TRANSFERABLE to another person or premises under ANY
 conditions. ANY CHANGE in the type of business, ownership of business, or
 part of premises used therefor, will render this Certificate VOID and a NEW
 Certificate must be obtained.

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE

FEE \$

20.00

E-1-D

Chief Permit Branch
 By Leslie S. [Signature]
 Permit Clerk

CERTIFICATE OF OCCUPANCY

No. B131917

Washington, D.C., 8-16-82, 19

Permission is hereby granted to ~~XXX~~ Lloyd L. Courembis & John L. Courembis

to use the 2nd floor(s) of the building located on Lot 811 Square 81

known as premises 2140 F St. N. W for the following

purpose(s): Retail Grocery--- Business is not sexually

Oriented.----- Dup. to B104099---Iss. 9-30-77

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES IT IS VALID INDEFINITELY, unless an expiration date is stated,
ONLY for the premises, or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
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part of premises used therefor, will render this Certificate VOID and a NEW
Certificate must be obtained

ZONE

FEE \$ 7.00

DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS GOV'T OF DIST OF COL
OFFICE COPY

By

Chief, Permit Branch

Permit Clerk



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P O. BOX 37200 — Washington, D.C. 20013-7200

No. B 156848

CERTIFICATE OF OCCUPANCY

May 11, 1989

(date)

Permission is hereby granted to ADELANI & ADELOLA EKO
to use suite(s) _____ on the second floor(s)
of the building located on lot(s) 811 square 81
known as premises 2140 F Street, N.W. for the following
purpose(s) Retail Sale of Grocery
Not sexually oriented. []

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY
for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT
TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE
in the type of business, ownership of business, or part of premises used therefor, will
render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R-5-D FEE \$ 27.00

Donald G. Murray, Director

By

Designee

OFFICE COPY

86-P-3601 wd112

SCANNED 5.01.96

0-76742



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

No. B 168751

CERTIFICATE OF OCCUPANCY

June 14, 1994
(date)

Permission is hereby granted to Mesco, Inc.
to use suite(s) _____ on the Bsmt. & 2nd floor(s)
of the building located on lot(s) 811 square .81
known as premises 2140 F Street, N.W. for the following
purpose(s) Grocery Store
Not Sexually oriented [Su]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES
AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY
for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT
TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE
in the type of business, ownership of business, or part of premises used therefor, will
render this Certificate VOID and a NEW Certificate must be obtained.

ZONE

FEE \$ 27.00

R-5-D

Aubrey H. Edwards, Director

By

Designee

OFFICE COPY

SCANNED 5.01.96

C-16742



District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
P.O. Box 37200 — Washington, D.C. 20002-7200

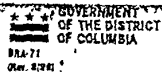
CO 4759 138705

CERTIFICATE OF OCCUPANCY

9/18/00 (date)

Permission is hereby granted to MESCO INC.
to use suite(s) Basement & 2nd on the 811 floor(s)
of the building located on lot(s) 2140 F ST NW square 81
known as premises CIGARETTES AND MEDICINE/GROCERY STORE for the following
purpose(s) NOT SEXUALLY ORIENTED 32402

BZA # _____ EXPIRATION DATE _____
THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.
FEE \$ 32.00
Director L. JORDAN
Designee
OFFICE COPY
98-0802PM5



Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration

Occupancy Payer's Receipt

804636

This is Not a License

Note: A Fee of \$50.00 is imposed
for Dishonored checks

WHITE—APPLICANT

CANARY—FINANCE & REVENUE

Stores 1001
Ref # 09/18/00 at 15:10 CTR 11
Receipt # 117076 Amount \$444.25.00
EX-1001 P.D. CERT. OF OCCUP. PERMIT

Amount \$ 75.00
Credit: 1216
Pay to D.C. Treasurer

PINK—DCRA
98-0802PM5

This Space For Use of the D.C. Treasurer Only