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October 27, 2013

Board of Zoning Adjustment
One Judiciary Square
441 4th Street N.W., 2nd Floor South
Washington, DC 20001

Attention: Clifford Moy

RE Appeal No. 18031-B

Dear Mr. Moy

Enclosed are an original and 10 copies of Intervenor's Brief in the above captioned matter

Please also note that I am no longer with Manning Sossamon PLLC ; the firm is not in business. My current address is

2010 Corporate Ridge Drive, Suite 700, McLean, VA 22102.

Thank you

Yours truly,



Constance J. Miller

Enclosures

BOARD OF ZONING ADJUSTMENT

District of Columbia

CASE NO. 18031-B

EXHIBIT NO. 37

2010 Corporate Ridge Drive, Suite 700, McLean, Virginia 22102

Board of Zoning Adjustment
District of Columbia
CASE NO.18031
EXHIBIT NO.37

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

APPEAL NO. 18031-B OF WEST END CITIZENS ASSOCIATION

INTERVENOR'S BRIEF AS ORDERED ON OCTOBER 8, 2013

COMES NOW Foggy Bottom Grocery, LLC ("FoBoGro"), intervenor and operator of the business and subject property located at 2140 F Street NW, Washington, DC, and through undersigned counsel submits its brief regarding FoBoGro's equitable defenses of laches and estoppel according to the orders made on or about October 8, 2013 by the Board of Zoning Adjustment ("BZA")

I. FOBOGRO ASSERTED TIMELINESS ISSUES BY WAY OF THE EQUITABLE DEFENSES OF LACHES AND ESTOPPEL

On or about December 2, 2009, FoBoGro responded¹ to the West End Citizens Association ("WECA") Notice of Appeal regarding Certificate of Occupancy CO1000323 ("2009 C of O") The Zoning Administrator issued the 2009 C of O to replace Certificate of Occupancy CO0800102 ("2008 C of O") after meeting with FoBoGro on October 21, 2009 about the relevant Zoning Decisions and related actions taken with other municipal agencies as necessary for opening a business in the District of Columbia The 2009 C of O was issued on essentially the same terms as the 2008 C of O because the Zoning Administrator was convinced it was proper to do so Because revocation of the 2009 C of O (and the current 2010 C of O issued after the February 23, 2010 hearing) would be extremely prejudicial and damaging, FoBoGro urged the equitable defenses of laches and estoppel as follows

¹ See BZA File Exhibit 9, FoBoGro's Letter and Motion to Dismiss December 2, 2009 The substance of FoBoGro's argument is the same as a plea to bar according to 11 DCMR § 3112.2 (a) even though FoBoGro did not specifically reference the regulation.

Please accept this letter² as Foggy Bottom Grocery's Motion to Dismiss the appeal
The bases of this motion are

4 Estoppel and laches

Laches is defined as "neglect to assert a right or claim which, taken together *with lapse of time and other circumstances cause prejudice to an adverse party, operates as a bar in court of equity*" In this instance, WECA's efforts to attack the August 21, 2008 Certificate of Occupancy arose more than 12 months after it was issued and after hundreds of thousands of dollars had been invested in or committed to the property, leases, contracts with vendors, and renovations Laches applies because the WECA did not pursue any actions until the renovations to the building commenced and it was clear that resources had been committed and expended

In addition, the continuing efforts of WECA to pursue revocation or other actions on the November 4, 2009 Certificate of Occupancy before the Board of Zoning Adjustment are subject to estoppel To show that estoppel is justified, the aggrieved party, in this case, Foggy Bottom Grocery, must show (a) that it acted in good faith, (b) on the affirmative acts of a municipal corporation, (c) made expensive and permanent improvements in reliance on the affirmative acts of the municipal corporation, and (d) the equities strongly favor that party (Emphasis added.)³

The BZA is at liberty to consider equitable defenses and has done so before Zoning Decisions show that laches will be applied to bar an appellant, like WECA, when there are clear and compelling circumstances ⁴ "Laches is the principle that 'equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant'" ⁵ "Laches arises when an individual waits an unreasonable amount of time before bringing an action, thereby prejudicing the party against whom the action is brought."⁶ Laches operates in equity to bar WECA's appeal of the 2009 C of O, even though as a matter of law WECA appealed that C of O within 60 days of a Zoning Decision In recognition of its equity " laches requires that the entire course of events be examined" ⁷

² See BZA File Exhibit 9 at 7

³ *Sisson v District of Columbia Board of Zoning Adjustment*, 805 A 2d 964, 972 (D C 2002)

⁴ *Id* at 971

⁵ *Kuri Bros, Inc v District of Columbia Bd. of Zoning Adjustment*, 891 A 2d 241, 248 (D C 2006)

⁶ BZA Appeal No 16998 of Advisory Neighborhood Commission 5B at 8, (September 9, 2003)

⁷ *Id*

Estoppel applies as a bar to a municipality⁸ when a party has acted in good faith, on the affirmative acts of a municipal corporation, and made expensive improvements in reliance on a Zoning Decision like issuing a Certificate of Occupancy⁹ The facts and balance of equities favor FoBoGro to stop the BZA from revoking FoBoGro's current C of O

II. REVOCATION OF THE 2008 CERTIFICATE OF OCCUPANCY RENDERED IT A NULLITY BUT DOES NOT NEGATE NOTICE OF IT BEING ISSUED.

Even though WECA's appeal of the 2009 C of O was found timely,¹⁰ it was too late under a laches analysis due to multiple instances of notice about renovations at FoBoGro, the detriment to FoBoGro as an innocent party and the equities favoring FoBoGro WECA had several instances of constructive and actual notice as to zoning or other zoning related actions affecting the property long before the 2009 C of O There were the 2008 C of O dated August 21, 2008, FoBoGro's June 2009 application for transfer of the former owner's Alcoholic Beverage Regulation Administration ("ABRA") Class C liquor license on account of a "substantial change," approval by the Commission of Fine Arts on July 16, 2009 of certain building plans and exterior treatments, and Building Permit B0907038 issued to The George Washington University on August 8, 2009 It is fair to suggest that at least one of these events prompted WECA to pursue the Zoning Administrator to revoke the 2008 C of O¹¹ After WECA challenged FoBoGro's ABRA application in mid-2009¹² it pursued revocation of FoBoGro's 2008 C of O¹³

⁸ *Sisson, supra* note 2 at 972, n. 15 (quoting *Goto v D C Board of Zoning Adjustment*, 423 A 2d 917, 925, n. 15 (D C 1980))

⁹ BZA Appeal 17109 of Kalorama Citizen's Association (November 8, 2008) *See also District of Columbia v Cahill*, 60 App D C 342, 54 Fed 2d 453 (1931)(City estopped to revoke certificate of occupancy due to the good faith of the parties, mistakes of the municipal agency, the significant cost and change of position, and the balance of equities in favor of the property owner)

¹⁰ BZA Order No. 18031, Appeal of the West End Citizens Association at 3 ¶ 19 (February 23, 2010)

¹¹ *See generally* BZA File Exhibit 18, Statement of Barbara Kahlow at 2 and 6

¹² *See* BZA Exhibit 19, Testimony of Sara Maddux and BZA Exhibit 18, Testimony of Barbara Kahlow before the Board of Zoning Adjustment, Case #18031 on February 23, 2010

¹³ Testimony indicated that WECA's representative met with the Zoning Administrator because WECA disagreed with the terms of the 2008 C of O

Historically, reversal or revocation of building and like permits or certificates of occupancy renders such a Zoning Decision null and void ¹⁴ When the Zoning Administrator revoked the 2008 C of O on October 14, 2009, it became null and void, as if never issued Even so, revoking the 2008 C of O did not nullify the constructive or actual notice of it, nor did revoking the 2008 C of O nullify notice of the Building Permit B 0907038, which WECA did not appeal Beginning with the August 21, 2008 C of O, the several instances of notice regarding the FoBoGro site means that WECA slept on its right to appeal a Zoning Decision for over a year

III. LACHES IS A BAR TO WECA'S DELAY AND THE PREJUDICIAL AFFECT OF ITS DELAY ON OTHERS.

WECA sought revocation of the 2008 C of O for the sole purpose of appealing any C of O subsequently issued. FoBoGro asserts that any appeal by WECA in this matter was unreasonably late when considering the totality of circumstances and certain changes in law regarding the issues highlighted by this case ¹⁵ By failing to appeal Building Permit B0907038, WECA sanctioned renovations that were completed according to permits and certificates issued by the Zoning Office, while at the same time disputing the full use of the renovations, a maneuver that causes the greatest harm to FoBoGro

¹⁴ See BZA Appeal No 18027-A of Mehmet Kocak and Philly Pizza & Grill, Inc (February 16, 2010) ("The issuance of C of O No CO0903354 rendered C of O No CO0800124 null and void "); BZA Appeal No 8335 of Kalorama-Shendan Neighborhood Council (September 22, 1965) (Certificate of Occupancy wrongly issued was revoked as null and void), BZA Appeal No 8317 of Martin Zuesse (June 16, 1965)(Certificate of occupancy of the premises for chancery purposes that expired became null and void on and was canceled), BZA Appeal No 8296 Citizens Assn of Georgetown (August 18, 1965) (Director's issuance of an occupancy permit was in error, and therefore reversed as null and void.), BZA Appeal No 16701 of Foggy Bottom and West End Advisory Neighborhood Commission 2A (June 5, 2001) (WECA successfully sought to have issuance of building permit declared null and void by reversing Zoning Administrator's decision to issue the permit to The George Washington University)

¹⁵ See *Gatewood v D C Water & Sewer Authority*, D C Court of Appeals Opinion in Appeal No 12 AA-368 (Decided July 3, 2013), citing *Smith v United States*, 984 A 2d at 200 (D C 2009) FoBoGro raised the issues of laches and estoppel because WECA's appeal was timely according to 11 DCMR 3112.2 (a) Although it raised timeliness in substance as a bar to WECA's appeal, to FoBoGro's disadvantage, federal courts only recently and during the pendency of the matters affecting this case, settled the issue that regulations such as 11 DCMR 3112.2 (a) operate as a claims handling mechanism, which can be waived as opposed to a jurisdictional bar which can be raised at anytime

A. WECA has paid attention to changes to the property at issue for years and had actual and constructive notice regarding Zoning Decisions.

WECA has been historically vigilant respecting the uses of properties on and adjacent to The GWU campus,¹⁶ it challenged the prior business owner's use of this property in 1997¹⁷ WECA's attentiveness to this and surrounding properties supports the application of laches Given its admitted vigilance WECA would have observed the gradual deterioration of the premises between 1998 and 2008, the reduced hours and temporary closure in late 2008

B. Nullifying the 2008 C of O frustrates other objectives of Zoning.

Nullifying the 2008 C of O by revocation retrospectively replaced it with Building Permit B0907038 as a first Zoning Decision, which WECA notably did not appeal Because WECA focused its appeal on the 2009 C of O, the validity of the Building Permit B0907038 was not contested before the BZA. The Zoning Office issued Building Permit B0907038 only after a comprehensive review of the architectural drawings, diagrams, specifications and plans for the extensive renovations under roof at FoBoGro Like the 2008 C of O issued by the Zoning Office the renovation plans show use of the entire 1835 square feet of the premises¹⁸

Ironically, in the absence of equity, nullifying the 2008 C of O essentially confounds the principle cited in *Basken* and claims handling application of 11 DCMR § 3112.2 (a) (only recently decided), both of which hinge on the first Zoning Decision being notice for purposes of timely appeal The absurd affect that nullifying the 2008 C of O and applying *Gatewood* to 11 DCMR § 3112.2 (a) have in this case is that Building Permit B 0907038 issued by the Zoning Office is now the first Zoning Decision and stands as valid to authorize renovations to 1835

¹⁶ The West End Citizens Association has been a participant before the BZA, according to one inquiry, in over 363 cases, 157 of which appear to involve The GWU campus and properties owned by The GWU See BZA Appeal No 16259 See also BZA File Exhibit 19, Statement of Sara Maddox, a witnesses who testified for WECA in February 2010, that lives within a block of FoBoGro and admitted to be particularly cognizant of the location since 1970

¹⁷ Application No 16259 of the George Washington University (October 1, 1997)

¹⁸ See BZA file Exhibit 16, FoBoGo's Pre-Hearing Statement, Hr'g Stmt Exhibit 6

square feet, while a successful appeal of the 2009 C of O by WECA (or revocation of the current C of O by the BZA) would result in having no ability to use the space once renovated according to approvals by the same Zoning Office ¹⁹

C. The prejudicial impact to FoBoGro is substantial and already recognized by the BZA.

Kris Hart, managing member of Foggy Bottom Grocery, LLC, applied for the 2008 C of O on or about August 21, 2008²⁰ due to interest in buying the FoBoGro business. He reasonably relied on the validity of the 2008 C of O issued by the Zoning Office. Because the 2008 C of O stood unchallenged for more than 60 days, FoBoGro and The GWU commenced the following

- 1 On behalf of FoBoGro, Mr. Hart executed the purchase of the business from Mesco Inc. on November 20, 2008 ²¹
- 2 In early to mid 2009, FoBoGro negotiated and executed (a) a long-term lease with The GWU, the property owner, for the premises and (b) other agreements for renovations that would be necessary to restore the premises to an appealing appearance and compliance with all building and other codes ²²
- 3 FoBoGro engaged an architectural and construction firm in 2009 to redesign the premises for its best and most beneficial use, compliance with building codes, and the Commission on Fine Arts requirements for historical sites ²³
- 4 FoBoGro obtained approvals from the Commission on Fine Arts on July 16, 2009 as part of the process for obtaining the building and demolition permits necessary for the renovations ²⁴

¹⁹ *Basken v. D.C. Bd. of Zoning Adjustment*, 946 A.2d 356 (D.C. 2008)

²⁰ Appeal No 18031 of West End Citizens Association at 3 ¶ 10

²¹ *Id.* at 3 ¶ 9. See also BZA File Exhibit 16, FoBoGro's Pre-Hearing Statement 2-5, and Hr'g Stmt. Exhibit 4

²² See note 9 *supra*.

²³ See BZA File Exhibit 16, FoBoGro's Pre-Hearing Statement, Hr'g Stmt. Exhibit 6

- 5 FoBoGro began paying taxes to the District of Columbia respecting the property as required by its lease with The GWU
- 6 FoBoGro and The GWU submitted a set of plans dated August 6, 2009 and external approvals to the Zoning Office, which issued Building Permit B0907038 on August 10, 2009 to The GWU for the renovations ²⁵
- 7 The construction firm employed by FoBoGro commenced construction on or before October 1, 2009
- 8 After being contacted by WECA, on October 14, 2009 the Zoning Administrator signed a letter of revoking the 2008 C of O within 10 days of the letter ²⁶
- 9 FoBoGro suspended construction and plans to open the newly renovated business after receiving the letter revoking the 2008 C of O and met with the Zoning Administrator on October 21, 2009 ²⁷
- 10 FoBoGro provided relevant documentation including plans already submitted to and approved by the Zoning Office and Commission on Fine Arts, the Zoning Administrator then issued C of O 1000323 dated November 4, 2009 on substantially the same terms as the 2008 C of O ²⁸
- 11 WECA appealed the 2009 C of O on November 10, 2009

²⁴ *Id* at Hr'g Stmt Exhibit 10

²⁵ *Id* at Hr'g Stmt Exhibits 6 and 8

²⁶ BZA File Exhibit 22, BZA Order in Appeal 18031 at 8 ¶ 11

²⁷ *See* BZA File Exhibit 16, FoBoGro's Pre-Hearing Statement at 4

²⁸ *Id* at 9 ¶¶ 12-15 Almost immediately after the Zoning Administrator revoked the 2008 C of O, he reissued the 2009 C of O with the same substantive terms and parameters, regarding which the D C Court of Appeals observed.

[The 2009 C of O] was almost identical to the August 2008, C of O. It again described the occupancy as a retail grocery store and stated the occupied square feet to be 1835 square feet. The only differences were that the new C of O replaced the words "sandwich shop" with "accessory prepared food shop," and noted specifically that there were three floors in the occupancy. Memorandum Opinion and Judgment ("MOJ") at 1 and 11.

- 12 The BZA confirmed the substance of the Zoning Administrator's decision on February 23, 2010 regarding the 2009 C of O, and authorized a 2010 C of O with a change to eliminate reference to "accessory prepared food shop" as unnecessary
- 13 After the February 23, 2010 hearing and decision, construction recommenced and was completed, FoBoGro reopened for business in late March 2010
- 14 WECA then appealed the BZA decision of February 23, 2010
- 15 Except for this litigation FoBoGro has operated without incident since it reopened in 2010 under the present management

The above events stand uncontroverted and are recounted in detail in BZA file Exhibits 9, 16 and 27 By application of the principle set forth in *Basken*, i.e., that time for purposes of appeal relates back to the property's first recent Zoning Decision on August 21, 2008, both the GWU and FoBoGro could reasonably assume that in the absence of an appeal from the 2008 C of O for over 12 months, construction could commence when the Zoning Office issued Building Permit B0907038 on August 10, 2009²⁹ Both FoBoGro and The GWU acted in reasonable reliance on the 2008 C of O and the Building Permit issued on August 10, 2009 to commence renovations before the expiration of the 60-day time period for appealing issuance of Building

²⁹ In *Basken v D C Bd of Zoning Adjustment*, 946 A 2d 356, 363 (D C 2008) the court said

[A] certificate of occupancy is separately appealable where it provides the first notice from which and aggrieved person knew or reasonably should have know [n] of the resolution or decision that the certificate represents A certificate of occupancy does not start another sixty-day appeal period as to any and all DCRA zoning decisions affecting a project that preceded issuance of the certificate (Emphasis added)

To illustrate further, in *Bruce* a building permit issued on February 11, 2009 was found to be the first decision from which an appeal should be taken. When the appellant filed an appeal *a mere three days late*, he argued that subsequent permits marked the time from which an appeal must be taken. The BZA disagreed, concluding that *subsequent building permits* were decisions that *reinforced the original decision* to issue a permit, meaning the subsequent permits were later decisions, not "new" decisions from which timeliness of an appeal would be ascertained BZA Appeal No 17966-A of Stephen Bruce at 3 (June 22, 2010 and July 13, 2010)

Permit B0907038, *because issuing the Building Permit was not the first Zoning Decision affecting the property.*

Notice relating back to a property's first Zoning Decision according to *Basken* and others makes sense when an earlier Zoning Decision is not revoked. The first Zoning Decision (2008 C of O) revoked as a nullity at WECA's prodding, however, paved the way for WECA to appeal the 2009 C of O, which the BZA treated as the appealable "new decision", when Building Permit B0907038 was actually the first unrevoked Zoning Decision from which an appeal should have issued.

Complicating the issue is that the D.C. Court of Appeals reversed the substantive decision made by the BZA on February 23, 2010. If FoBoGro's current C of O is revoked and equity does not prevent it, the ultimate harm will be in line with the BZA's observation:

It would be a poor business decision, which in this case, would have been repeated many times over the course of 51 years from 1958 to 2009, to leave two-thirds of a property vacant, while putting one-third of the property to retail use.³⁰

Between 1958 and 2009 Foggy Bottom Grocery formerly operated with nominal success on one or two floors under multiple previous owners until FoBoGro bought the business.

Since 2008 the BZA issued three almost identical C of Os issued to FoBoGro for use of the property.³¹ FoBoGro and The GWU expended substantial monetary and other resources in justifiable reliance on those Zoning Decisions. Therefore, laches would bar WECA's appeal in order to avoid extraordinary prejudice and hardship to FoBoGro.

³⁰ See BZA File Exhibit 22, Order in BZA Appeal No. 18031 of West End Citizens Association 8 (February 23, 2010).

³¹ WECA advanced an argument at the Court of Appeals that the 2008 C of O was ambiguous and that its ambiguity somehow nullified notice of the Zoning Administrator's decision. This argument was rejected.

IV. ESTOPPEL IS A BAR TO REVOKING FOBOGRO'S CURRENT C OF O.

Just as laches would bar WECA's appeal, estoppel precludes the BZA from revoking FoBoGro's current C of O. FoBoGro made substantial and large expenditures in good faith reliance on no less than five official actions of District of Columbia Zoning Office and other municipal agencies. The balance of equities favors FoBoGro.³²

A. At all times FoBoGro acted in good faith reliance.

The record is clear that the municipality, vis-à-vis the Zoning Office, issued the 2008 C of O and there is no evidence in the record of bad faith by either FoBoGro or The GWU in obtaining the 2008 C of O. It was long after expiration of the 60-day time period according to 11 DCMR § 3112.2 (a) for appealing the 2008 C of O that The GWU applied for Building Permit B0907038.

Only after receiving the building permit did The GWU and FoBoGro begin the costly construction to revitalize premises. No person or business would have invested between \$750,000 and \$1,000,000³³ in reliance on permits and certificates issued by the Zoning Office, without a reasonable and justified belief that the permits and certificates were authorized by law and the time for appeal had passed.

The February 23, 2010 BZA hearing on WECA's appeal confirmed the Zoning Administrator's decision regarding the terms of the 2009 C of O. Taken together, the 2008 C of O, Building Permit B0907038, and the BZA decision in 2010 were affirmative acts on which The GWU and FoBoGro could reasonably and did in fact rely. In reliance, they expended and continued to expend money and effort renovating the business and property beginning in 2008,

³² *Sisson*, *supra* note 2, 805 A.2d at 972, *Economides v. District of Columbia Board of Zoning Adjustment*, 954 A.2d 427, 444 (D.C. 2008), *Bannum Inc. v. District of Columbia Board of Zoning Adjustment*, 894 A.2d 423, 431 (D.C. 2006).

³³ See BZA File Exhibit 16, FoBoGro's Prehearing Statement 3-4, ¶ 11 details the renovation costs of over \$508,000 just prior to the February 23, 2010 hearing. FoBoGro also paid the former owner \$250,000 for the business assets. *Id.* at ¶ 6.

through 2009, and into 2010 when FoBoGro reopened after renovations. It would not have been commercially reasonable to abandon the premises after the BZA decision in 2010.

Other equities favor FoBoGro's position. Changes to the property in terms of area usage do not violate regulations respecting the FARs for properties in an R-5-E zone.³⁴ As renovated according to plans approved by the Zoning Office, FoBoGro now enjoys its most efficient use and serves a vital role as a thriving business in the Foggy Bottom area. A C of O according to WECA's arguments would cause two-thirds of FoBoGro's structure to go unused, a result that the BZA has already criticized.³⁵ It is over five years since the Zoning Office issued the 2008 C of O on which FoBoGro and The GWU relied in good faith. To avoid any further prejudice, waste, and harm, estoppel should bar the BZA from acting against FoBoGro by revoking the current C of O it authorized after hearing, regardless of the decision made by the D.C. Court of Appeals.

Even though the D.C. Court of Appeals agreed with WECA's argument regarding nonconforming use, failure to apply laches and estoppel to prevent revocation of FoBoGro's current C of O (or deny a C of O issued according to terms advanced by WECA) will facilitate fulfilling the BZA's dire observation about wasting of two-thirds of the available space in the premises as had been done in the past.³⁶ The BZA decision on February 23, 2010 achieved a result that is consistent with granting an area variance for the premises. Importantly, in over five years, the Zoning Office never demanded an application for an area variance, otherwise such an application could have been made four or five years ago. The fact that the Zoning Office did not suggest or require an application for an area variance further supports FoBoGro's good faith reliance and is another balance in equity for dismissing WECA's appeal.

³⁴ See BZA File Exhibit 16, FoBoGro's Prehearing Statement 2-3.

³⁵ See *supra* note 30 and accompanying text.

³⁶ *Id.*

V. FOBOGRO HAS CLEAN HANDS.

FoBoGro (and the GWU) came to the BZA with clean hands FoBoGro's Applications to the Zoning Office were open and notorious, and were neither rushed nor surreptitious Because WECA had constructive notice of Zoning Decisions and due to its hand in forcing the revocation of the 2008 C of O to allow its appeal 14 months later, WECA does not have clean hands.

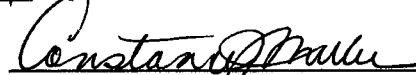
In this case, a decision that does not bar WECA's appeal due to laches and bar revocation of FoBoGro's current C of O on principles of estoppel will improperly reward WECA's delay and cause extreme prejudice to FoBoGro

VI. CONCLUSION

Although generally disfavored in deciding zoning issues, both laches and estoppel apply here Even though WECA regained a technical right to appeal when it forced the 2008 C of O to be revoked, the totality of the circumstances attests to WECA's unreasonable delay respecting both the 2008 C of O and the Building Permit B0907038 Likewise, estoppel bars the BZA from revoking FoBoGro's current C of O. FoBoGro acted in good faith and reasonable reliance on multiple official acts of the Zoning Office, it changed position in reliance on Zoning Office decisions to its prejudice

Therefore, FoBoGro again asserts that WECA's appeal be dismissed because laches applies to WECA's inaction and estoppel applies to prevent the BZA from revoking the current C of O to FoBoGro's harm

Respectfully submitted this 27 day of October 2013,



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Certificate of Service

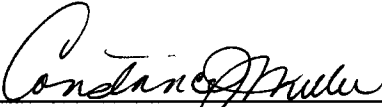
I hereby certify that a copy of the foregoing document was served by email this 27 day of October and also mailed by first class mail to the following persons

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