

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**
441 4th Street, N.W.
Washington D.C. 20001

2011 JAN 10 PM 1:17

Appeal of Advisory Neighborhood
Commissions 1C and 1D

Appeal No. 18152

**DISTRICT OF COLUMBIA'S OPPOSITION TO OTTEN'S REQUEST FOR
CONTINUANCE**

The Appellee, the District of Columbia Department of Consumer and Regulatory Affairs ("Appellee" or "DCRA"), by and through undersigned counsel, respectfully files its opposition to the request for continuance filed by Chris Otten on January 7, 2010. DCRA strenuously opposes Mr. Otten's last minute request to postpone the hearing as it is not supported by good cause and is prejudicial to DCRA and to the D.C. Public Library ("DCPL").

ANC 1C filed this appeal on October 12, 2010 (approximately 3 months ago).¹ The Office of Zoning notified both ANC 1C and 1D of the date of this hearing on November 10, 2010 (approximately 2 months ago). Since then, undersigned counsel has reached out to Mr. Otten (as he is the person listed as the Appellant's agent on the appeal form) concerning his prosecution of this appeal. *See Exhibit A.* Until the filing of this request, at no point, did Mr. Otten or any other person from either ANC 1C or 1D indicate that more time was needed to prepare for this appeal. In fact, when undersigned counsel asked Mr. Otten if he was going to be making additional filings, he wrote on December 30, "I hope to have most everything ready early next week[.]" Having missed its deadline to file additional evidence with the Board, this request

¹ The Appeal also indicates that it is supported by ANC 1D, however, ANC 1D has not made any filings with the Board.

for continuance comes only after Mr. Otten received DCRA's Pre-Hearing Statement. Thus, now claiming that more time is needed to "understand the full merits of this case" is disingenuous and discourteous.

Further, the issues raised by the ANC's, long predate this appeal. As Mr. Otten mentions, ANC 1C has been deeply involved in the design of the library for the past two years. This is true. As early as December 2007, DCPL has been actively meeting and engaging with both ANC 1C and 1D and the community concerning the renovation and expansion of the library. Many of the issues raised in this appeal are the same issues that were discussed and debated in numerous meetings during the design process. The architectural report that Mr. Otten references was completed and given to DCRA by ANC 1C in May 2010. Accordingly, it is not clear why the ANC would now need more time to understand the issues in its own appeal.

In this case, Appellant alleged that DCRA erred in issuing the August 13th permit. If the Appellant believed the permit was issued in error when it filed this appeal, on October 12, there is no legitimate reason why it cannot explain the basis for its appeal on Tuesday.

As Mr. Otten has failed to set forth good cause as to why this appeal should be continued, the Board must deny the request.

Respectfully Submitted,

IRVIN B. NATHAN
Acting Attorney General

MELINDA M. BOLLING
General Counsel

January 10, 2011


JAY A. SURABIAN (DC Bar # 977657)
Assistant Attorney General
Department Of Consumer And

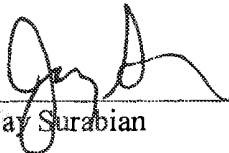
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Office of the General Counsel
1100 4th Street, SW, 5th Floor
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(202) 442-8403 (office)
(202) 442-9447 (fax)
jay.surabian@dc.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Pre-Hearing Statement was served by email,
this 10th day of January 2011, to the following:

ANC 1C
c/o Chris Otten
2032 Belmont Rd., NW, #332
Washington, DC 20009
Chrisotten2@yahoo.com

ANC 1D
c/o Gregg Edwards
1647 Lamont Street NW, #201
Washington, DC 20010
g@gel.org



Jay Surabian

Exhibit
A

Surabian, Jay (DCRA)

From: Chris Version II.0 [chrisotten2@yahoo.com]
Sent: Thursday, December 30, 2010 1:49 PM
To: Surabian, Jay (DCRA)
Subject: Re: BZA appeal 18152

Thank you Jay for the reminder.
The holidays and a flu bug has slowed me and others involved down a bit.
I hope to have most everything ready early next week for your review.
With regards,
Commissioner Chris Otten, ANC1C02
202-536-4065

On 12/30/2010 8:35 AM, Surabian, Jay (DCRA) wrote:

Chris,

As the hearing date gets closer, I just wanted to be sure to remind you to send me a copy of any filings you may be making with the Board. Thanks.

Jay A. Surabian
Assistant Attorney General
Office of the Attorney General of the District of Columbia
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From: Surabian, Jay (DCRA)

1/7/2011

Sent: Thursday, November 18, 2010 3:48 PM
To: 'chrisotten2@yahoo.com'
Subject: BZA appeal 18152

Mr. Otten:

I'm the attorney who will be handling this appeal for DCRA. If you are going to be filing additional documents with the BZA please be sure to send me a copy. My contact info is below, but you can send them electronically. Thanks.

Jay A. Surabian
Assistant Attorney General
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-Lao Tzu

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<http://oilspoils.wordpress.com/>

The Young World is Weighty >>
<http://www.youtube.com/watch?v=Aruidlugvoo>