

January 25, 2011

VIA ELECTRONIC FILING

Meridith Moldenhauer, Esq.
Chairperson
Board of Zoning Adjustment
One Judiciary Square
441 4th Street, N.W.
Room, 210 South
Washington, D.C. 20001

Re: **BZA Appeal No. 18151**
3003 Van Ness Street, N.W.
Square 2049, Lot 806 ("Property")

Dear Ms. Moldenhauer:

This firm is counsel for Smith Property Holdings Van Ness, L.P. ("SPH Van Ness"), the owner of the Property which is the subject of this BZA Appeal.

SPH Van Ness respectfully opposes the Appellant, Van Ness South Tenant's Association's, renewed request for a continuance and further extension of the deadline to file its past due pre-hearing statement. Mr. Lederer's letter dated January 13, but not filed with the Board and the parties until January 18, 2011, is untimely and ignores the Board's explicit instructions at the January 4, 2011 hearing. As a precaution, the undersigned provided written confirmation of the Board's instructions by the attached letter dated January 5, 2011 and transmitted to Mr. Lederer both electronically and by first class mail.

In all respects, the requested second continuance and further extension of the Appellant's delinquent pre-hearing submission are not supported by good cause and disrespectful to the Board and other parties. The Board recognized that the non-appealing parties are entitled to a prompt and efficient resolution of this matter. Further, unjustified delay will be extremely prejudicial to SPH Van Ness, DCRA and the University of the District of Columbia all of which will be required to expend time and resources for counsel and witnesses to appear at a second hearing on February 1 and then return again for a third hearing date.

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BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18151
EXHIBIT NO. 28

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Again, Mr. Lederer's letter is unclear whether he is actually unavailable for the hearing, or just inconvenienced as a result of a busy schedule and he fails to even provide a date certain when he would be available. As the Board clearly determined and advised the parties on January 4, this Appeal is not personal to Mr. Lederer, but brought on behalf of a well established organization. The Appellant, as an organization, was given a second chance to file its pre-hearing submission and instructed on its responsibility to proceed with the hearing as rescheduled regardless of Mr. Lederer's availability. Having ignored and failed to comply with the Board's clear instructions, the Appellant, which bears the absolute burden of proof, must accept the consequences.

SPH Van Ness (and other parties) is ready to proceed with the hearing on the merits as rescheduled and the continuance and extension of the pre-hearing submission should be DENIED.

Thank you for the Board's cooperation in this matter.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.

By:

John Patrick Brown, Jr.

Enclosure

JPB:prm

Electronically

cc: Smith Property Holdings Van Ness, L.P.
Jay A. Surabian, Esq., DCRA
Allison C. Prince, Esq.
David Avitabile, Esq.
Mr. Brian Lederer, VNSTA, brian.lederer@att.net
Chairperson, ANC 3F (by mail)
Ms. Karen Perry, ANC 3F 02 (by mail)