

District of Columbia
Office of Administrative Hearings
One Judiciary Square
441 Fourth Street, NW
Washington, DC 20001-2714
TEL: (202) 442-9094

DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

2011 FEB -8 A 11: 43

DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND
REGULATORY AFFAIRS
Petitioner,

v.

APPLETREE INSTITUTE FOR EDUCATION
INNOVATION INC.
Respondent

Case Nos.: 2011-DCRA-00002

STATUS CONFERENCE ORDER

On December 27, 2010, Respondent filed an appeal of a Notice to Revoke Building Permit No. B1010205. The property subject to the permit is located at 138 12th Street, NE.

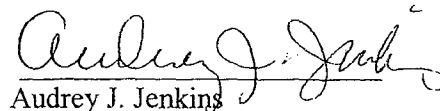
Therefore, it is this 7th day of February 2011:

ORDERED that the parties and any counsel shall appear for a status conference on **March 8, 2011 at 11:30 AM** at the Office of Administrative Hearings, 441 4th Street, NW Suite 1050S, Washington, DC.

The parties should be prepared at the status conference to identify the specific legal and factual issues in the case. Parties should also be prepared to discuss what exhibits, such as photos or documents, they are likely to offer into evidence at a hearing. To the extent feasible, the parties should bring copies of the proposed exhibits to the status conference. Parties should be prepared to discuss any other issues that will assist in the prompt and efficient resolution of this matter, including the possibility of

settlement. The parties should also expect that a hearing date will be set at the status conference.

Because timely compliance with this Order is necessary to ensure a fair, just, prompt, and orderly trial on the merits, should a party fail to timely comply with the requirements of this Order, this case shall be subject to dismissal or the entry of an order of default pursuant to OAH Rule 2813.3; 1 DCMR 2813.3.


Audrey J. Jenkins
Administrative Law Judge

Certificate of Service:

By U.S. Mail (Postage Paid):

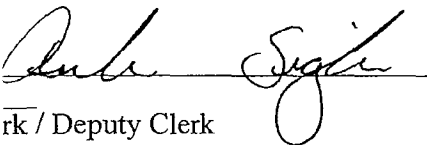
Jason J. Mendro, Esq.
Gibson, Dunn & Crutcher
1050 Connecticut Ave., NW
Washington, DC 20036

Russ Williams
Managing Director
AppleTree Institute for Education
Innovation
400 7th Street, SE
Washington, DC 20003

By Inter-Agency Mail:

Paul E. Waters, Esq.
Enforcement and Legislative Affairs
Office of Civil Infractions
Department of Consumer and
Regulatory Affairs
1100 4th Street, SW 5th Floor
Washington, DC 20024

I hereby certify that on Feb. 8,
2011
this document was caused to be served
upon the parties listed on this page at
the addresses listed
and by the means stated


Clerk / Deputy Clerk

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue, N.E.
Washington, DC 20036-5306

Tel 202.935.8500

www.gibsondunn.com

Jason J. Mendro

Direct: 202.887.3726

Fax: 202.430.9626

JMendro@gibsondunn.com

December 24, 2010

VIA HAND DELIVERY

DC OFFICE OF
ADMINISTRATIVE HEARINGS
200 570 27 P

WASHINGTON D.C. 20001 Client 600000-00000

Office of Administrative Hearings
441 4th Street, N.W.
10th Floor
Washington, D.C. 20001

Re: **Notice of Appeal of Notice to Revoke Building Permit No. B1010205**

To Whom It May Concern:

AppleTree Institute for Education Innovation, Inc. ("AppleTree") hereby appeals the Notice to Revoke Building Permit No. B1010205 ("Revocation Notice"), *see* Ex. A, and requests a hearing before the Office of Administrative Hearings ("OAH"). The property subject to Permit No. B1010205 is located at 138 12th Street, N.E.

The Department of Consumer and Regulatory Affairs ("DCRA") issued a notice to revoke AppleTree's Building Permit No. B1010205 (the "Permit") under 12A D.C.M.R. § 105.6.6. The Revocation Notice asserts that the Permit "erroneously extended the building permit beyond the maximum eighteen months of extensions."

DCRA's Revocation Notice is procedurally defective and misconstrues 12A D.C.M.R. §§ 105.5, 105.6 in numerous respects.

First, the Revocation Notice has never been served "upon the permit holder" as required by 12A D.C.M.R. § 105.6.3. Instead, the notice was sent belatedly to AppleTree's agent, Quinten Washington, with an incorrect address. AppleTree became aware of the Notice on December 22, 2010, after Mr. Washington reported having received it that week. AppleTree has yet to receive the Revocation Notice by personal service or by mail at any "address of the permit holder or the permit holder's agent as identified *by the permit application, the tax records, or business license records.*" 12A D.C.M.R. § 105.6.3 (emphasis added).

Second, the Revocation Notice erroneously asserts that AppleTree required an extension of Building Permit No. B1010205 to complete construction. In fact, at the time of the Revocation Notice, the Permit had not expired, and AppleTree had begun work perfecting its right to complete the construction authorized by the Permit. In any event, the maximum period of extensions had not lapsed.

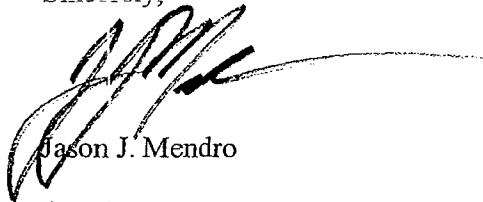
GIBSON DUNN

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Third, DCRA lacks legal authority to revoke the Permit under 12A D.C.M.R. § 105.6. The Permit was not issued in error, and the Revocation Notice fails to show otherwise through its mistaken account of AppleTree's permit extensions. In addition, AppleTree's right to complete construction had fully vested.

AppleTree thus requests that OAH withdraw the Notice of Revocation of Building Permit No. B1010205 or set a hearing at which AppleTree may exercise its right to solicit evidence from persons knowledgeable about the processing of the purported revocation of the Permit.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Mendro', with a long horizontal flourish extending to the right.

Jason J. Mendro

Attachment

cc (by U.S. mail):

Mr. Russ Williams
Managing Director
AppleTree Institute for Education Innovation
400 7th Street, SE
Washington, D.C. 20003

EXHIBIT A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs



Permit Operations Division

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

Appletree Institute for Education
Innovation, Inc.
400 7th Street, S.E.
Washington, DC 20003-2707

Appletree Institute for Education
Innovation, Inc.
c/o Quinten Washington
1025 Connecticut Avenue, N.W.
#1000
Washington, DC 20036

Re: Building Permit B1010205 (138 12th Street, N.E.)

NOTICE TO REVOKE BUILDING PERMIT NO. B1010205

This is official notice ("Notice") from the Department of Consumer and Regulatory Affairs ("DCRA") that Building Permit No. B1010205 is revoked effective ten (10) business days from the mailing of this Notice. This action is taken pursuant to District of Columbia Municipal Regulations ("DCMR") Title 12A § 105.6, which authorizes the code official to revoke a building permit when the permit was issued in error. Here, the Construction Code does not allow an extension of the existing building permit beyond a total of eighteen months from the original building permit, B89587, which was issued on October 26, 2007. Therefore, the last building permit extension ended on 4/26/10. Building Permit B1010205 erroneously extended the building permit beyond the maximum eighteen months of extensions and must be revoked.

Under the District of Columbia Municipal Regulations § 12A-105.6, DCRA has the authority to revoke building permits. Based upon the District's review and analysis of the building permit that was issued, DCRA is revoking Building Permit No. B101025. This revocation will be effective ten (10) business days from the mailing of this Notice.

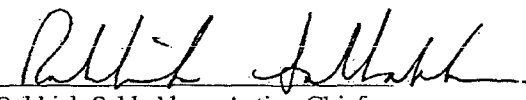
1100 4th Street, SW Third Floor Washington, DC 20024
Phone: (202) 442-4589 Fax: (202) 442-4863

RIGHT TO APPEAL

You have the right to appeal the revocation of your building permit within ten (10) days (excluding Saturdays, Sundays and legal holidays) of receipt of this Notice to the Office of Administrative Hearings. 12A DCMR § 105.6.4. Should you appeal DCRA's decision, your appeal must be mailed to the Office of Administrative Hearings at 441 4th Street, N.W., 10th Floor, Washington, D.C. 20001. Alternatively, you may hand-deliver your appeal for a hearing to the Office of Administrative Hearings at 441 4th Street, N.W., 10th Floor, Washington, D.C. 20001. If you do not request a hearing within the time and manner specified in this notice (or fail to appear at a scheduled hearing), your permit will be immediately revoked without any further written notice.

Any questions about this notice may be directed to the Permitting Operations Division on 442-4542.

Date: 12-3-10


Rabbiah Sabbakhan, Acting Chief
Permit Operations Division