

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

ADVISORY NEIGHBORHOOD COMMISSION 6A;
NORTHEAST NEIGHBORS FOR RESPONSIBLE
GROWTH,

Appellants,

v.

APPLETREE INSTITUTE
FOR EDUCATION INNOVATION, INC.,
Appellee.

BZA Appeal Nos. 18239 & 18241

AFFIDAVIT OF JACK MCCARTHY

CITY OF WASHINGTON)
) ss.
DISTRICT OF COLUMBIA)

I, Jack McCarthy, the affiant herein, having been duly sworn, states upon oath:

1. I am over eighteen years of age, am competent to testify, and have personal knowledge of the facts stated in this affidavit.
2. I am the Managing Director of AppleTree Institute for Education Innovation, Inc. ("AppleTree") and the Board Chair of AppleTree Early Learning Public Charter School.
3. AppleTree is a not-for-profit corporation devoted to providing free early language and pre-literacy programs to underprivileged three- and four-year-old children.
4. AppleTree has operated in the District of Columbia since 1996 and maintained award-winning public charter preschools in the District since 2001.

5. The D.C. Partnership for Early Literacy Program has estimated that AppleTree saves the District of Columbia more than \$8.1 million each year by reducing the number of students identified for special education simply because they never learned to read on time.

6. Since 2005, AppleTree has invested extensive time and resources in an effort to convert a vacant commercial building at 138 12th Street, N.E., Washington, D.C. (the “Property”) into a new public charter preschool.

7. AppleTree plans to operate the new preschool at the Property to provide high-quality, research-based early education for up to 60 students, building the critical language, vocabulary, pre-literacy, and social/emotional skills aligned with school success.

8. The preschool will operate in an area where the existing preschools are overcrowded, have long waiting lists and are in high demand.

9. Ward 6, where the Property is located, is one of the most underserved areas in the District of Columbia. The District of Columbia’s Deputy Mayor for Planning and Economic Development anticipates an influx of up to 10,000 new residents in Ward 6 in the coming years.

10. Most of AppleTree’s students live in this ward; in fact, many live within five blocks of the Property.

11. AppleTree has secured all construction permits and approvals necessary to build its preschool.

12. Upon resolution of the D.C. Council, after a competitive process by the District of Columbia Revenue Bond Office, AppleTree was awarded a Qualified School Construction Bond for \$3.5 million to help build the preschool at the Property as well as another preschool in Ward 8.

13. The District of Columbia Revenue Bond Office awarded AppleTree a Qualified Zoning Academy Bond of \$500,000 for use in funding these new preschools.

14. The Office of the State Superintendent of Education of the District of Columbia awarded AppleTree a City Build Incentive Grant for \$500,000 to support its plans for the Property.

15. The Advisory Neighborhood Commission 6A (“ANC-6A”), which officially represents residents living near the Property, has previously expressed support for AppleTree’s preschool project.

16. AppleTree engaged Turner Construction Company (“Turner”) in 2006 to renovate and improve the commercial building on the Property for use as a preschool.

17. Various challenges to AppleTree’s building permit forced Turner to stop construction work at the Property on several occasions.

18. Turner began construction work in support of renovating the Property by January 2010. This work included the selection of subcontractors, site visits, and construction scope activities.

19. By December 10, 2010, Turner had begun demolition work at the Property.

20. Appellants’ assertions that construction had not begun until after February 24, 2011 are, therefore, incorrect.

21. AppleTree has expended considerable time and resources to complete construction of the preschool and to ready it for use this month, September 2011.

22. As of December 2010, AppleTree had paid more than \$96,000 in property taxes and \$82,000 in insurance fees while its efforts to build the preschool were ongoing or delayed by litigation and other challenges.

23. AppleTree has spent more than \$300,000 on architectural and engineering costs to develop the Property for use as a preschool.

24. AppleTree has committed to spend more than \$2 million on construction at the Property. Approximately \$1.8 million has been invested to date.

25. On December 22, 2010, ANC-6A commissioner David Holmes advised Turner's construction foreman at the Property that the D.C. Department of Consumer and Regulatory Affairs ("DCRA") had issued a stop work order and a notice that it planned to revoke AppleTree's permit.

26. DCRA withdrew the stop work order and the notice of revocation on February 24, 2011, confirming by letter that AppleTree's building permit is valid and has not lapsed.

27. Turner resumed construction work at the Property on March 4, 2011, and has been building the preschool without interruption (despite the unsuccessful efforts of Northeast Neighbors for Responsible Growth, Inc. to obtain a court order stopping the construction again).

28. AppleTree received more than 240 applications for the 60 seats available to three- and four-year-old preschool students this fall and conducted a public lottery, in accordance with the D.C. School Reform Act.

29. AppleTree enrolled students to fill all 60 of the available seats, and presently expects to have full enrollment at the time of its October 2011 enrollment audit (conducted at the direction of the Office of the State Superintendent of Education).

30. AppleTree began providing full-day, early education to its students in temporary classrooms on August 22, 2011. This education is publicly funded and is being provided free of charge to AppleTree's students and their families, who are residents of the District of Columbia.

31. Turner has assured AppleTree that it will complete construction of the preschool at the Property in time for AppleTree to begin teaching its students there by the end of September 2011. AppleTree expects that Turner will do so.

32. Under the guidelines of the Qualified School Construction Bond, which is a program of the American Recovery and Reinvestment Act as provided by the D.C. Revenue Bond Office, AppleTree has provided a preference to minority-owned, D.C.-based trades and subcontractors.

33. As the only D.C.-based organization to win a federal Investing in Innovation (“i3”) development grant, which is another program of the American Recovery and Reinvestment Act, AppleTree has invested \$25,000 in training and professional development for the teachers who will be implementing AppleTree’s evidence-based early education program at the preschool.

34. AppleTree has hired 13 employees for the preschool. These employees include nine teachers, a site administrator, an instructional administrator, and two teaching assistants.

35. In anticipation of the imminent opening of the school, AppleTree has entered into numerous service contracts with local businesses. Among other things, AppleTree contracted for food services, janitorial services, telecommunications services, pest control services, and security services.

36. In preparation for the first day of school, AppleTree has spent more than \$15,000 for furnishings for the Property, \$10,000 for various vendors, and \$9,000 for insurance. AppleTree has paid for expenses such as safety equipment, fire and burglar alarms, utilities, audio/video technology, furniture, books, and other classroom equipment.

37. If AppleTree is unable to open its preschool this fall, 60 preschoolers would lose access to high-quality early education and 13 adults could lose their jobs.

38. AppleTree's failure to open its preschool this fall also could cause AppleTree's \$3.5 million Qualified School Construction Bond to go into default. Unless AppleTree is teaching preschoolers, it will not be eligible to receive the grant money that is essential to paying the outstanding principal on that bond.

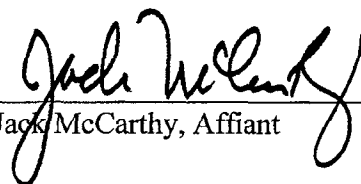
39. If completion of construction of the preschool at the Property is delayed long enough, AppleTree may have no choice but to abandon the project.

40. Default on the Construction Bond could jeopardize a second preschool that AppleTree financed with the same bond. That school serves the educational needs of more than 80 children and provides 13 jobs in the District of Columbia. It is located in Ward 8, a neighborhood that is in need of both high quality education options and new jobs.

41. Default on these two high-profile, high-impact projects funded by the American Recovery and Reinvestment Act could have a negative effect on the ability of the District of Columbia to qualify for additional Qualified School Construction Bond and Qualified Zone Academy Bond allocations from the U.S. Treasury.

Jack McCarthy, Affiant, being first duly sworn, states on oath, that all of the representations in this affidavit are true as far as affiant knows or is informed, and that such affidavit is true, accurate and complete to the best of affiant's knowledge and belief. Further Affiant sayeth naught.

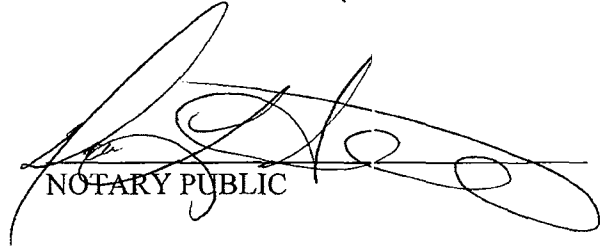
DATED: September 14, 2011.



Jack McCarthy, Affiant

SUBSCRIBED AND SWORN TO before me this 14th day of Sep, 2011

by Jack McCarthy.


NOTARY PUBLIC

My commission expires:

DORIS L. STANLEY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires August 31, 2016

