

GOVERNMENT OF THE DISTRICT OF COLUMBIA
~~DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS~~



Office of the Director

By Personal Service or
Certified Mail, Return Receipt Requested, and
First Class Mail

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

NOTICE OF REVOCATION
BUILDING PERMIT NO. 89587

This is an official Order from the Department of Consumer and Regulatory Affairs ("DCRA") revoking Building Permit No. 89587 (the "Permit"), pursuant to 12A DCMR §105.6(6). The Permit is being revoked because DCRA issued the Permit in error, prior to completion of reviews by all of the disciplines required to approve the application, specifically environmental and zoning.

Building Permit No. 89587 was issued at approximately 11:00 a.m. on October 29, 2007. Within an hour of the permit grant, DCRA staff requested that the permit be surrendered voluntarily for cancellation, since the permit had been issued in error. In addition, your attorney, Mr. Mark Perry of Gibson, Dunn & Crutcher, was contacted by DCRA's counsel on October 29, 2007, and asked to surrender the permit voluntarily for cancellation. Mr. Perry was also advised, verbally and by email, that unless the permit was surrendered voluntarily, DCRA would initiate proceedings to revoke the permit. Your attorney was also advised that any construction pursuant to the erroneously-issued permit would be at your own risk.

At the time of issuance, at least two disciplines, environmental and zoning, still needed to clear the application for grant. Reflecting this processing status, DCRA had placed a "hold" on the granting of the application subject to clearances by two senior managers, the Zoning Administrator and the Acting Deputy Director, Permit Operations. This application status was noted in three internal tracking databases maintained by DCRA in connection with construction permit processing. On October 29, 2007, a DCRA employee exceeded his authority by removing the "hold" on the application, and authorizing the granting of the application. DCRA has determined that the DCRA employee erred in authorizing the granting of the permit prior to the application receiving the required approvals and in

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Board of Zoning Adjustment
District of Columbia
CASE NO.18241
EXHIBIT NO.26B38

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direct contravention of his superiors' directives.¹

The permit is being revoked so that DCRA can complete the reviews required as part of its processing procedures, reviews which were truncated by the erroneous issuance of the permit on October 29, 2007. One of the issues to be considered by the Zoning Administrator was the impact of an amendment of the Zoning Regulations pursuant to Zoning Commission Order 06-33, published in the District of Columbia Register on September 14, 2007. This zoning review could not be completed until the District Department of the Environment (DDOE) returned the permit application and plans to DCRA.³ The application and plans were not returned by DDOE until October 25, 2007. Before the zoning review could be completed, and contrary to the computer "hold" on the application to enable such review, the permit was granted. Moreover, even though DDOE returned the plans to DCRA on October 25, 2007, it is DCRA's understanding that DDOE had not, and still has not, completed its investigation with respect to the toxic waste issue.

Pursuant to 12A DCMR §105.6(6), DCRA is authorized to revoke a building permit if the permit was issued in error. Accordingly, DCRA hereby revokes Building Permit No. 89587.

RIGHT TO APPEAL

You have the right to appeal the revocation of your building permit. To appeal, your appeal must be mailed to the Office of Administrative Hearings at P.O. Box 77718, Washington, DC 20002. Alternatively, you may hand-deliver your appeal or request to the Office of Administrative Hearings at 941 North Capitol Street, NE, Suite 9100, Washington, DC 20002. The deadline for such an appeal or request is ten (10) business days following your receipt of this Notice.

Any questions about this Notice may be directed to the Permit Operations at (202) 442-4541.

Nov. 15, 2007
Date

Linda K. Argo
Linda K. Argo, Director

CC: Mark Perry, Esq.

¹ Following an internal investigation, your permit expeditor was cleared of any wrongdoing in connection with the permit issuance.

³ The application and plans had been sent to DDOE for review on or about September 1, 2007, for DDOE to determine if the construction site was contaminated by hazardous chemicals as had been alleged. In an August 30, 2007 letter and email from Advisory Neighborhood Commission 6A Commissioner David Holmes, Mr. Holmes raised the concerns of his constituents that the site contained hazardous chemicals, stemming from when the site had been operated as a distribution site for oil and other petroleum distillates.