

December 24, 2010

DC OFFICE OF
ADMINISTRATIVE HEARINGS
625 NORTH CAPITOL STREET
JASON J. MENDRO
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j.mendro@gibsondunn.com

2010 DEC 27 10 11 AM

VIA HAND DELIVERY

Client: G 00000-00000
WASHINGTON D.C. 20002-4210

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, Quirten 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.

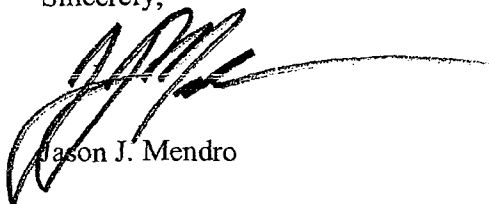
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Third, DCRA lacks legal authority to revoke the Permit under 12A D.C.M.R. § 105.6. The Permit was not issued in error, and the Revocation Notice fails to show otherwise through its mistaken account of AppleTree's permit extensions. In addition, AppleTree's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

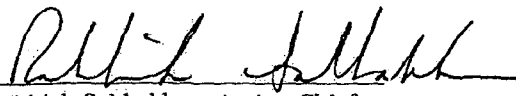
1100 4th Street, SW Third Floor Washington, DC 20024
Phone: (202) 442-4589 Fax: (202) 442-4863

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