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February 6, 2012

VIA HAND DELIVERY

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

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D.C. OFFICE OF ZONING
2012 FEB -6 PM 1:32

Re: Application No. 18306 of 1919 14th Street, LLC, on behalf of 14th Street Properties- Motion to Strike Exhibit 45 and Exhibit 46

Honorable Members of the Board:

On behalf of the Applicant, and pursuant to 11 DCMR §3121.6, we move to strike the letter filed by William Isasi (Exhibit 45) and the document filed by Daniel McKay, Lisa Kelly, and Caroline Mariz (Exhibit 46).

Section 3121.9 of the Zoning Regulations explicitly states that "[a]ny material received by the Board after the close of the record that bears upon the substance of the appeal or application shall be returned by the Director and not received into the files of the Board." Here, as indicated in the *BZA Notice of Closed Record in Advance of Decision* (Exhibit 43), the Board closed the record at the conclusion of the hearing on January 24, 2012, except for the limited purposes of allowing the following submissions:

- 1- The Applicant to submit proposed written language regarding the Applicant's proposed residential permit parking ("RPP") restriction and flexibility regarding the final design of the building;
- 2 - The parties to submit a statement or other confirmation regarding the enforceability of the Applicant's proposal to restrict tenants from obtaining RPP stickers; and
- 3 - A copy of the written testimony of the individuals that testified at the public hearing.

Consistent with these requirements, the Applicant's post-hearing submission dated February 3, 2012 (Exhibit 48) includes the Applicant's proposed conditions regarding the RPP restriction and flexibility regarding the final design of the building, as well as information regarding the enforceability of the proposed RPP restriction. In addition, the D.C. Department of

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Transportation's memorandum dated January 31, 2012 (Exhibit 44) confirms that the Applicant's stated commitment to prohibit tenants of the proposed building from obtaining RPP stickers is consistent with what has been done in other cases, and can be restricted by DDOT and the DMV in order to accomplish this goal. ANC Commissioner Alexandra Lewin-Zwerdling also submitted a letter dated February 1, 2012 (Exhibit 47) confirming the importance of the proposed RPP condition.

However, the letter submitted by William Isasi (Exhibit 45) should be stricken from the record and returned to Mr. Isasi since, as indicated on the List of Witness included as Exhibit 42 and a review of the hearing video, Mr. Isasi did not testify at the hearing. Likewise, the 39-page document submitted by Daniel McKay, Lisa Kelly, and Caroline Mariz (Exhibit 46) should also be stricken from the record and returned since it goes beyond limited scope for which the Board left the record open, as summarized by the Secretary at the conclusion of the hearing. Exhibit 46 presents new information and arguments, and thus is beyond the scope of what the Board requested.

Accordingly, the Board should strike Exhibit 45 and Exhibit 46 and these documents should be returned pursuant to Section 3121.9 of the Zoning Regulations.

Sincerely,

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

Kyrus L. Freeman

cc: Steve Cochran, Office of Planning (Via E-Mail)
ANC 1B (Via U.S. Mail)