

May 25, 2012

VIA EMAIL

D.C. Board of Zoning Adjustment
441 4th Street NW, Suite 210S
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2012 MAY 25 PM 12:17

Re: **BZA Appeal No. 18349 – Motion to Intervene; Motion to Dismiss**

Dear Members of the Board:

Chaney Enterprises LP (“Chaney”) hereby moves the Board of Zoning Adjustment (“BZA” or “Board”) to allow it to intervene in the above-referenced appeal concerning the issuance of Building Permit No. B1111984 for the construction of a portable concrete manufacturing facility at 3 DC Village Lane, SW (“Appeal”).¹ In addition, Chaney moves that the Board dismiss the Appeal because the Appeal is moot.

I. MOTION TO INTERVENE

Pursuant to Section 3112.15 of the Zoning Regulations (11 DCMR § 3112.15), Chaney requests that the Board permit Chaney to intervene in the Appeal. The building permit that is the subject of the Appeal (No. B1111984) was granted to Chaney for the construction and operation of a portable concrete manufacturing facility. Pursuant to the building permit, and subsequently issued Certificate of Occupancy (C of O No. C01200713), Chaney constructed the portable

¹ Chaney is the tenant under a lease with DC and is a member of Monumental Concrete, LLC. Monumental operates the plant and is a subtenant to Chaney.

concrete manufacturing facility that is now in operation. As the real party-in-interest with regard to the building permit and as the operator of the facility, Chaney has a specific interest in, and is directly and uniquely affected by, the outcome of the Appeal.

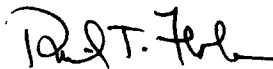
II. THE APPEAL IS MOOT

On March 26, 2012, DCRA issued a notice to Chaney that it will revoke the building permit and the certificate of occupancy allowing for the construction and operation of the subject concrete manufacturing facility, a copy of the Revocation Notice is attached as Exhibit A. The Notice states that the building permit and certificate of occupancy were issued in error because a concrete manufacturing facility is not a permitted use in this zone without a special exception. Chaney filed the requisite application for a special exception on April 30, 2012 (BZA Application No. 18404). Accordingly, the Board should dismiss the Appeal because it is moot.

III. CONCLUSION

The Board should grant intervenor status to Chaney because it is the real party in interest in the subject building permit and will be directly and uniquely affected by the outcome of the Appeal. Also, the Board should dismiss the Appeal because the Appeal is moot.

Sincerely,



Phil T. Feola



Cary R. Kadlecek

EXHIBIT A



MAR 26 2012

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

Inspection and Compliance Administration

NOTICE TO REVOKE CERTIFICATE OF OCCUPANCY AND BUILDING PERMIT

To: Chaney Enterprises, LP
c/o CT Corporation System Unk (Registered Agent)
1015 15th Street, NW, Suite 100
Washington, DC 20005

Chaney Enterprises, LP
P.O. Box 548
Waldorf, MD 20604

Re: 3 DC Village Lane, SW

This is official notice from the Department of Consumer and Regulatory Affairs ("DCRA") that Building Permit No. B1111984 and Certificate of Occupancy No. CO1200713 ("CO No. CO1200713") are hereby revoked, effective sixty (60) days of the date of service of this notice. The grounds for revocation are found under 12A DCMR §§ 105.6(6), 110.5.3, which authorizes DCRA to revoke a building permit or certificate of occupancy when it has been issued in error.

Specifically, DCRA's Zoning Administrator has determined that Building Permit No. B1111984 and CO No. CO1200713 were issued in error because they allow for a use that is not permitted by the District of Columbia Zoning Regulations.

Building Permit No. B1111984 was issued on November 28, 2011 for the "erection of portable concrete manufacturing facility, and office trailer" at 3 DC Village Lane, SW ("the Property"). CO No. CO1200713 was issued on December 22, 2011 to Chaney Enterprises, Inc for a "temporary portable concrete manufacturing facility" at the Property. This certificate occupancy has an expiration date of December 22, 2018.

Under 11 DCMR § 802.17, a facility that manufactures, processes, mixes, stores, or distributes concrete or asphalt may only be permitted by a special exception from the Board of Zoning Adjustment. Under 11 DCMR § 801.7, an asphalt plant is only permitted as a matter-of-right on part of parcel 253/26 west of Shepherd Parkway, S.W. and east of the Anacostia Freeway if the plant was located in Square 705, Lot 802 on November 21, 2005, and was relocated to the D.C Village Site. Since you do not have the required special exception and were not relocated from Square 705, Lot 802, your building permit and certificate of occupancy should not have been issued.

Accordingly, DCRA is revoking Building Permit No. B1111984 and CO No. CO1200713, effective sixty (60) days of the date of service of this notice.

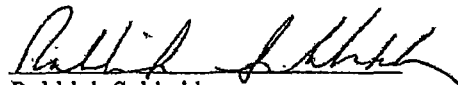
RIGHT TO APPEAL

You have the right to appeal the revocation of your certificate of occupancy and building permit. To appeal, you must mail or hand-deliver a request for a hearing to the within sixty (60) days to the District of Columbia Board of Zoning Adjustment, 441 4th Street, NW, Suite 210 South, Washington, DC 20001.

Any questions about this Notice may be directed to the Office of the Zoning Administrator at (202) 442-4576 or via email at matt.legrant@dc.gov.

Date:

3-22-12


Rabbiah Sabbakhan
Chief Building Official

CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2012, copies of the attached letter were delivered via email to the following:

Stephen Mulligan
McGuireWoods LLP
smulligan@mcguirewoods.com

Jay Surabian
Assistant Attorney General
Department of Consumer and Regulatory Affairs
jay.surabian@dc.gov

ANC 8D
8D04@anc.dc.gov


Cary Kadlecek