

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202 955 3000 | F 202 955 5564
Holland & Knight LLP | www.hklaw.com

September 4, 2012

Dennis R. Hughes
202 419 2448
dennis.hughes@hklaw.com

VIA HAND DELIVERY

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

Re: Application for Special Exception of Roslyn Taylor
4428 Ord Street, NE (Square 5117, Lot 838)

RECEIVED
D.C. OFFICE OF ZONING
2012 SEP -4 PM 3:10

Honorable Members of the Board:

Enclosed please find an original and 20 copies of the Applicant's statement in the above-referenced application, submitted pursuant to 11 DCMR 3113.8, in advance of the public hearing scheduled for this matter on September 18, 2012.

Thank you for your consideration of these materials.

Sincerely,

HOLLAND & KNIGHT LLP


Dennis R. Hughes

Enclosures

cc: Advisory Neighborhood Commission 7D
Steve Cochran, Office of Planning

#11074181_v1

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18403
EXHIBIT NO. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.18403
EXHIBIT NO.29

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of Roslyn Taylor

BZA Application No. 18403
Public Hearing: September 18, 2012
ANC 7D

RECEIVED
D.C. OFFICE OF ZONING
2012 SEP -4 PM 3:10

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of Roslyn Taylor, (the "Applicant") in support of her application to the Board of Zoning Adjustment for special exception approval, pursuant to sections 205 and 3104.1 of the Zoning Regulations, to expand an existing child development home into a child development center in an R-1-B District, at premises 4428 Ord Street, NE, Washington, DC (Square 5117, Lot 838) (the "Property"), as shown on the attached Exhibit A. The present application seeks to increase the maximum enrollment to twelve children, with an increase in staff. No physical expansion of the improvements on the Property is required to accommodate this request.

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the special exception requested herein pursuant to section 3104 of the Zoning Regulations (11 DCMR).

III.

EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Before proceeding with the discussion of the merits of the application, the Applicant submits the following additional materials:

- Exhibit A: Plat showing the Property;
- Exhibit B: A portion of the Sanborn Atlas showing Square 5117 outlined in red ink;
- Exhibit C: Photos Showing Property;
- Exhibit D: Excerpt from Zoning Map showing Property zoned R-1-B;
- Exhibit E: Copy of Home Occupation Permit No. HO 1200386;
- Exhibit F: Letter from Office of State Superintendant of Education;
- Exhibit G: Outline of Testimony of the Applicant.

III.

BACKGROUND

A. Description of the Property

The Property includes approximately 7,100 square foot of land and is located in an R-1-B zone district in northeast Washington along the north side of Ord Street, NE, near its intersection with 45th Place, NE (Exhibits A and B). The Property is improved with a large two-story plus basement semi-detached house, which contains approximately 5,117 square feet, occupying the western half of the lot (Exhibit C). There is extensive street parking available along Ord Street in front of the Property. Off-street parking on the Property accommodating approximately six vehicles is also available and accessed both through a curb cut along Ord Street (gate-enclosure) and through an alley system in Square 5117 which runs along the rear of the Property.

B. Description of Surrounding Area

The Property is located in a pocket of single-family and multi-family residences in what is known as the Eastland Gardens neighborhood of Ward 7. Two blocks to the west of the Property is the Kenilworth Aquatic Gardens and Anacostia River, while Kenilworth Avenue is located approximately one block to the east. The Kenilworth Elementary School is one block to the west. Approximately two blocks to the southeast of the Property is the Deanwood Metrorail station.

C. Zoning

The Property and immediately surrounding blocks are zoned R-1-B (Exhibit D). Pursuant to section 202.4 of the Zoning Regulations, child development home is a matter of right accessory use permitted in the R-1-B zone districts subject to certain conditions set forth therein. In addition, child development center is a use permitted by special exception approval of the Board, likewise subject to certain requirements, as set forth in section 205 of the Zoning Regulations.

D. Project Description

The Applicant has operated Lia's Rainbow, LLC, child development home at the Property since 2010 and desires to expand the program's enrollment number from the current capacity of six children to a maximum of twelve children, with a related addition of staff to care for the children. Lia's Rainbow operates a 23-hour program, from 7am to 6am daily, providing care for children ages newborn to six years old. The types of programs offered include pre-school and after-school care, general day care, evening care and overnight care, all in support of neighborhood families who in need of childcare while parents are at work, attending classes (day

and evening), working multiple jobs, and those working overnight shifts. The child care home has been well-received in the community, as supported by the growing wait list for enrollment in the programs as well as the letters of support the Board has received regarding this application.

The Applicant operates Lia's Rainbow in the basement level of her residence at the Property, which level measures approximately 2,080 square feet. The child care program is divided into age groups, each of which is focused in a different area within the residence, as demonstrated in the photographs included as Exhibit C. There is direct access from the basement level of the residence to the side yard, which contains a play area. The Applicant is also in process of planting a small garden at the rear of the Property for use by the children in the program.

In response to the demonstrated need of parents in the neighborhood, the Applicant seeks to expand the enrollment of the existing program from six children to a maximum of twelve children. The Applicant anticipates that there may be up to a total of six employees to care for the children given the 23-hour nature of care offered. No physical expansion of the residence is proposed as part of this Application, however, the Applicant does intend to upgrade the outdoor play area if the Board grants the special exception. The Applicant is proceeding with the present application for special exception of a child development center because, by definition, a child development home use is limited to six children, and approval of any additional enrollment requires Board approval, pursuant to section 205 of the Regulations. As set forth below, the Application satisfies the requirements and conditions set forth in section 205, and the Application is deserving of approval.

IV.
THE APPLICANT MEETS THE TEST FOR
SPECIAL EXCEPTION RELIEF TO ALLOW A CHILD DEVELOPMENT CENTER IN
THE R-1-B DISTRICT UNDER 11 DCMR § 205

A. Standard for Approving Special Exception

Approval granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the approval requested are met. In reviewing an application for special exception, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Standard of Review for Roof Structure Special Exceptions

Section 205 of the Zoning Regulations provides that a special exception for a child development center may be permitted if approved by the Board, subject to the provisions of Section 205:

§ 205.2: The center or facility shall be capable of meeting all applicable code and licensing requirements.

The Applicant currently operates a permitted and licensed child care home on the Property, pursuant to a validly-issued Home Occupancy permit (Exhibit E). Further, as noted in Exhibit E, the Office of State Superintendant of Education recommends approval of the Application. The Applicant's child care center likewise will comply with all code and licensing requirements, as does the Applicant's current child care home.

§ 205.3: The center or facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance.

The child care center's students and staff will continue to be drawn almost exclusively from within the greater Kenilworth area.. The Property is centered in what is known as the Eastland Gardens neighborhood, so parents who live within the neighborhood often walk their children to and from the Property, however, given the proximity of the Deanwood Metrorail station, there is also a convenient transportation option for those who work outside of the Eastland Gardens and Kenilworth neighborhoods. Finally, there is abundant space on the Property for off-street parking and on-street public parking can be safely used by parents or guardians when dropping off and picking up children from the child care center without disruption to the flow of traffic in front of or near the Property.

§ 205.4: The center or facility shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.

Section 2101.1 of the Zoning Regulations requires one (1) parking space for every four (4) teachers or employees. With the approval of the special exception and employment of up to six teachers/staff at the center, section 2101.1 of the Regulations requires the center to provide a total of two (2) off-street parking spaces. As demonstrated in the attached photograph included as Exhibit C, the Property contains sufficient area to provide abundant room for off-street parking to the side and rear of the Residence, while still allowing ample room for an outdoor play area, Exhibit A. Accordingly, the Applicant will be able to meet the reasonable needs of teachers, other employees and visitors at the Center. In addition, the Applicant currently

anticipates that its employees will almost exclusively travel to the Property by public transportation.

§ 205.5: The center or facility, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions.

The location and attributes of the child care center and its distance from neighbors allow the Applicant to operate the center with no objectionable impacts on adjacent and nearby properties due to noise, activity, visual or other objectionable conditions. As noted, Lia's Rainbow is located in the basement level of the residence and consists of approximately 2,080 square feet. It includes a kitchen and bathroom which serve students and teachers exclusively. This location and interior facilities minimize noise and activity on nearby properties that might result from frequent activities by teachers and children. The Property is a 7,100 square foot lot which provides a buffer from neighbors, as well as ample room for parking and the outdoor play area. Landscaping is adequately placed around the perimeter of the property to visually block the play area. Accordingly, the Center meets the standards of section 205.5.

§ 205.6: The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it deems necessary to protect adjacent and nearby properties.

The Applicant acknowledges that the Board may require special treatment, and further notes that the residence is currently fenced, self-contained, screened and at a comfortable distance from adjacent properties. Further, the Applicant is unaware of any complaints from neighbors regarding the operation of Lia's Rainbow since its opening.

§ 205.7: Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center or facility in travelling between the play area and the center or facility itself.

The current outdoor play area on the Property is sufficient so that the Applicant will not require the use of any off-site play facilities. Additionally, as previously noted, the Applicant intends to expand the play area on the Property upon the Board's approval of the special exception. The Applicant also notes that the driveway access to the Property remains closed by gate during all use of the play area by the children in the program.

§ 205.8: The Board may approve more than one (1) child/elderly development center or adult treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

To the best of the Applicant's knowledge, there are no other child development centers currently operating within one thousand (1,000) feet of the Property. The Applicant understands that one child care center operating in the immediate neighborhood has recently suspended operations.

§ 205.9: Before taking any final action on an application for use as a child/elderly development center or adult day treatment facility, the Board shall submit the application to the D.C. Departments of Transportation and Human Services, the D.C. Office on Aging, and the D.C. Office of Planning for review and written reports.

The Applicant understands that the Application has been referred to the appropriate agencies. The Applicant notes the recommendation of approval from the Office of the State Superintendent of Education included herein at Exhibit F.

§ 205.10: The referral to the D.C. Department of Human Services shall request advice as to whether the proposed center or facility can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

The Applicant acknowledges that the application will be referred to this agency. The Applicant intends to comply with all licensing requirements for the child care center.

**V.
COMMUNITY SUPPORT**

The Applicant is pleased to note that the Application is supported by the affected Advisory Neighborhood Commission, 7D, which voted to recommend approval of the Application at its meeting on June 12, 2012. The Applicant is also pleased to note the support of a number of neighbors to the Property, whose letters of support have been submitted directly to the Office of Zoning.

**VI.
WITNESS**

A. Roslyn Taylor, Applicant

VII.

CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception approval under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By:  _____
Dennis R. Hughes

800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 955-3000

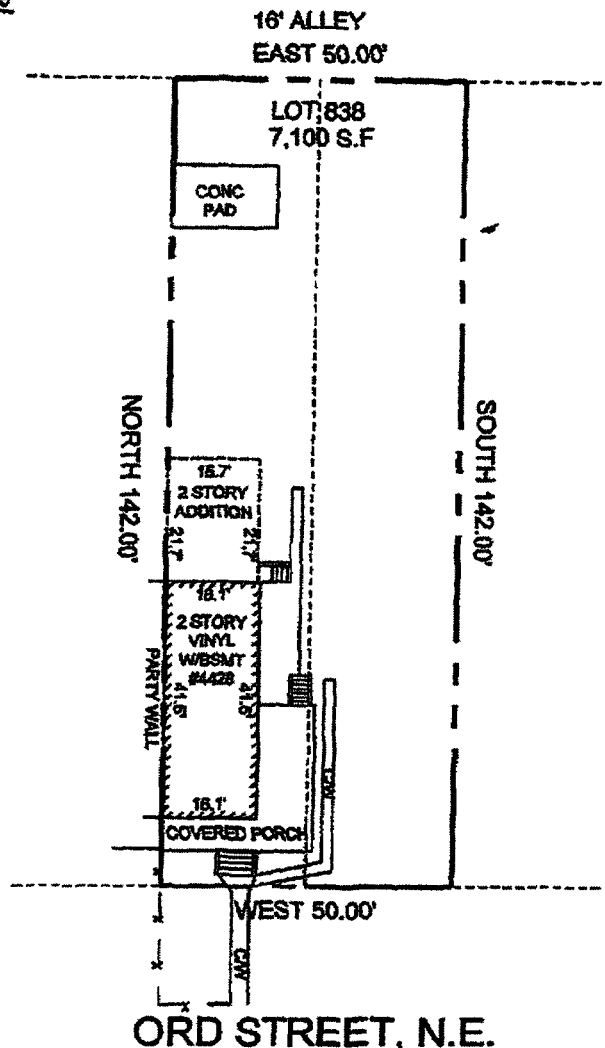
EXHIBIT A

MARYLAND

WASHINGTON, D.C.

VIRGINIA

ADDRESS 4428 ORD STREET, N.E.
WASHINGTON, DC 20019



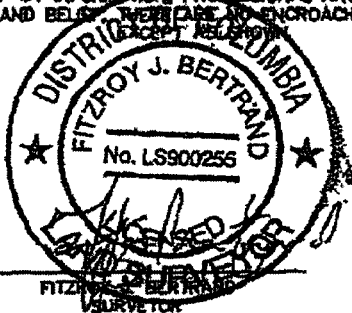
ORD STREET, N.E.

NOTES:

1. THIS IMPROVEMENT LOCATION DRAWING:
 - A. IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING;
 - B. IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS; AND
 - C. DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.
2. THE LEVEL OF ACCURACY OF APPARENT SETBACK DISTANCES IS ONE FOOT, MORE OR LESS.
3. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
4. SUBJECT TO ALL EASEMENTS ON RECORD.
5. A BOUNDARY SURVEY IS RECOMMENDED TO ACCURATELY LOCATE BOUNDARY LINES, HOUSE AND IMPROVEMENTS ON PROPERTY.

DRAWN BY: SF
FILE: 4428LOC_2010

I HEREBY CERTIFY THAT IMPROVEMENTS ARE LOCATED AS SHOWN HEREON AND TO THE BEST OF MY INFORMATION, PROFESSIONAL KNOWLEDGE AND BELIEF, THERE ARE NO ENCROACHMENTS



LOCATION DRAWING

LOT 838
SQUARE 5117
WASHINGTON

DISTRICT OF COLUMBIA

SCALE: 1" = 30'

DATE: 8/11/10

REAL ESTATE SURVEYORS & DEVELOPERS, LLC

Residential, Commercial, Industrial and Land

WWW.RESDLLC.COM

LAUREL LAKES EXECUTIVE PARK

8325 CHERRY LANE

LAUREL, MARYLAND 20707

TEL: F

Exhibit A

EXHIBIT B

The map shows a portion of Section 5115, Township 36N, Range 10E. The streets shown are Polk St, Ord St, and Kenilworth Ave. The map includes a grid of lots with numbers and dimensions. A red rectangle highlights a specific area in the lower-left portion of the map.

Streets and Bearings:

- POLK ST. (Top)
- ORD ST. (Bottom)
- KENILWORTH AVE. (Right, running diagonally)

Section and Township:

- Section 5115
- Township 36N
- Range 10E

Lot Numbers and Dimensions:

The map shows a grid of lots. The top row of lots is numbered 83, 828, 830, 831, 832, 833, 834, 835, 836, 837, 824, 822, 813. The bottom row of lots is numbered 829, 827, 803, 835, 836, 837, 824, 822, 813. The dimensions of the lots are given in feet. The red rectangle highlights a lot in the bottom row, between the 829 and 827 lot numbers.

Other Features:

- Various bearings and distances are shown along the boundaries of the section.
- There are several "X" marks on the map, possibly indicating specific points or features.
- The map is labeled "5115" in the center.

23.	20.		20.	23.	24.
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DSF 111.5					
5385.	5450.		5650.	5785.	

40	25
39	26
38	27
37	18
36	19

34	33	32	31	30	29	28
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PLAT

45.74

KENILWORTH

KENILWORTH AVE

AVENUE 19

AVENUE 18

61,087⁺

66,660⁺

5119

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6,000⁺

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EXHIBIT C









EXHIBIT D



District of Columbia Office of Zoning

EXTRACT OF THE DISTRICT OF COLUMBIA ZONING MAP

September 4, 2012



Zoning Layers

Zone Districts	Overlays Districts	TDRs	Air Rights Zone
Pending Zones	CEA	Pending PUDs	Baist Index
Historic Districts	Campus Plans	Active PUDs	

To certify zoning on any property in order to satisfy a legal requirement, contact the Office of Zoning at (202) 727-6311.

EXHIBIT E

Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589 Fax (202) 442 - 4862

TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442 9557

HOP

HOME OCCUPATION PERMIT

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL
WORK IS COMPLETED AND APPROVED

PERMIT NO. HO1200386

Date 03/26/2012

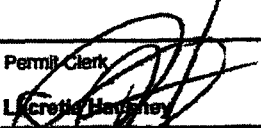
Address of Project 4428 ORD ST NE		Zipcode 20019	Zone R-1-B	Ward 7	Square 5117	Suffix	Lot 0838
Owner Name Garry G Gordon		Owner Address 4428 ORD ST NE WASHINGTON, DC 20019-1960					
Permission Is Hereby Granted To Limited Liability Company		BZA No	Issue Date 3/26/2012			PERMIT FEE : APPL: \$33.00 PMT: \$33.00	
Bus Owner/Tenant Roslyn Taylor		Business Address 4428 ORD ST NE		Business Type Business,			
Total Sq Footage 2300	% of Use 21 - 25	Sign No	Sign Size and Name 144 SQUARE INCHES				
Employees No	No Employees. 1	Leased Parking: No	Parking Type Provided 0			Off Street Parking No	
Bed & Breakfast. No	Meals Served:	# Sleeping Rooms			No Residents Other Residents		
Days of Operation MONDAY-SUNDAY		Hours of Operation From 7 AM To 6AM PM					
Conditions/ Restrictions LIA'S RAINBOW, LLC CHILD DEVELOPMENT HOME FOR 6 CHILDREN MAX HO1100327 IS NO LONGER VALID. As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit.							
Director Nicholas A. Majett		Permit Clerk  L.cretia Henderson			Expiration Date		
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442 9557							

Exhibit F

EXHIBIT F



OSSE

Memorandum

To: Richard S. Nero, Jr. RN
Deputy Director of Operation
Office of Zoning

From: Valene A. Ware 
Interim Director
Compliance & Licensing Unit

Date: June 29, 2012

Subject: BZA # 18403

Roslyn Taylor
4428 Ord Street, NE
Washington DC 20019

RECEIVED
D.C. OFFICE OF ZONING
2012 JUN 29 PM 12:41

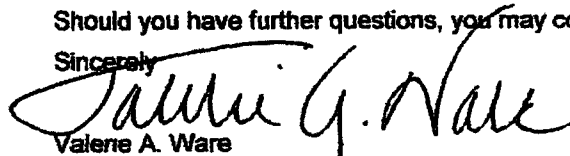
The Office of the State Superintendent of Education, Division of Early Learning , Compliance and Licensing Unit (OSSE/DEL/CLU) recommends that the applicant be granted special exception, pursuant to Title 11 DCMR §§ 205.9 and 205.10, for the purpose of expanding a licensed Child Development Home to a Child Development Center.

The facility's licensure capacity will be calculated based on the issued official Certificate of Occupancy and requirement of Title 29 DCMR, Chapter 3, Child Development Facilities Regulations.

Special exception is granted in this case, in order to benefit the City's growing demand for licensed child care slots

Should you have further questions, you may contact me directly on 202-442-4733

Sincerely,



Valene A. Ware

Interim Director of Compliance & Licensing

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18403

EXHIBIT NO. 27

EXHIBIT G

EXHIBIT G

OUTLINE OF TESTIMONY ROSLYN TAYLOR, APPLICANT

- I. Introduction**
- II. History of Lia's Rainbow, LLC**
- III Overview of services/programs provided at Lia's Rainbow, LLC**
- IV. Discussion of Daily Operations and Plan for Incorporating Additional Children and Staff**
- V Discussion of Outdoor Play Area and Parking**
- VI Discussion of Support for Application**
- VII Requirements for granting the special exception relief have been met**
- VIII Conclusion**