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SUBMITTED ELECTRONICALLY

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

Re: BZA Appeal No. 18469 (“Appeal”) -- Motion to Intervene; Opposition to Intervener’s Motion to Expedite the Public Hearing

Dear Members of the Board:

Appellants in the above-entitled matter do not oppose Missouri Avenue Development Partners, LLC (“Intervener”) Motion to Intervene, but they do oppose Intervener’s Motion to Expedite the Public Hearing.

Intervener has failed to establish the “good cause” necessary, pursuant to 11 DCMR §3112.9, to advance the hearing date to the first possible hearing date after the issuance of the statutory notice requirement. In particular, Intervener cannot meet this standard because resolution of this appeal is not an emergency. The health, safety, or well-being of any DC resident impacted by the proposed development is not threatened by any effect this appeal may have on the timetable for building the proposed development. Moreover, there is no evidence that any alleged benefit to DC residents from the proposed development depends on when the development is built.

Nor are Intervener’s reasons for seeking to expedite the public hearing persuasive. Intervener complains that “Appellants waited sixty days from June 13th, until the last day upon which an appeal could be filed, to take this action before the BZA.” Intervener’s Motion at p. 3, ¶ 4. However, Appellants did not violate any rule in filing their appeal on August 10, 2012. Further, Appellants required all the time permitted before filing an appeal in order to research and identify the legal defects in the Inspector of Building’s issuance of the building permit to Intervener. Intervener cannot now somehow argue that a public hearing should be expedited just because it would have preferred that Appellants filed their appeal sooner.

Intervener further argues that “Additional unwarranted delay of the Project would result in Missouri incurring additional costs of approximately \$63,000.00 per month in interest expense and \$6,300.00 per month in real estate taxes (or roughly \$650,000 annually).” *Id.* at p. 3, ¶ 5. Yet such expenses are private costs that Intervener willingly incurred. They do not rise to the level where the public interest is adversely affected such that an expedited public hearing is warranted.

Most importantly, Intervener was fully on notice that an appeal of the building permit could be taken within 60 days of the permit’s issuance. It chose to move ahead with the proposed development despite the known risk of an appeal that results when a building permit is issued. This risk does not constitute “good cause” to expedite the public hearing.

For these reasons, Appellants oppose Intervener’s Motion to Expedite the Public Hearing, and request that the BZA maintain the anticipated schedule of a December 2012 public hearing in this matter.

Respectfully submitted,



Michael Kroopnick

Certificate of Service

I hereby certify that the foregoing Motion was sent by first class mail, postage prepaid, to the following:

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