

EXHIBIT B: MOTION TO DISMISS

From: Martin Sullivan [<mailto:msullivan@sullivanbarros.com>]
Sent: Friday, March 09, 2012 4:11 PM
To: Mimi Kress; Phil Leibovitz
Cc: Joy Lanum; slynch@his.com
Subject: RE: 2338 King Place DC Construction

Mimi and Phil,

Following up regarding the construction and “retaining wall” at King Place. As you know, my client Susan Lynch has concerns about the backyard fill and “retaining wall” and the construction in general. We have asked the Zoning Administrator to reconsider his office’s zoning approval of the two building permits for your two King Street homes. The existence of the “retaining wall” and fill represents a zoning violation (rear yard requirement and lot occupancy limit).

I happen to think that a reversal of that approval is entirely possible (I actually think it’s likely), based on what is known as the “Economides” case on Dexter Street, NW, from about 5 or 6 years ago. We would hate to see you install all that fill and build the “retaining wall” and then have to incur the expense of removing it. Better to address the issue now before the construction goes too far (you can ask Mr. Economides about that).

The Zoning Administrator has promised us a decision in the next few days. It seems to me that holding off for just one week until he makes his determination would be the prudent move (regardless of what you think about the likelihood of the ZA revoking the permits).

If he does not disturb his office’s previous approval, then we intend to appeal that decision on both building permits and you may end up having to remove the fill and the wall if the BZA grants our appeal. I just wanted to reiterate our intended opposition to the “retaining wall” so that you can make a decision with that knowledge. Feel free to call if you have any questions.

Best,

Marty

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Please note the new firm name and e-mail address as of October 1, 2011.