

LAW OFFICES  
**GRiffin & MURPHY, LLP**  
1912 SUNDERLAND PLACE, N.W.  
WASHINGTON, D.C. 20036-1608  
TELEPHONE: (202) 429-9000  
FACSIMILE: (202) 232-7365  
WWW.WASHLAW.COM

MARK G. GRIFFIN (DC, MD)  
BRIAN P. MURPHY (DC, MD)  
ASHLEY E. WIGGINS (DC, MD, VA)  
MERIDITH H. MOLDENHAUER (DC, MD, VA)  
ERIC M. DANIEL (MD, DC\*)

\*pending

RECEIVED  
U.S. OFFICE OF ZONING  
2013 JAN -2 PM 3:13

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DIRECT DIAL: 202-530-1482  
DIRECT EMAIL: mmoldenhauer@washlaw.com

January 2, 2013

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re: Application No. 18484 – 26 T Street NE (Square 3509S, Lot 39)  
Prehearing Statement of the Applicant

Honorable Members of the Board:

On behalf of Applicant IfeanyiChukwu Egbuniwe, enclosed please find one original and 20 copies of the prehearing statement for the above-referenced application. Also, for your convenience, we have enclosed one unbound copy for the filing. The application is scheduled to be heard before the Board of Zoning Adjustment on January 15, 2013.

Thank you for your attention to this matter. We remain hopeful of the board's approval of the application.

Sincerely,  
GRiffin & MURPHY, LLP

  
By: Meridith H Moldenhauer

Enclosures:

Cc: Advisory Neighborhood Commission 5C  
c/o Commissioner Ronnie Edwards, Chair (via email)  
Commissioner Mary Lois Farmer-Allen, SMD Representative ANC 5C06 (via email)  
Mr. Joel Lawson, Office of Planning (via email)  
Ms. Elisa Vitale (via email)

BOARD OF ZONING ADJUSTMENT  
District of Columbia  
CASE NO. 18484  
EXHIBIT NO. 31

Board of Zoning Adjustment  
District of Columbia  
CASE NO.18484  
EXHIBIT NO.31

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

**APPLICATION OF  
IFEANYICHUKWU EGBUNIWE**

**BZA APPLICATION NO. 18484  
HEARING DATE: JANUARY 15, 2013**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This Statement is submitted on behalf of IfeanyiChukwu Egbuniwe (the “Applicant”), the owner of property located at 26 T Street NE, Lot 0039 in Square 3509S (the “Property”) in support of her application for area variance relief, pursuant to 11 DCMR 3103.2, regarding (i) the height and story requirement (§400.1) and (ii) the lot area requirement (§401.3) to allow the continued use of an existing four-story, three-unit apartment building in the R-4 District that does not comply with the Zoning Regulations.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance requested herein pursuant to §3103.2 of the Zoning Regulations.

**III. EXHIBITS IN SUPPORT OF THE APPLICATION**

**EXHIBIT A: MRIS Listing**

**EXHIBIT B: Excavation Permit**

**EXHIBIT C: Certificate of Occupancy**

**EXHIBIT D: BZA Order (Case No. 18406)**

**EXHIBIT E: Neighbor Letters of Support**

**IV. BACKGROUND**

The Property, also known as Lot 39 in Square 3509S, contains approximately 1,750 square feet of land area. Square 3509S is bounded by Todd Place NE to the north, Lincoln Road NE to the east, T Street NE to the south, and North Capital Street to the west. Square 3509S is located in the R-4 District

and encompasses multi-story attached rowhouses, flats, and apartment buildings. The Property is presently improved with a four-story, three-unit apartment building that does not conform to the Zoning Regulations. The Property is not located within any historic district, and the existing building on the Property is not listed on the D.C. Inventory of Historic Properties.

The structure was purchased by Robin Lancaster on January 11, 2006. Between January 11, 2006 and May 20, 2009, Mr. Lancaster gutted the then two-story structure, renovated the full basement, and raised the ceiling on the third story. Mr. Lancaster also substantially completed renovations that converted the structure from two units to three units – including three kitchens and three separate entrances - by building a structure different from the plans submitted to DCRA and different from the permits issued. After Mr. Lancaster defaulted on his loan, Aurora Loan Services LLC obtained the Property through foreclosure on May 20, 2009.

Equilibrium fund Prop 4, LLC (“EFP”) purchased the Property from Aurora Loan Service LLC on October 26, 2009. EFP completed the renovation in conformity with the plans found on site believing, in good faith, that the Property was a lawful three-unit structure. Seeking to provide a more accessible lower level, EFP applied for and was issued, in error, a permit to excavate the front yard and install a concrete slab patio. The excavation done, in conformance with the excavation permit issued, resulted in a structure that was noncompliant as to height and stories. If not for DCRA’s issuance of the permit # B1007161, description “EXCAVATE FRONT YARD & INSTALL CONCRETE SLAB PATIO,” EFP would not have excavated the front of the Property creating the height and story noncompliance. Said work was done pursuant to a validly issued building permit that was issued improperly by DCRA.

Unbeknownst to the Applicant, she purchased the Property on January 10, 2012 after all improvements and renovations had previously been completed. Six months after she closed on the Property, the Applicant became aware that the Property was in violation of the Zoning Regulations. Upon learning of the violation, the Applicant began this variance process to rectify the current noncompliant aspects of the Property.

## **V. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF**

The Board is authorized to grant an area variance where it finds: (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition; (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. *See French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this application.

### **A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition.**

The phrase “exceptional situation or condition” in the above-quoted variance test applies not only to the land, but also to the existence and history behind the configuration of a building and other subsequent events extraneous to the land itself. *See Oakland Condominium v. District of Columbia Bd. of Zoning Adjustment*, 22 A.3d 748 (D.C. 2011) (Holding that an exceptional situation existed because an applicant before the Board of Zoning Adjustment seeking a variance from the zoning code demonstrated good faith, detrimental reliance on actions the actions of city officials, namely the issuance of a building permit by the Department of Consumer and Regulatory Affairs (“DCRA”), in believing that they were acting in accordance with the zoning regulations); *See also Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974)(Holding that an exceptional situation existed because of the failure of a seminary to remain a viable institution).

In this case, the exceptional situation stems from a confluence of factors, none of which were caused by the Applicant.

First, the apartment building is a structure that already exists. Between 2006 and 2009, the structure was converted from a flat to a three-unit apartment. In 2010, the structure was excavated, pursuant to a proper permit, in a manner that increased the number of stories from three to four and increased the height to greater than 40 feet. The apartment building currently has three separate entrances, three kitchens, and a common stairwell.

Second, at the time the apartment building was purchased in January 2012, there was no reasonable basis for the Applicant to know that the structure was constructed illegally. The illegal conversion of the Property, making it noncompliant with respect to lot area and height requirements, was **not** the result of any actions taken by the Applicant. The Applicant was not involved in the renovation or unlawful conversion of the structure. The Applicant believed, in good faith, that the building, as constructed, marketed and sold, was in compliance with all regulations and requirements (see MRIS listing, attached hereto as Exhibit A). The Applicant is not a developer, contractor, or real estate investor. Rather, she is a young single female with no prior development experience. She purchased the Property with the intention of renting out two of the three units and residing in the third unit as her primary residence. Based on those facts, Ifeanyi applied for and obtained financing on the Property as a three unit, multi-family apartment building. Ifeanyi is a first time homeowner and property owner and thus unaware of the zoning violations at the time she purchased the Property.

The following were indications to the Applicant that the structure was constructed legally due to recognition and approval by the District government:

- Issuance of Excavation Permit: On June 18, 2010, DCRA issued a permit (#B1007161, attached hereto as Exhibit B) to the prior owner to excavate the front yard and install a concrete lab patio. In order to obtain that permit, EFP submitted drawings reflecting the structure and elevation before and after the excavation. DCRA erroneously issued this permit and should have known that the excavation would change the lower level from a cellar into another story. The building permit states that the existing and proposed structure had 3 units. The building permit labeled the proposed use “Apartment Houses – R-2.” The building permit also states that the structure has 4

stories. When the work was completed, in conformance with that building permit, the end result was that what was once a cellar plus three-story structure, complaint as to the number of stories under the zoning regulations, became a noncompliant, four-story structure.

- Issuance of Multiple Certificates of Occupancy: On January 6, 2012, prior to the Applicant's acquisition of the Property, DCRA issued a Certificate of Occupancy (#CO1200845) for an apartment building with three units. On February 16, 2012, following the Applicant's acquisition of the Property, DCRA issued a Change of Ownership Certificate of Occupancy (#CO1201201, attached hereto as Exhibit C) for an apartment building with three units. The second Certificate of Occupancy lists the description of occupancy as "Apartment Building – 3 Units," the approved building code use as "Apartment Houses – R-2," and the Approved Zoning Code Use as "Apartment House."
- Issuance of an Electrical Permit: On June 7, 2010, DCRA issued an electrical permit (#B117326) which listed the existing use and proposed use as "Apartment Houses – R-2"
- Issuance of Multiple Plumbing Permits: On June 4, 2010, DCRA issued a plumbing permit (#B1173226) listing the proposed use as "Apartment Houses – R-2." On August 11, 2010, DCRA issued another plumbing permit (#B10077161) listing the proposed use as "Apartment Houses – R-2."

#### **B. Strict Application of the Zoning Regulations would Result in Practical Difficulty**

Converting the Property back into a structure that complies with the Zoning Regulations would result in significant financial hardship on the Applicant. The interior is renovated specifically for three residential units and each dwelling is fully furnished and occupied as such. Should the requested area variance not be granted, the Applicant would have to expend a considerable amount of money to reconfigure the building for another use and relocate an existing tenant. At the end of the extensive expenditures necessary to bring the structure into compliance, the resulting structure would be less valuable than the existing structure. This decreases the value of the asset while the mortgage payment obligation remains based on a 3-unit valuation. These costs would be in addition to the extensive

obligations and expenses that the Applicant has already incurred in connection with the Property, including the purchase price of the structure. The Applicant would have no reasonable expectation of a financial return if required to convert the Property back into a structure that complies with the Zoning Regulations.

In BZA Case No. 18406, pursuant to an Order issued October 17, 2012, the Board approved an application for a variance from the building on alley lot provisions to allow the continued use of three residential apartments in a three-unit apartment building located on alley lots in the DD/R-5-B District (attached hereto as Exhibit D). Except for use as a one-family dwelling, a structure is not to be constructed or altered for human habitation on an alley lot. In 2008, the structure was converted to residential use without the necessary zoning approval and building permits. The application was submitted by the present owners, all of whom purchased their units subsequent to the conversion to residential use, after DCRA issued letters indicating the zoning and permitting violations. The Board granted the variance application, by summary order, based on the unique history of the property and good faith purchase without knowledge of any wrongdoing on the part of the Applicants. The Board was careful to make clear that each case is to be assessed on a case-by-case basis and that the precedential value of the decision was limited to the unique facts of the case before it.

We contend that the Applicant in this case faces a unique circumstance and that the precedential value of approval of this application would be equally limited to the individual facts of this case. In this instance, the facts are highly unique due to (1) the good faith, detrimental reliance of the Applicant, (2) the number of times the property has changed hands in the last 6 years, (3) the quick and timely effort to correct any preexisting violations on the part of the Applicant, and (4) the significant costs associated with remedying the noncompliance. As stated, the Applicant had no knowledge of the noncompliance and was in no way responsible for the noncompliance that took place. Furthermore, this is not a case in which an owner has held onto a property for a long period of time before resolving zoning issues. The Applicant purchased the property in January 2012, in good faith and with no prior knowledge of any wrongdoing by prior owners, and immediately upon finding out about zoning and permitting violations

applied for the proper approvals to rectify the situation through the proper process. Moreover, as described in more detail in the initial application, compliance with the height and story requirement would require demolishing the top level (estimated to cost \$35,000 to \$40,000) or backfilling the lower level (estimated to \$30,000 to \$35,000) in addition to reconfiguring the existing structure to accommodate only two units which would not only be costly but would decrease the value of the structure and reduce rental income. Finally, compliance with the zoning regulations would cause the Applicant to incur additional costs and expenses associated with the eviction of existing tenants. DHCD registered and inspected the Property as a housing accommodation; therefore, evicting the existing tenants could be costly and time-consuming due to the District's landlord/tenant laws.

#### **C. No Detriment to Public Good or Inconsistency with Zone Plan**

The continued use of the existing structure will not cause detriment to the public good or be inconsistent with the Zoning Regulations. The current residential use and structure is consistent and compatible with the residential uses and structures immediately surrounding the Property. The existing residential use does not generate excessive traffic, noise, or other nuisance. On December 18, 2012, the Applicant presented the Application to Advisory Neighborhood Commission ("ANC") 5C. At the meeting, ANC 5C voted unanimously to recommend approval of the application to the BZA. Additionally, residents that live in the immediate area have proffered 19 letters in support of this application (attached hereto as Exhibit E). After a suggestion by the Office of Planning, the Applicant has offered to meet with the Historic Preservation office to get input regarding aesthetic improvements that could be incorporated at this point. While at the time of submission the Applicant was waiting for the Office of Planning to discuss what, if any, modifications would be beneficial from a Historic Preservation perspective, the Applicant intends to incorporate any and all feasible suggestions from the Historic Preservation Office.

#### **VI. WITNESSES**

The following witnesses will appear on behalf of the Applicant:

1. IfeanyiChukwu Egbuniwe, Owner and Applicant

**VII. CONCLUSION**

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, we hereby submit that the application meets the requirements for area variance relief. We look forward to presenting our case to the Board on January 15, 2013.

Sincerely,  
GRIFFIN & MURPHY, LLP



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By: Meredith R. Moldenhauer

## **Exhibit A**



© 2012 MRIS



MLS#: DC7690046  
 Listing Type: Excl. Right  
 Contract Date: 19-Dec-2011

Address: 26 T ST NE  
 County: WASHINGTON  
 State: DC  
 Legal Subdiv: ECKINGTON  
 Advertized Subdiv: ECKINGTON

Area:  
 Lot size: 1,751  
 Type: Dwelling w/Rental

Year Built: 1905

Elementary:

Show Instructions: Lockbox-Sentrilock, Show Anytime, Vacant

#### INTERIOR

# of Single Rooms: 0  
 # of Efficiencies: 0  
 # of One Bedrooms: 0  
 # of Two Bedrooms: 2  
 # of Three Rooms: 1

Appliances:

Amenities:

Security:

Windows/Doors:

Walls/Ceilings:

Basement Information: Yes

Basement Type: Daylight, Full, Front Entrance, Fully Finished, Heated, Improved, Rear Entrance, Walkout Level

Basement Entrance: Front Entrance, Rear Entrance

Foundation:

Handicap: None, Other

#### House Dimensions:

Directions: From New York Ave Metro, Left onto Florida, Right onto Lincoln RD, Left onto T ST then to address on right.

Remarks: Amazing Complete Renovation. Victorian conversion to 3 unit building consisting of two 2BR & one 3BR 3BA unit. Vaulted 20 FT Ceilings, Woven Bamboo Floors. Designer Kitchens, Integrated Stainless Steel Appliances, Ceasarstone Counters, Custom Glass Tile, Glass Mosaic Backsplash, Exposed Brick. Zoned Central Heat & AC, DW, W/D. Rear Deck & Parking. Close to Metro. Open House Sunday Sep. 18th 1-4pm

Internet Remarks: Amazing Complete Renovation. Victorian conversion to 3 unit building consisting of two 2BR & one 3BR 3BA unit. Vaulted 20 FT Ceilings, Woven Bamboo Floors. Designer Kitchens, Integrated Stainless Steel Appliances, Ceasarstone Counters, Custom Glass Tile, Glass Mosaic Backsplash, Exposed Brick. Zoned Central Heat & AC, DW, W/D. Rear Deck & Parking. Close to Metro. Open House Sunday Sep. 18th 1-4pm

**EXTERIOR**

Total Units: 3

Year Built: 1905

Year Converted: 2011

Exterior:

Exterior Construction: Brick

Other Buildings:

New Construction: No

Transportation:

Lot size: 1751

Lot Acreage: 0.04

Lot Dimensions:

Road Frontage:

View Exposure:

Lot Description:

TDR:

**PARKING:**Free, Lmt Comm Elem, Private 1-10 Spaces, Faces Rear, Garage Door Opener, Concrete Driveway

# Assigned Spaces:

Type of Garage:

# Garage Spaces:

Type of Carport:

# Carport Spaces:

Soil Type: Unknown

Property Condition: Renov/Remod, Restored, Shows Well

**UTILITIES**

Heating System: Central, Forced Air, Heat Pump(s), Pro

Heating Fuel: Central, Electric

Hot Water: Electric

Water: Public

Cooling System: Ceiling Fan(s), Central A/C, Programm

Cooling Fuel: Electric

Sewer/Septic: Public Sewer

Metering: Electricity is sep, Gas is Separate

TV/Cable/Comm:

**WATER (Y/N) :** No

Vacation Property: No

Blks of Ocn:

Public Road:

Comm Name:

#BldgFlrs:

#Units: 3

#Bldgs:

#Flrs/Unit:

#Elev:

Fed Flood Ins:

Fed Flood Zn Cd:

Loc Type:

**FINANCIAL INFORMATION**

Earnest Money:

Possession: Immediate

Project Approved:

Total Taxes: \$3,466

Tax Year: 2010

State/County Tax:

City/Town: \$3,466.39

Refuse:

Front Foot Fee:

Tap:

Special Tax:

Yr Assessed: 2011

Total Tax Assessment: \$240,710

Improvements: \$70,200

Land: \$170,510

Tenancy: Vacant

Vacancy Rate: 100.00

Annual Operating Expenses(Except Taxes): \$12,418

Annual Gross Operating Income: \$84,000

Annual Net Operating Income:

Gross Monthly Rent(All Units Combined): \$7,000

Owner Expenses:

Source of Information:

Additional Income Source:

Current Financing/Loan:

New Financing:

Cash to Assume:

Owner/Private Finance:

Interest Rate:

Balloon- # of Years:

Years:

Amortized Years:

Documents:

**LEGAL INFORMATION**

Tax Map #: 3509S 0039

Lot: 39

Block/Square: 3509

Section:

Phase:

Folio #:

Parcel Number:

Liber #:

Historic Designation ID:

Zoning Code: R4

Master Plan Zoning:

Disclosures: Prop Disclosure

Tenants Rights:

Tenants Responsible:

Rent Includes:

Contract Info: None

**OWNER/SHOWING CONTACT/PROPERTY MANAGEMENT NFOR**

Owner 1 Name: Eq

Home #:

Office #:

Showing Contact1: Sofonias Astatke

Home #: (520) 250-8977

Office #: (202) 986-0160

Monthly Rent:

Leased Exp.Date:

PM Company:

Office Phone:

Prop Mgr's Name:

Phone:

Fax#:



**LISTING AGENT/BROKER/COMPENSATION**

**Listing Agent:** SOFONIAS ASTATKE

**Cell Phone:** (520) 250-8977

**Agent Office:** (202) 986-0160

**Agent Email:** astatke@yahoo.com

**Broker Name:** Drachman, Llc

**Broker Address:** 2816 Georgia Ave Nw, WASHINGTON, DC 20001

**Office Phone:** (202) 986-0160

**Compensation:**

**Sub-Agent Comp:** 3%

**Dual Agency:** Yes

**List Date:** 14-Sep-2011

**Orig Price:** \$945,000

**Low Price:** \$945,000

**SOLD/LEASED INFORMATION**

**Contract Date:** 19-Dec-2011

**Number of Hours on Kickout:**

**New 1st Trust Loan Amount:** \$878,150,000

**New 2nd Trust Loan Amount:**

**Selling Broker ID:** LNG54

**Selling Agent ID:** 3017181

**Home Phone:** (520) 250-8977

**Pager:**

**Home Fax:** (202) 315-3678

**Voice Mail:**

**Ext:**

**Broker Code:** DRCH1

**Broker Fax:** (202) 986-0161

**Add'l Comp:**

**DesR:** True

**Update Type:** OTHER

**Photo Option:** Lister will Submit All

**Value Range Pricing Y/N:** False

**Total Photos:** 19

**Days On Market -Prop:** 96

**Advertising:** IDX-PUB

**Type of Contingency:**

**Last Contingency Expires:**

**Settled/Sold Price:** \$910,000

**Seller Subsidy:** \$9,100

**New 1st Trust Loan:** FHA

**New 2nd Trust Loan Type:**

**Selling Office:** LNG54

**Type of Selling Agency:** Buyer Agency



## **Exhibit B**

Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

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

B

**BUILDING PERMIT**

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

Issue Date: 06/18/2010

PERMIT NO. B1007161

Expiration Date: 06/18/2011

Address of Project: 26 T ST NE				Zone: R-4	Ward: 5	Square: 3509	Suffix:	Lot: 0039
Description Of Work: EXCAVATE FRONT YARD & INSTALL CONCRETE SLAB PATIO.								
Permission Is Hereby Granted To: Equilibrium Fund Prop 4 Lic		Owner Address: 2930 N SWAN RD STE 209 TUCSON, AZ 85712-6014				PERMIT FEE: \$254.35		
Permit Type: Alteration and Repair	Existing Use: Apartment Houses - R-2	Proposed Use: Apartment Houses - R-2				Plans:		
Agent Name: Joseph Stewart	Agent Address: 1823 1ST ST NW WASHINGTON, DC	Existing Dwell Units: 3	Proposed Dwell Units: 3	No. of Stories: 4	Floor(s) Involved:			
Conditions/ Restrictions:								
<p>This Permit Expires If no Construction is Started Within 1 Year or If the Inspection is Over 1 Year.</p> <p>All Construction Done According To The Current Building Codes And Zoning Regulations;</p> <p>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.</p>								
Director: Linda K. Argo	Permit Clerk Stacia Williams							
<p>TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639</p> <p>FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557</p> <p>TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.</p>								

## **Exhibit C**

Government of the District of Columbia  
 Department of Consumer and Regulatory Affairs

1100 4th Street NW  
 Washington DC 20024  
 (202) 442-4400  
 dcra.dc.gov

**C  
O  
F  
O**

**CERTIFICATE OF OCCUPANCY**

PERMIT NO. CO1201201

Issued Date: 02/16/2012

Address: 26 T ST NE		Zone: R-4	Ward: 5	Square: 3609	Suffix:	Lot: 0039
Description of Occupancy: APARTMENT BUILDING - 3 UNITS.						
Permission is Herby Granted To: IFEANYICHUKWU EGBUNIWE	Trading As: N/A	Floor(s) Occupied BASE, 1ST, 2ND	Occupied Lot(s): 3 No. of Units:			
Property Owner: IFEANYICHUKWU EGBUNIWE	Address: 26 T STREET NE WASHINGTON, DC	BZA/PUD Number:	Occupied Sq. Footage: 3150 PERMIT FEE: \$82.50			
Building Permit Number (if applicable)	Type of Application: Ownership Change	Approved Building Code Use: Apartment Houses - R-2; Approved Zoning Code Use: Apartment house				
Conditions/ Restrictions:						
<p>THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE, EXCEPT PLACES OF RELIGIOUS ASSEMBLY. Use complies with DCMR Title 11 (Zoning) and Title 12 (Construction).</p> <p>As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use 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 spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.</p>						
Director (Code Official): Nicholas A. Majett <i>Nicholas Majett</i>	Permit Clerk Erika King <i>Erika King</i>	Expiration Date:				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-421-1036						



## **Exhibit D**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**Application No. 18406 of Erin Murphy, Johanna Sears, and Ali Tahriri**, pursuant to 11 DCMR § 3103.2, for a variance from the building on alley lot provisions under subsection 2507.1, to allow the continued use of three residential apartments in a three-unit apartment building located on alley lots in the DD/R-5-B District at premises rear of 1131 5th Street, N.W. (Square 514, Lots 2214, 2215, and 2216, also known as Lots 48 through 50).<sup>1</sup>

**HEARING DATE:** October 16, 2012

**DECISION DATE:** October 16, 2012

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 and 23.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2C, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a letter in support of the application.<sup>2</sup> The letter dated September 28, 2012 indicated that at a duly noticed, regularly scheduled meeting on September 5, 2012, with a quorum of commissioners present, the ANC voted unanimously (4:0:0) to support the application. (Exhibit 28.) The Office of Planning ("OP") submitted a report in support of the application. (Exhibit 26.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a use variance under § 3103.2 from

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<sup>1</sup> The Applicants amended the application to include the third unit owner as a co-applicant. (Exhibit 23.) The caption has been changed to reflect that addition.

<sup>2</sup> The ANC's report is dated September 28, 2012, but was not submitted until October 15, 2012. The Board waived the time requirements and allowed the report into the record, as well as accorded it great weight.

441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: [dcoz@dc.gov](mailto:dcoz@dc.gov)

Web Site: [www.dcoz.dc.gov](http://www.dcoz.dc.gov)

**BZA APPLICATION NO. 18406**

**PAGE NO. 2**

the strict application of the building on alley lot requirements under § 2507.1.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking the variance relief that the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owners in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED**.

**VOTE:** **4-0-1** (Lloyd L. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Peter G. May, to Approve; third Mayoral appointee vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**ATTESTED BY:**

  
SARA A. BARDIN  
Director, Office of Zoning

**FINAL DATE OF ORDER:** October 17, 2012

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

**BZA APPLICATION NO. 18406**

**PAGE NO. 3**

DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

## **Exhibit E**

Date: 12-4-12

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

Re: Letter in Support of Application No. 18484 – 26 T Street, NE

Dear Members of the Board:

I am writing to express my support for IfeanyiChukwu Egbuniwe's application for zoning relief at 26 T Street, NE to allow the continued use of an existing four-story, three-unit apartment building. I urge the Board to approve the application.

The structure at 26 T Street, NE does not have a substantially adverse effect on the use or enjoyment of our nearby home. Nor does it affect our light, air, or privacy. The project is comparable to other projects in our immediate vicinity, and will not visually intrude upon the character, scale, or pattern of the houses in our neighborhood.

Thank you for the opportunity to provide feedback.

Sincerely,

Bobbie Jean Toran (Signature)

Name: Bobbie Jean Toran

Address: 15 T ST N.E.  
Washington D.C.  
20002 --

Date: 12/5/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Catherine Dudley (Signature)

Name:

CATHERINE DUDLEY

Address:

18T. ST. NE, Apt. #2  
WASH, DC 20002-1537

Date: 12/4/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Kenny L. Dudley (Signature)

Name:

KENNY L. DUDLEY

Address:

18 T. ST. NE, Apt. #2  
WASHINGTON, DC 20002-1537

(202) 609-2393 cell

Date: 2/04/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Sophie Beh (Signature)

Name: SOPHIE BEHR

Address: 21 T. St NE  
Washington DC  
20002

Date: 12/4/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,



(Signature)

Name:

Alex Brant

Address:

35 Todd Pl NE #7

Washington DC

20002

Date: 12/03/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

William Jenkins (Signature)

Name: William Jenkins  
1843 North Capital St NW  
Washington DC 20001

Address:

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Date: 12/5/12

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

Re: Letter in Support of Application No. 18484 – 26 T Street, NE

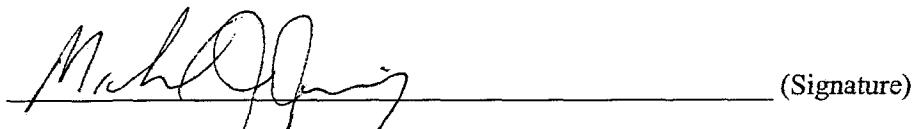
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Thank you for the opportunity to provide feedback.

Sincerely,

  
(Signature)

Name: Michael J. Terragino

Address: 25 T NE  
Washington, DC 20002  
(202) 870-8007

Date: 12-04-2012

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Charles Caldwell

(Signature)

Name:

Charles Caldwell

Address:

9 T St. N.E.

Washington, DC 20002

Date: 4 - Dec - 2012

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

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Thank you for the opportunity to provide feedback.

Sincerely,



\_\_\_\_\_  
(Signature)

Name: Warren McDermott

Address: 30 T St. NE Washington, DC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: 12-4-2012

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

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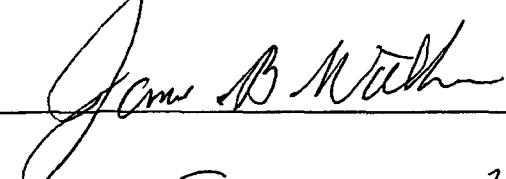
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Thank you for the opportunity to provide feedback.

Sincerely,

  
\_\_\_\_\_  
(Signature)

Name:

James B. Watkins

Address:

17 T ST NE  
Wash., D.C. 20002  
\_\_\_\_\_  
\_\_\_\_\_

Date: 12-4-12

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

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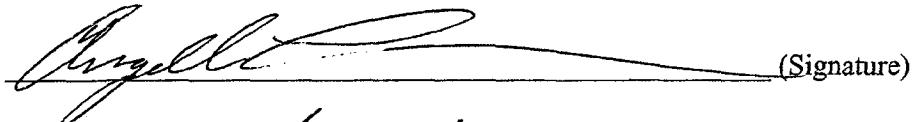
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Thank you for the opportunity to provide feedback.

Sincerely,

  
(Signature)

Name: Angela Tindal

Address: 15 T ST NE  
Wash. D.C. 20002

Date: 12/4/12

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

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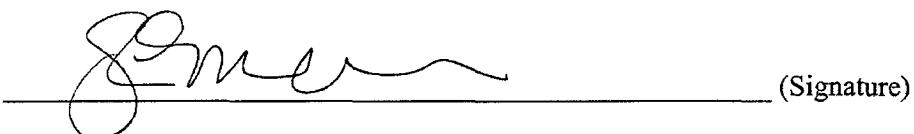
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Thank you for the opportunity to provide feedback.

Sincerely,

 (Signature)

Name: JENNIFER MACK

Address: 23 T STREET NE  
WASHINGTON, DC 20002

\_\_\_\_\_  
\_\_\_\_\_

Date: 12-4-12

Board of Zoning Adjustment  
441 4<sup>th</sup> Street N.W.  
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Thank you for the opportunity to provide feedback.

Sincerely,

Sinitha Dudley (Signature)

Name: Sinitha Dudley

Address: 18 T Street NE #2

Washington, DC 20002

Date: \_\_\_\_\_

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

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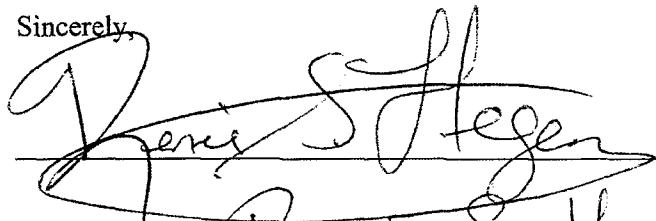
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Thank you for the opportunity to provide feedback.

Sincerely,



Renee S. Hegens

(Signature)

Name:

Renee S. Hegens

Address:

27 Todd Place NE  
Washington, DC 20002

Date: 12-4-12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Charles Wilson (Signature)

Name: Charles Wilson

Address: 29 Todd PL NE  
Washington DC 20002  
\_\_\_\_\_  
\_\_\_\_\_

Date: 12-4-12

Board of Zoning Adjustment  
441 4<sup>th</sup> Street N.W.  
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Thank you for the opportunity to provide feedback.

Sincerely,

 (Signature)

Name:

Thomas Hellen

Address:

27 Todd PL NE  
Washington DC  
20001

Date: 12.2.12

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

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Thank you for the opportunity to provide feedback.

Sincerely,



(Signature)

Name: Meghan + Jason Rano

Address: 32 T Street NE  
Washington, DC 20002

Date: Dec 2 20012

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Latiaria McRae (Signature)

Name: Latiaria McRae

Address: 14 T street NE  
Ap + 2  
Washington DC 20009

Date: 12/2/12

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

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Thank you for the opportunity to provide feedback.

Sincerely,

Claudette Bekoe \_\_\_\_\_ (Signature)

Name: Claudette BEKOE

Address: 16 T. Street NE. Wash, DC 20002

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_