

March 8, 2013

VIA ELECTRONIC SUBMISSION

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

Re: **BZA Appeal Nos. 18539 & 18540 – Intervenor’s Opposition to Motion to Continue**

Dear Members of the Board:

2014 Kalorama Road LLC and Lock 7 Development LLC (collectively, “Intervenors”) hereby oppose the request of the Appellant for a continuance of the public hearing for the above-captioned appeals. As parties to the appeals and the most affected by the outcome of the appeals, the Intervenor’s normally should consent to a continuance requested by another party. The Intervenor’s do not consent to such a continuance. The Appellant filed this request four days before pre-hearing submissions are due and failed to express its opinion during the public meeting on March 5, 2013, when the Board rescheduled the public hearing. This request comes at the eleventh hour and does a disservice to the Intervenor’s and DCRA, both of whom are actively preparing their cases.

The Board rescheduled the public hearing so that it did not need to decide the Appellant’s motion to stay and so that the merits of the appeal could be decided before the Intervenor’s could obtain a building permit. After a long debate over the merits of the motion to stay, the Board made a fair decision in the best interest of every party by rescheduling the hearing. If the Board

were to reschedule the hearing, then the Board must again address the motion to stay, which will, again, unnecessarily consume the Board's time and energy.

The ANC has known of these appeals since the Appellant filed them on February 5, 2013. In fact, the ANC's PZT Committee had the opportunity to consider the appeals at its February 19, 2013 meeting when the Intervenors and the Appellant discussed the proposed project. In fact, the Appellant was sure to make the PZT Committee aware of the appeals at this meeting. The PZT Committee and, subsequently, the full ANC did not choose to consider the appeals. Nevertheless, the ANC has been deeply involved in many aspects of this project, including multiple meetings with the Intervenors and/or the Appellant present, over the last three months. Furthermore, the ANC has three weeks (from March 5th) to file something with the Board. The ANC is keenly aware of the issues raised by the Appellant in the appeals, so proceeding with the hearing as scheduled will not deprive the ANC of any ability to participate.

By the time of the hearing date, the Appellant will have had nearly two months to prepare its case. To say that it does not have time because the hearing date was moved is a misleading statement by the Appellant. The Appellant has discussed this project with the same consultants for more than two months, as they demonstrated in their attempt to raise zoning concerns before the HPRB in January. The zoning issues have not changed, and the Appellant made its case once before. The Intervenors and DCRA will be ready to present their cases by March 26th, so there is no reason that the Appellant should not be ready too.

While the Appellant and the Intervenors have been discussing the designs of the projects, those discussions pertain only to design details that do not implicate zoning. The Intervenors plan to proceed with the same project, with respect to zoning, as when the appeals were filed.

Finally, the Intervenors plan to obtain building permits for the projects immediately after they receive final approval from the HPRB on March 28, 2013. Should the hearing be continued, the Intervenors will be harmed by the delay from a potential stay of the building permits and by the additional costs for having to again contest the stay motions.

A continuance will reward only the Appellant. The Board should deny the request for a continuance and stand by its compromise decision to reschedule the hearing date to March 26, 2013.

Sincerely,
GOULSTON & STORRS, P.C.



Cary R. Kadlecek

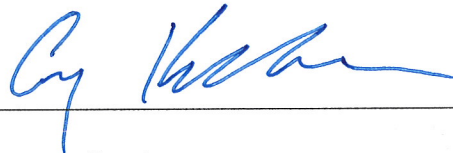
CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2013, copies of the attached letter were delivered via U.S. Mail or email to the following:

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