

BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 18725

Motion of: ☐ Applicant ☐ Petitioner ☐ Appellant ☒ Party ☐ Intervenor ☐ Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

Reopen the Record for the Limited Purpose of including 17 letters of ANC2B Confirming that the Meeting at Which it Voted on the Subject Application was a Regular Meeting

Points and Authorities:

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

see Attached Motion by Opposition Parties Hill, Uth, and AFKham;

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO.

EXHIBIT NO.

18725
43

2014 MAR 18 AM 10:40

RECEIVED

CERTIFICATE OF SERVICE

I hereby certify that on this

1

8

day of March

, 2014

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via:

☐ Mailed letter

☐ Hand delivery

☒ E-Mail

☐ Other _____

Signature:

Stephen M. Truitt

Print Name:

Stephen M. Truitt

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Board of Zoning Adjustment
District of Columbia
CASE NO.18725
EXHIBIT NO.43

**Before the Board
of Zoning Adjustment
For the District of Columbia**

**Rafael Romeu and Larissa
Leony,
Applicant**

v.

No. 18725

**James, Hill, Amir Afkhan and
Robert Uth,
Parties in Opposition**

**Motion To Reopen The Record For The Limited
Purpose Of Including 17 Letters Of ANC2B
Confirming That The Meeting At Which It Voted
On The Subject Application Was A Regular Meeting**

Pursuant to Rule 3121.9 the above parties in opposition move the Board to reopen the record and include therein the seventeen annexed letters from ANC2B to various D.C. agencies and persons. Each letter confirms that the February 17, 2014 meeting at which ANC2B took action recommending, with some changes, approval of the foregoing Application was “a regular meeting” of the ANC. The need for this supplement to the record arises in the following context.

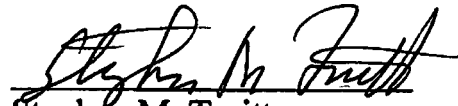
At the hearing on the Application the Board heard testimony from two members of the ANC one of whom, Chairman Will Stephens, testified as to the notice given to the public of the February 17th meeting. The adequacy of that notice--without which the results of the meeting would be void--was a contested issue in this contested case. And, if valid, the ANC recommendation is entitled to great weight under applicable rules and decisional law. Indeed the Board’s own rules identify the adequacy of such notice as an issue before it can receive the ANC report into the record. Rule 3115.1(c). Mr. Stephens testified that the meeting notice was adequate because the February 17, 2014 meeting was not a regular meeting to which

certain notice provisions not here observed were mandatory. Rather Mr. Stephens testified that the February 17, 2014 meeting was not a regular meeting but was some other sort of other meeting for which lesser notice is required. This sentiment was echoed by at least one Board member.¹

The ANC report itself (IZIS Exhibit No. 28) identified the February 17 meeting as “its regular meeting.” Lest this statement be regarded as an inadvertent slip, Opponents wish to have the record include the annexed letters each of which verbatim repeats the same characterization of the nature of the ANC’s meeting on February 17: each letter commences “At its regular meeting on February 17, 2014...”

This motion is made less than a week of the hearing itself so no prejudice can result to any party by having the record complete on this important issue now. Naturally Opponents do not object to the statement by any other party commenting on the exhibited letters. See Rule 3121.6.

Respectfully Submitted,



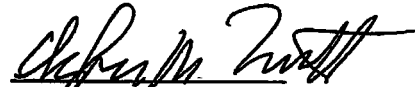
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Attorney for Opposition Parties

¹ The transcript of the hearing is not yet available so this motion is based on the recollection of the parties and counsel.

Certificate of Service

**I certify I have served all parties to this proceeding by email this 18th
Day of March 2014.**


Stephen M. Truitt