

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

In the Matter of

Application No. 18881 of Nando's of Woodley Park, LLC

Opposition of the Woodley Park Community Association

The Woodley Park Community Association urges the Board not to reopen this case to modify the conditions it adopted in its April 24 Order.

In that Order, the Board concluded that "an 'escape hatch' is needed here" and that "*five years is the maximum period* that can be permitted to pass before the Board should have an opportunity to determine whether the impact of Nando's operations matched the Board's predictions." Order at 15 (emphasis added).

At its June 6 meeting, the Board considered Nando's motion to reconsider this condition. At that time, the Chair indicated that "the Board really gave a lot of time and effort to" the details of this condition (Tr. at 9) and further that "I think if we start reshaping these things and looking at the relief based upon what somebody's lease term is, based upon versus what the impact, potential impact on the community, I think it gets us in a very dangerous area" (Tr. at 11).

Although Nando's had not asked for it in its reconsideration motion, the Board on June 6 also considered the change proposed by the two ANC commissioners now, to increase the review period to ten years. After discussion, in which at least two Board members indicated that ten years would be too long, the Board denied Nando's motion.

Waiting ten years to take another look to see whether Nando's was causing any problems would effectively eliminate the condition that the Chair said "the Board really gave a lot of time and effort to."

The two commissioners' letter says that the Board's condition addressed "community concerns about trash and rodents," but that WPCA and other Nando opponents did not have these concerns. This is incorrect. One of those opponents testified, "I live very near this commercial strip. We get rats in our neighborhood from the restaurants. Another restaurant, we just don't need it on that alley" (Tr. of Dec. 16, 2014, at 126-27).

Nothing has happened since the Board issued its Order or considered Nando's request to change it to suggest that the Board was wrong. The only thing that happened is that Nando's has shown how much it dislikes what the Board did by deciding to do business elsewhere.

Nando's argued extensively to the Board that it would have "no adverse impacts" and "no harm to public good" (e.g., Statement of Compliance at 3-4, 6; Prehearing Statement at 7-8, 14). If Nando's were really so sure of this, it would have accepted the Board's condition without protest, confident that its relief would be renewed in five years. The fact that it was unwilling to do so suggests that it really isn't so sure.

For these reasons, the Board should not modify its April 24 Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. M. Good", with a long horizontal stroke extending to the right.

Woodley Park Community Association
P.O. Box 4852
Washington, DC 20008
202.667.7630
wpcadc@aol.com

Copy for Carolyn Brown (cbrown@castrohaase.com)
ANC3C (anc3c.office@gmail.com)
Karen Thomas (karen.thomas@dc.gov)
Salim Zaytoun (ParadisoDC@hotmail.com)
Alan Bergstein (alan.bergstein@dc.gov)
Lawrence Ferris (lawrence.ferris@dc.gov)
Clifford Moy (clifford.moy@dc.gov)