

Exhibits to the Department of Consumer and Regulatory Affairs (DCRA)'s

Motion to Dismiss

Appeal of Peter & Diana Minshall

BZA Appeal No. 18965

Exhibit S

HP Inspection Report, pp. 49-50, February 20, 2014 SWO



3329-3333 Q St NW – Sq. 1278 Lot 244
2-20-14 @ 1:44 pm
Keith Lambert, Inspector, Badge# 430

Posted stop work order

GOVERNMENT OF THE DISTRICT OF COLUMBIA



DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS
 Inspections & Compliance Administration
 1100 4th Street, SW - Fourth Floor
 Washington, DC 20024

STOP WORK ORDER

3333/3329 Q ST NW
 (Address)

You are hereby ordered to IMMEDIATELY STOP all work at this building or structure.

- ☒ You are performing work that violates the Construction Code:
☐ You are performing work in an unsafe and dangerous manner:

Code Section (s)	Violation (s)	What You Must Do to Correct the Violation (s)
105.1 (DCMR 12A)	FAILURE TO OBTAIN A SEPARATE REAR YARD	STOP WORK
105.2.2 (DCMR 12A)	PERIMETER FENCE WALL PERMIT IN A HISTORY DISTRICT.	
3110.1 (DCMR 12A)	THIS CONCRETE / WOOD FENCE WALL EXCEEDS THE 7 FT.	
3110.3.3 (DCMR 12A)	RESIDENTIAL HEIGHT LIMIT WITH NO RECORD OF AN ADJOINING PROPERTY OWNER AGREEMENT.	

Do NOT work at this address until you:

- ☒ Correct the violation(s)
☐ Pay the fine amount
☐ Obtain and post the required permit(s)
☐ Electrical ☐ Plumbing ☐ Construction ☐ Boiler ☐ Fire ☐ Elevator ☒ Other HPO
☐ Receive approval from the Code Official to remove the Stop Work Order.

WARNING

Unauthorized removal of a posted Stop Work Order is a Construction Code violation, subject to penalties and injunctive relief under DC Official Code §6-1406 and §6-1407 and 12A DCMR §114.3.

A Stop Work Order for illegal construction under 12A DCMR §113.7 and §114.6 requires you to stop all work at the building or structure, whether or not the work requires building permits.

It is a Stop Work Order violation for an owner or agent to enter the site for any reason without the Code Official's approval. (The Building Official may allow temporary access to ensure the property's security and safety, under 12A DCMR §114.6.1.)

Anyone who continues any work in or around a structure posted with a Stop Work Order - except to do work that the Building Official approves to remove a violation or unsafe condition - is subject to penalties and injunctive relief under DC Official Code §6-1406 and 12A DCMR §105.6 and 12A DCMR §114.10.

RIGHT TO APPEAL

You have the right to appeal this Order to the Reviewing Official (Rabbiah Sabbakhan, Chief Building Code Official, Inspections and Compliance Administration) within 15 days of its posting, under 12A DCMR §114.11.1. You may call the Reviewing Official at (202) 442-7867. You may obtain a Stop Work Order Appeal Request Form at the address above or at dcora.dc.gov. If the Reviewing Official denies your appeal or takes no action within 10 working days of receiving it, you may appeal to the DC Office of Administrative Hearings (OAH). You may deliver your written request for a hearing to OAH at 441 4th Street, NW, Suite 1040S, Washington, DC 20002 or mail it to PO Box 77718, Washington, DC 20013-8713.

Signature of Issuing Official Keith Lambert KEITH H. LAMBERT Date 2/20/14 Time 2:34 PM
 Badge Number 430 Phone Number 442-8837

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Exhibit T

DCRA March 12, 2014 Summary Motion to Dismiss SWO

DISTRICT OF COLUMBIA
Office of Administrative Hearings
P.O. Box 77718
Washington, DC 20013-8717

Summary Motion for Dismissal of Charge(s) or Reduction of Fine(s)

**TO BE COMPLETED BY
REQUESTING OFFICIAL:**

Notice of Infraction (NOI) T100629
Notice of Violation (NOV) Number:

Rabbiah Sabbakhan

Building Code Official

Name/Title

Office/Administration

SEAN P GLASS – TRUSTEE OF THE SEAN P GLASS REVOCABLE TRUST

Respondent's Full Name (First, Middle, Last) or Business Name

Date of Infraction

3329-3333 Q ST NW

2/20/14

Premises Address

CHECK THE APPROPRIATE BOX:

☒ Dismiss
Charge(s)
Without
Prejudice

☐ Suspend All
Fines/Penalties

☐ Partial Fine
Reduction

☐ Other: Dismiss with
prejudice

Please indicate the charge(s) originally cited, proposed suspensions or reductions of fines and an explanation to justify the action being sought. Explanation must include the original fine(s) cited and the amended total to be collected. Attach additional explanation as needed.

D.C. Code: DCMR 12A 105.1

Fine \$ 2,000

Nature of Infraction: Exceeded the scope of Permit; Fence & New Window Opening

Penalty \$

Explanation:

D.C. Code: DCMR 12

Fine \$

Nature of Infraction:

Penalty \$

Explanation:

SEE ADDENDUM FOR ADDITIONAL VIOLATIONS

\$ 2,000

\$ 0

Total Fines/Penalties (Originally Cited)

New Total Fines/Penalties (Proposed)

Approval:

Deputy Director/Bureau Chief/ Enforcement Attorney

Print Name

Date

SO ORDERED:

GRANTED

DENIED

OAH (WHITE)

RESPONDENT (YELLOW)

INSPECTOR (PINK)

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Exhibit U

Email chain including

April 18, 2014 email from Marty Sullivan, Counsel for Appellant, to Eve Barsoum, CFA

April 23, 2014 email from Marty Sullivan to DCRA

Tondro, Maximilian

From: Martin Sullivan [msullivan@sullivanbarros.com]
Sent: Tuesday, May 06, 2014 5:46 AM
To: Khokhar, Jatinder S. (DCRA); Gamboa, Ferdinand (DCRA)
Cc: Evans, Jack (COUNCIL); Peter Minshall (pminshall@washcapllc.com); ebarsoum@cfa.gov; Dennee, Timothy (OP); Maloney, David (OP); ronald.g.lewis@gmail.com; Stephen Marcus; Majett, Nicholas (DCRA)
Subject: FW: Follow up to our Meeting regarding the erection of the 10.5 foot high poured concrete wall at 3329-3333 Q St NW
Attachments: photo 2.JPG; photo 11.JPG; CFA Report from 9.16.11 regarding 3333 Q St.pdf; photo 7.JPG; Photo of the Wall from Q St - 3329.jpg

Dear Mr. Khokhar and Mr. Gamboa,

We have not received any response to the e-mail below from 2 weeks ago requesting enforcement for the illegal party wall fence constructed at 3329 Q St. NW.

Can you tell us when we can expect a response?

Thank you,

Marty

Martin P. Sullivan
Sullivan & Barros, LLP
1990 M Street, NW Suite 200
Washington, DC 20036
O - 202-503-1704
C - 703-217-6781
Fax - 888-318-2443
msullivan@sullivanbarros.com

From: Martin Sullivan
Sent: Wednesday, April 23, 2014 11:43 PM
To: Khokhar, Jatinder S. (DCRA) (jatinder.khokhar@dc.gov); Gamboa, Ferdinand (DCRA) (ferdinand.gamboa@dc.gov)
Cc: Evans, Jack (COUNCIL) (JACKEVANS@DCCOUNCIL.US); Peter Minshall (pminshall@washcapllc.com); ebarsoum@cfa.gov; Dennee, Timothy (OP) (timothy.dennee@dc.gov); david.maloney@dc.gov; ronald.b.lewis@gmail.com; Cherry, Toni (OP); 'Stephen Marcus'
Subject: Follow up to our Meeting regarding the erection of the 10.5 foot high poured concrete wall at 3329-3327 Q St NW

Dear Mr. Khokhar and Mr. Gamboa,

Thank you for meeting with me and Mr. Minshall last week. We appreciate you taking the time to go over this issue with us.

As a follow up, I would like to summarize our position on this matter and make a request for further action by DCRA.

1) The OGB approval issue. It's clear from the file that the poured concrete wall was never reviewed or approved by the Old Georgetown Board or the Commission of Fine Arts. Nobody has even attempted to dispute that point and has otherwise not given any reason why this step has not been taken. The requirement to refer this matter to the CFA is an absolute requirement under both federal and DC law. This is DCRA's responsibility, and doesn't require any action or direction from the Historic Preservation Office. There is no

dispute that referral to OGB is required and was not done, so it seems like an easy issue to resolve. Our request is that DCRA cause the wall to be removed or sent to OGB for its review. If DCRA will not do so, we'd appreciate an explanation in writing.

2) The Wall is a Party Fence Wall and Thus Required/Requires the Consent of Diana Minshall, Owner of 3327 Q. Pursuant to DC Building Code, as we noted in our meeting, the definition of a party fence is:

“Only those portions of the length of a fence, including the footings, which are partly on each side of a party line..”

As the footings of this fence are on the each side of the property line for the entire length of the concrete wall, as shown by a survey provided to you, and photos, this is a party fence and therefore required/requires consent as to the height and materials from Ms. Minshall. Such consent was never requested and never provided. We encourage you to visit the property and confirm the location of the footings. If DCRA does not agree with this, could you please provide an explanation of the decision in writing.

3) Removal of an existing party fence. The owner of 3329-3333 Q removed an existing stone party fence located partially on 3327 Q. They had no permit to do so, and therefore should be cited for work outside the permit and illegal removal of a party fence without permission from one of the owners of that wall. If DCRA will not take such action, we would appreciate a written explanation for such a decision.

4) Ongoing safety. The actions of the 3329-3333 Q Owner, including removal of the existing party fence, has compromised the integrity of necessary retaining walls on the Minshall's property, potentially damaging their property as well as the neighbor's to the north (rear).

5) Height of the Wall. As we noted in the meeting, the height of the Party Fence Wall is over 10 feet measured from 3327 Q St. Prior to the construction of the underground parking garage on 3329-3333 Q, the grade there was similar to the current grade at 3327 Q. Street. For purposes of measuring the height of the party fence from 3329, that grade has not changed. Structures have been placed on top of that grade, including an elevated platform structure which should be considered part of the party fence and not a new 'grade'. We request that DCRA measure the fence height (subject to eventual OGB review) from the correct 'grade' point and determine the correct height from the actual grade, not a measurement point on top of structures installed over that grade.

Thanks again for your time, and we look forward to a response.

Marty

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Washington, DC 20036
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C - 703-217-6781
Fax - 888-318-2443
msullivan@sullivanbarros.com

From: Martin Sullivan

Sent: Friday, April 18, 2014 4:25 PM

To: 'Eve Barsoum'

Cc: Peter Minshall (pminshall@washcapllc.com); Diana Minshall (dianaminshall@gmail.com); Dennee,

Timothy (OP) (timothy.dennee@dc.gov); Khokhar, Jatinder S. (DCRA) (jatinder.khokhar@dc.gov); Gamboa, Ferdinand (DCRA) (ferdinand.gamboa@dc.gov); Cherry, Toni (OP)

Subject: Failure to Get CFA Review for Erection of a 10.5 foot high poured concrete wall

Dear Ms. Barsoum,

I represent Diana Minshall and her father Peter Minshall, owners of the property located at 3327 Q Street, NW. Abutting 3327 to the west is 3329 and 3333 Q Street, NW. The owner of those properties recently undertook a major renovation, including construction of an addition, and underground parking garage, and a swimming pool and complementary structures. The work completed also included a fence wall running the length of their property from the rear of the small house on 3329 - to the rear property line, along the boundary with 3327. I think you may have spoken with Diana about this issue.

This fence wall is over 10 feet in height, as measured from 3327 and as viewed from the public space on Q Street (see photo attached showing view from Q Street). In my opinion, the fence wall is about the same height as measured from the 3329 Q St side – based on what I believe is the correct starting measuring point or “grade” on that side.

The center portion of the fence wall is made of poured concrete; an eyesore viewable from public space on Q St.

In addition (and this part of it is mostly a DCRA issue), we have recently discovered that the footings for the fence wall are located on the 3327 property, making this, per DC Building Code, a party fence – which means that the owner of 3329-3333 was required to obtain my client’s consent before receiving a permit to build this thing.

There are several permits for the other work described above, but the only report from CFA (attached) makes no mention at all of the poured concrete wall, nor any other fence or wall. Likewise, the permit plans that correspond to a permit which DCRA claims to include the fence wall (i) have no evidence that anybody from HPO, OGB, or CFA ever reviewed or approved those plans and (ii) have little information on the fence wall itself, including no elevations, no description of color or materials, or any other drawing, rendering, or plan showing the poured concrete wall or any other part of the fence wall (there was no detail for CFA to review).

We met with DCRA yesterday, Messrs. Khokhar and Gamboa. We requested that historic preservation staff be present as well, either Ms. Cherry or Tim Dennee, and they both opted not to attend. In past discussions with Tim and DCRA, nobody has ever claimed that OGB reviewed and approved this wall.

I am writing to kindly ask if you would direct DCRA to issue a Notice of Violation/Revocation of Permit ordering the owner of 3329-3333 to remove the illegal fence wall. Mr. Dennee has directed me to Mr. Khokhar, and Mr. Khokhar has directed me back to Mr. Dennee, so I think it might be helpful if OGB stated its position on the illegal fence wall. Regardless of any eventual determinations on height and footings and party fences, the fence wall was not referred to OGB and was not reviewed by OGB, as required by the Old Georgetown Act. While DCRA may have some limited discretion to disregard OGB recommendations, it has no discretion under the OG Act to fail to refer it to OGB in the first place.

Please let me know if you have any questions.
Thanks in advance for your assistance!

Marty

Martin P. Sullivan
Sullivan & Barros, LLP

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Washington, DC 20036
O - 202-503-1704
C - 703-217-6781
Fax - 888-318-2443
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Exhibit V

CFA July 17, 2014 rejection of Permit Holder's application for review of Retaining Wall and Fence/Wall due to lack of new DCRA permit application

OG 14-238

HPA NUMBER:

HPA 14-473

LOCATION:

3329 Q Street, NW

PROPERTY:

Residence

DESCRIPTION:

Fence and wall – existing

REVIEW TYPE:

Permit

Recommendation

Returned without Action per written request of applicant. Property owner/agent is requested to file new submission at DCRA by 14 August 2014 with complete detailed and dimensioned site plan, plans, elevations, and detail drawings with permit application for review by the Commission.

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Exhibit W

CFA September 18, 2014 approval of Permit Holder's 2014 Permit application for Retaining
Wall and Fence/Wall

OG 14-238

HPA NUMBER:

HPA 14-473

LOCATION:

3329 Q Street, NW

PROPERTY:

Residence

DESCRIPTION:

Fence and wall – existing

REVIEW TYPE:

Permit

Recommendation

Returned without Action per written request of applicant. Property owner/agent is requested to file new submission at DCRA by 14 August 2014 with complete detailed and dimensioned site plan, plans, elevations, and detail drawings with permit application for review by the Commission.

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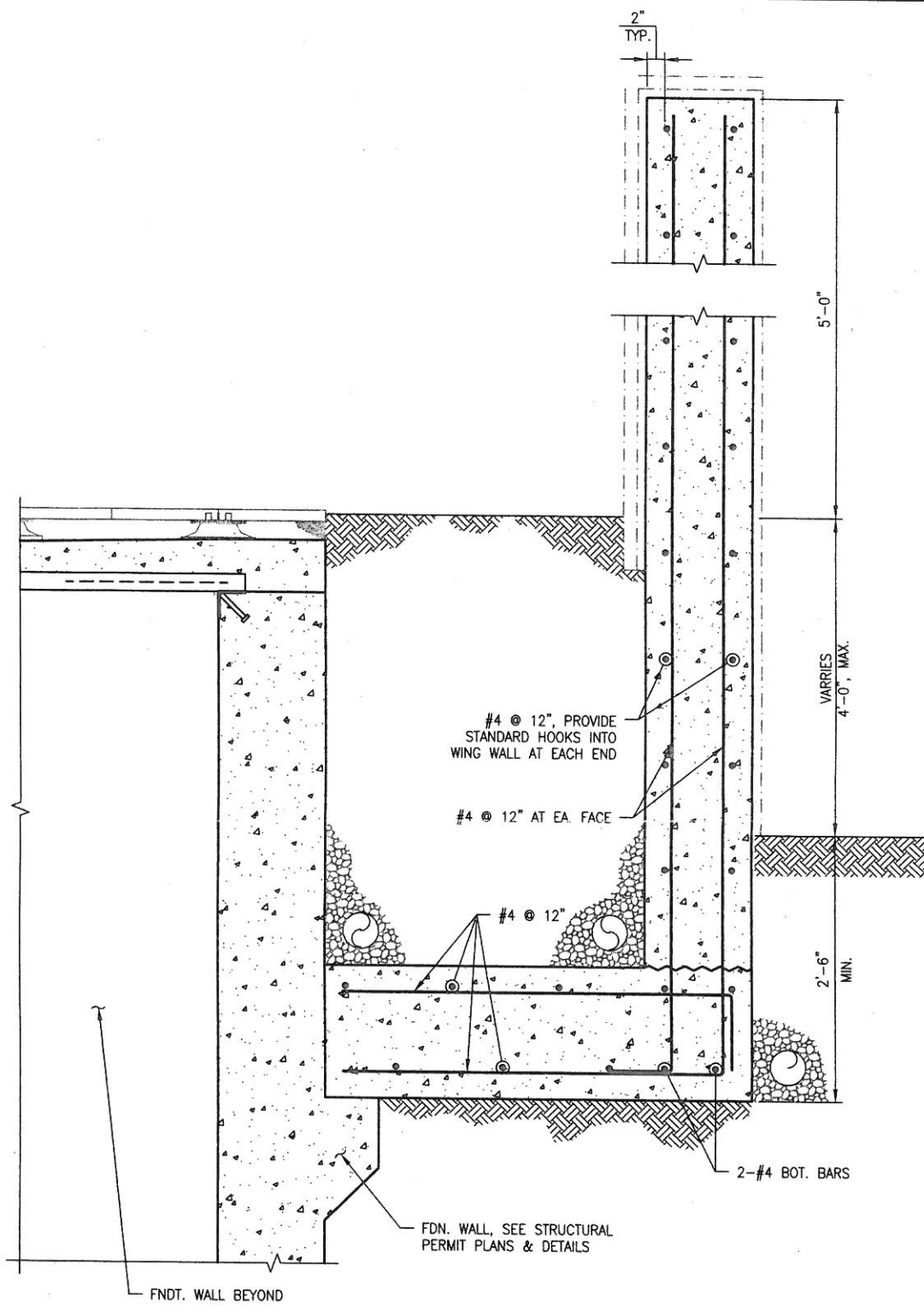
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Exhibit X

2014 Permit, SSK-13



NOTE:

- SEE ARCHITECTURAL PLANS FOR DRAINAGE
- DETAIL IS A REVISION TO DETAIL 6/S2.9 FROM DECEMBER 6, 2011 STRUCTURAL PERMIT PLANS.

1 RETAINING WALL SECTION
SSK-13 SCALE: 1" = 1'-0"

Date: 11.25.2014

Scale: SEE DETAIL

Job Number: W2714

Title: RETAINING WALL ADJACENT TO EAST FOUNDATION WALL

Job Title:
Glass Townhouse
3333 Q St. NW
Washington, DC 20007



ROBERT SILMAN ASSOCIATES
STRUCTURAL ENGINEERS

1053 31st Street NW
Washington, DC 20007
P 202.333.6230 F 202.316.3015

SSK-13

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Exhibit Y

DCRA Permit Status Tracking website for 2014 Permit

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Track Status of Building Permit Application

To review the status of an application, enter the **Application ID** or **Property Address** below and click find to continue. Please note that the application status is refreshed every night at **3.00 AM** so the status you see below reflects the updates from the day before.

Search By:**Application ID****Property Address**

Enter the ApplicationID to review Application Status:

ApplicationID*:

Application Status:

Please see the table below for review statuses. The table is not shown if the reviews have not been identified. A blank Status date means that the initial review has not been completed.

ApplicationID	Date Filed	Full Address	Agent Name	Phone Number
 B1410905	08/13/2014	3329 Q ST NW	KARA MCHONE	202-237-0925

Tell us what you think

Send us an [email](#) with your comments. We'll respond within two business days.

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