

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Peter & Diana Minshall

Appeal No. 18965

RESPONDENT'S RESPONSE TO APPELLANT'S MOTION TO CONTINUE

Respondent, the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”), respectfully requests that the Board deny Appellant’s Motion to Continue served just over an hour before the hearing of the Board of Zoning Adjustment (“**Board**”). Appellant’s assertions gloss over several important facts:

- 1) DCRA’s Motion to Dismiss is not 92 pages, but rather 12 pages, with 1 page for certification and 24 Exhibits with title pages.
- 2) Appellant is far more familiar with the specifics of this case because Appellant has repeatedly chosen to not appeal within the 60 day period prescribed by 11 DCMR 3112.2(a). Indeed Appellant’s untimely appeal – over **540 days** after the issuance of the permits for the retaining wall at issue – was the direct cause of the length of DCRA’s Motion to Dismiss, because Appellant’s appeal glossed over the long history of the permit issuances approving the retaining wall at issue and failed to provide sufficient .
- 3) The vast majority of the exhibits included in DCRA’s Motion to Dismiss are photographs or drawings from public sources that are familiar to Appellant (including the approved plan set, screenshots from the DCRA PIVS permit tracking system, and photographs from the District of Columbia Office of Planning, Historic Preservation’s (“**HP**”) Inspection Report and Submission to the U.S. Commission of Fine Arts (“**CFA**”), with which Appellant is very familiar as Appellant instigated both the HP inspection and referral to CFA). The remaining Exhibits are email

chains that were (a) initiated by Appellant and (b) made available to DCRA on the basis of a FOIA request made by Appellant.

- 4) Moreover, Appellant's Counsel is intimately familiar with the specifics of this case having been retained by Appellant for over a year.

DCRA therefore asserts that Appellant's Motion to Continue is yet another delaying tactic used by Appellant to prevent conclusion to this case.

For these reasons, DCRA therefore respectfully requests that the Board deny Appellant's Motion to Continue and move forward with the scheduled hearing today. There is ample opportunity for Appellant to make his case before the Board at that hearing.

Respectfully submitted,

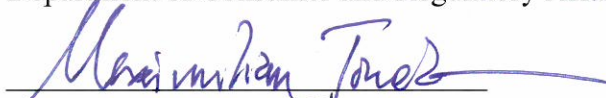
CHARLES THOMAS

Interim General Counsel

Department of Consumer and Regulatory Affairs

Date:

4/14/15



Maximilian Tondro*

Assistant General Counsel, Office of General Counsel

Department of Consumer and Regulatory Affairs

1100 4th Street, S.W., Suite 5266

Washington, D.C. 20024

(202) 442-8403 (office) / (202) 442-9477 (fax)

maximilian.tondro@dc.gov

Attorney for Department of Consumer and Regulatory Affairs

* Admitted to practice in Maryland. Practicing in the District of Columbia pursuant to D.C. Court of Appeals Rule 49(c)(4).

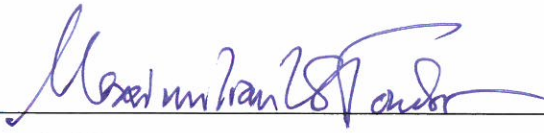
CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April 2015, a copy of the foregoing Pre-Hearing Statement was served via electronic mail to:

Marty P. Sullivan
Sullivan & Barros, LLP
1990 M Street, N.W., Suite 200
Washington, D.C. 20036
msullivan@sullivanbarros.com
Attorney for Appellant

Allison C. Prince
Goulston & Storrs
1999 K Street, N.W., Suite 500
Washington, D.C. 20006
aprinace@goulstonstorrs.com
Attorney for Permit Holder/Intervenor

Ron Lewis, Single District Commissioner ANC-2E02 and Chair,
Advisory Neighborhood Commission, ANC-2E
3400 Reservoir Road, N.W.
Washington, D.C. 20007
2E02@anc.dc.gov



Maximilian Tondro