

May 12, 2016

BY IZIS ELECTRONIC FILING (bzasubmissions@dc.gov)

Mr. Clifford W. Moy
Secretary
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Re: BZA Application No. 19057
1851 9th Street, N.W.
Square 0394, Lot 0874 ("Property")

Dear Mr. Moy:

As counsel for Hollow Creek Investment Group, LLC ("Hollow Creek"), the original Applicant in this case, I have received your letter of April 8, 2016 to me and a copy of your letter of the same date to Martin P. Sullivan, Esquire. Based on these letters, it is understood that the Board has recognized Rock Creek – 1851 9th Street LLC as the new Applicant based on its recent acquisition of the Property.

However, no determination was made with respect to the Board's continued use and reliance upon the record in this case which was submitted exclusively by and for the benefit of Hollow Creek. The Application was specific to Hollow Creek's proposed development of the Property, including the architectural plans and other evidence submitted to the Board, including at least Exhibit Nos. 6, 14, 34, 37, 37A-D, 41, 45, and 45A-B. The architectural plans prepared by Arcadia Design for this Application are exclusively for the sole benefit and use of Hollow Creek and no other party. Exhibit A (Arcadia Design Notice by Architect).

On October 6, 2015, the Board voted to approve in part, and deny in part, the requested zoning relief based on the record presented by Hollow Creek, including the Arcadia Design plans submitted with the application. 11 DCMR § 3125.7. The Board has not issued a written order, and therefore, the decision is neither final nor effective.

Marnique Y. Heath, AIA
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It is not disputed that the Board's Rules do not allow any documents to be physically removed from the record. 11 DCMR §3113.10. At the same time, the Board cannot reasonably rely for its decision and written order on evidence in the record submitted by and exclusively on behalf of Hollow Creek for the benefit of the new Applicant without authorization for that use. In this case, it is well established that the plans submitted by Arcadia Design were "exclusively for the sole benefit of [Hollow Creek] and no other party." Exhibit A. Any further use and reliance on the Arcadia Plans by the Board, the new Applicant or any other party is clearly not authorized and would constitute an unjustified taking of valuable personal and intellectual property.

At any time, the new Applicant is entitled to request the Board to reopen the record and allow the submission of new evidence for which it owns (and has paid for) and/or has authority to use in support of this Application. Please be advised that Hollow Creek and/or Arcadia Design do not authorize the continued use of the architectural plans or any other evidence submitted in the record for any purpose, including but not limited to, any further action by the Board on this Application and/or issuance of a written order in any way conditioned on or relying on the architectural plans in the record.

Thank you for your assistance in promptly acknowledging that the record submitted by Hollow Creek will not be the basis for any further action on this pending Application.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.



John Patrick Brown, Jr.

Enclosures

By Electronic Mail

cc: Mr. James A. Turner, Chair, ANC 1B (1B09@anc.dc.gov)
Ms. Ellen Sullivan, ANC 1B02 (1B02@anc.dc.gov)
Mr. Stephen Cochran, Office of Planning (stephen.cochran@dc.gov)
Clifford Moy, Office of Zoning (clifford.moy@dc.gov)
Stephen Varga, Office of Zoning (stephen.varga@dc.gov)
Martin P. Sullivan, Esq. (msullivan@sullivanbarros.com)
Meridith Moldenhauer, Esq. (mmoldenhauer@washlaw.com)
Hollow Creek Investment Group, LLC

Exhibit A

A R C A D I A
DESIGN SERVICES INCORPORATED
1737 JOHNSON AVENUE NW UNIT A WASHINGTON DC 20009
telephone 202 . 234. 8222 email jfoster@arcadiadesign-dc.com

Notice By Architect

The Architectural Design, Plans, Drawings and Specifications Prepared By Arcadia Design for 1851 9th St NW, Washington DC and/or BZA case 19057, are exclusively for the sole benefit and use of Hollow Creek Investment Group LLC, A Maryland Limited Liability Company. and no other party. Arcadia Design is hereby requesting the withdrawal of the architectural plans from any use for the application.

James Foster, Owner, ARCADIA DESIGN SERVICES

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James Foster, Arcadia Design
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Date: 4/4/2016