

**BOARD OF ZONING ADJUSTMENT
441 4th STREET N.W., SUITE 200S
WASHINGTON, DC 20001**

IN RE APPEAL OF:

Advisory Neighborhood Commission 4C

Appellant,

DEPARTMENT OF CONSUMER & REGULATORY
AFFAIRS

Respondent.

BZA No. 19067

APPELLANT’S & INTERVENOR’S CLARIFICATION TO THE RECORD

Appellant and Intervenor submit this response to clarify the record based on statements the Department of Consumer and Regulatory Affairs (“DCRA”) made in its February 1, 2016 reply to Appellant’s and Intervenor’s response of January 29, 2016. DCRA and the Property Owner filed additional responses on February 1, 2016. Appellant and Intervenor have no desire to burden the Board further by adding to the additional filings by DCRA and the Property Owner despite the closure of the record. However, we believe it is critical that the record accurately reflect Appellant’s reasons for submitting Exhibit 71, the December Permit, to the record.

Appellant submitted the December Permit to IZIS on January 12, 2016 because of its relevance to the appeal; namely, its evidence that the original intent of the plans (since May) was to retain the front porch and that DCRA continues to approve permits for this project that do not comply with the Zoning Regulations.¹ At the January 19, 2016 hearing, the Board accepted the December Permit as a late filing out of fairness to the Appellant because it had accepted the October Permit at DCRA’s request. Contrary to DCRA’s statements in its response filed on

¹ BZA Exhibit 71.

February 1, 2016, Appellant did not submit the December Permit as an appeal, and the Board should not treat it as such.² DCRA's claims that it did not know about the December Permit are contradicted by the Zoning Administrator's stamp of approval on the permit.³ Appellant maintains that the cancellation of the December Permit is irrelevant and immaterial to this appeal and to the purpose of Exhibit 71. Because DCRA has the authority to approve and cancel building permits, it is in the powerful position of issuing new permits whenever necessary to bolster its case and cancelling permits that weaken its case.

The new "pop-up" regulations became effective on June 26, 2015, thus, the Zoning Administrator must apply the new regulations to any new permit application filed after June 26, 2015 for this Project. The Zoning Commission made this clear in its Final Order on ZC-14-11.⁴

For the reasons stated herein and in Appellant's and Intervenor's Response to DCRA's Motion to Strike, Appellant and Intervenor respectfully request that the Board deny DCRA's and the Property Owner's request to strike the December Permit from the record.

Respectfully Submitted,



Lyn Abrams
Representative for ANC 4C



Andrew Wible
Representative for Intervenor

² *Id.*

³ *Id.*

⁴ See Zoning Commission Order, ZC 14-11, p. 3 (June 8, 2015) and Appellant's Findings of Facts and Conclusions of Law, p. 15.

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2016, a copy of Appellant's and Intervenor's Clarification to the Record was provided by electronic mail to the following:

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