

**BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

APPEAL NO. 19092—1120 PARK STREET, N.E.

PROPERTY OWNER'S MOTION FOR CONTINUANCE OF HEARING

Property Owners Andrew Daly and Patricia Jordan (the "Property Owners"), by and through undersigned counsel, submit this Motion for Continuance of the hearing scheduled for Tuesday November 10, 2015 at 9:30 a.m in this Appeal. Property Owners' request is based on the overall circumstances regarding their plans to build a garage on their property, which involves litigation initiated by Ms. Schaub in the Superior Court of the District of Columbia. In brief, the Hearing as scheduled would create a significant obstacle to the parties' continuing efforts to resolve the larger dispute involving the Property Owners' construction plans.

On July 6, 2015, Ms. Schaub served Andrew Daly with a Complaint, a Motion for Preliminary Injunction, and a Motion for Temporary Restraining Order, primarily alleging that the then-ongoing construction of his garage (for which the subject permit, G1500009 was issued) had caused or would cause damage to her garage. Ms. Schaub also caused DCRA to issue a Stop Work order against the construction of the garage on June 30, 2015. That Stop Work order was rescinded internally after Mr. Daly appealed and DCRA found that no work was done outside the permit or on Ms. Schaub's property. As for the pending suit, Mr. Daly and Ms. Schaub, through counsel, have been working to reach a resolution that would obviate Ms. Schaub's claims and provide her with satisfactory assurance that the construction plans posed no threat to her property. As a result of those negotiations, the Property Owners have done no work on the garage since June 30, 2015. The Motion for Temporary Restraining Order has been deemed moot because work has stopped, and the hearing on Ms. Schaub's Motion for Preliminary

Injunction has been continued to December 16, 2015 to allow the parties adequate time to reach a settlement agreement.

The Property Owners are currently working with their engineering and architectural professionals to devise construction plans that will alleviate any valid concerns raised by Ms. Schaub's professionals. As a result, the garage plans will be further revised, and will therefore likely require a revision to the Permit. During that revision process, the revised plans would undergo review by the necessary agencies and bodies, thereby making moot any questions raised in this Appeal.

Holding the hearing on this Appeal before the Property Owners have finalized their revised construction plans would create undue waste and duplication of efforts. Property Owners would be in the position of defending a Permit that they intend to revise, and Ms. Schaub would be seeking to revoke a Permit that is not currently being acted on. Further, the hearing would represent an unnecessary expense for Property Owners as they seek to focus their efforts on revising their plans as to eliminate the dispute with Ms. Schaub. The December 16, 2015 Preliminary Injunction hearing represents a de facto deadline for the parties' negotiations. The Board should grant Property Owners a continuance until after that date in order to allow for the overall resolution of the parties' dispute.

CONCLUSION

For the reasons discussed above, the hearing in this Appeal should be continued until a date after December 16, 2015.

McMillan Metro, P.C.

By: 
S. Hayes Edwards Jr., Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Property Owners' Motion for Continuance was filed electronically with the Office of Zoning and was served by electronic mail as indicated, this 3rd of November, 2015, upon the following:

Melinda M. Bolling, Esq.

Director
Department of Consumer and
Regulatory Affairs
1100 4th Street S.W.
5th Floor
Washington, DC 20024
Melinda.bolling@dc.gov

Mr. Matthew LeGrant, Zoning Administrator

Department of Consumer and
Regulatory Affairs
1100 4th Street S.W.
5th Floor
Washington, DC 20024
Matthew.legrant@dc.gov

**Maximillian L.S. Tondro, Esq., Assistant
General Counsel**

Department of Consumer and
Regulatory Affairs
1101 4th Street, S.W.
Room E-500
Washington, D.C. 20024
Maximillian.tondro@dc.gov

Mr. Phil Toomajian, Chair

ANC 6A02
631 10th Street, N.E.
Washington, D.C. 20002
philanc6a@gmail.com

Mr. Chris Ward

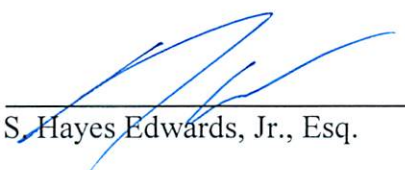
ANC 6A03
141 11th Street, N.E.
Washington, D.C. 20002
cward6a03@gmail.com

John Patrick Brown, Esq.

Greenstein Delorme & Luchs, P.C.
1620 L St. N.W. Suite 900
Washington, D.C. 20036

Gregory M. Peterson

Capitol Hill Restoration Society
Zoning Committee
P.O. Box 15264
Washington, D.C. 20003
pgaryl@comcast.net



S. Hayes Edwards, Jr., Esq.