

Moy, Clifford (DCOZ)

From: Tondro, Maximilian
Sent: Tuesday, June 14, 2016 8:02 AM
To: Gambrell, Alan (SMD.1C05); gambrell@aol.com; Moy, Clifford (DCOZ)
Cc: smazo@washlaw.com
Subject: BZA Appeal 19242 - 1828 Ontario - Consent to DCRA Motion to Dismiss by Appellant ANC1C and Intervenor Rafferty
Attachments: 2015-DCRA-00108 - 1828 Ontario Place NW - DCRA Praecipe - Consent by Appellants and Permit Holder of DCRA's Motion to Dismiss Appeal as Moot.pdf
Importance: High

Good morning Cliff and Commissioner Gambrell,

I apologize for the late nature of this filing. I have obtained the consent of the Appellant and Intervenor in this appeal, but unintentionally failed to provide this information to the Board. I have attached my filing in a related case before the Office of Administrative Hearings - please see pages 5-6 for the relevant consent by email from Mr. Rafferty, the Intervenor.

Commissioner Gambrell provided consent also by email, but I do not have remote access to that email and so cannot provide that to you. Instead I am including Commissioner Gambrell on this email and kindly request that he can provide his consent directly to you, Cliff.

I will not be at the hearing this morning as I am out sick and so will be unable to explain further. I apologize for any confusion I have caused.

Sincerely,

Max

Maximilian L.S. Tondro | Assistant General Counsel Office of the General Counsel Department of Consumer & Regulatory Affairs Government of the District of Columbia
1100 4th Street, SW, 5th Floor | Washington, DC 20024
Phone: (202) 442-8403 maximilian.tondro@dc.gov<mailto:maximilian.tondro@dc.gov> Fax: (202) 442-9477 D.C. Bar Number 1031033

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Get involved! The New Columbia Statehood Commission <<http://statehood.dc.gov/>> invites residents of the District of Columbia to participate in the Constitutional Convention on June 13th (6:30pm) at the DC Taxicab Commission and June 17th-18th at Woodrow Wilson High School. Register today! <<https://www.eventbrite.com/e/new-columbia-statehood-commission-constitutional-convention-tickets-25725306083>>

Board of Zoning Adjustment
District of Columbia
CASE NO.19242
EXHIBIT NO.23

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

Cover Sheet for Electronic Filing

I am filing the attached papers at the Office of Administrative Hearings.

1. Check one of the boxes below.

☒ The case number is: 2016-DCRA-00108

☐ This is a new case, and a case number has not yet been assigned.

2. Briefly describe the paper that you are filing:

DCRA's Praecipe – Consent by Appellants and Intervenor to DCRA's Motion to Dismiss Appeal as Moot

3. My name, mailing address, telephone number, and e-mail address are:

Name: Maximilian L.S. Tondro
Mailing Address: 1100 4th St, SW, 5th Floor
City, State, Zip: Washington, D.C. 20024
Telephone: (202) 442-8403

E-mail address: maximilian.tondro@dc.go
Representing: Department of Consumer & Regulatory Affairs

I agree to receive documents from the court at my email address.

☒ Yes

☐ No

4. You should complete this form, save it to your computer, and then attach it to an e-mail, along with the papers you are filing. The e-mail address for filing papers at OAH is oah.filing@dc.gov. Papers sent to any other e-mail address will **not be accepted for filing.**

I sent a copy of the attached papers to all other parties or their representatives as listed below.

Person to Whom the Papers Were Sent:

Michael Rafferty

Mailing Address: 730 Church Street, Apartment 3

City, State, Zip Code: San Francisco, CA 94114

Date the papers were sent: May 23, 2016

Method of sending:

☐ Mail ☐ Commercial Carrier

☐ Fax (Give Fax number) _____

☐ Hand delivery

☒ Email (only if the person has agreed; provide email address: Michael_rafferty@fanniemae.com)

Person to Whom the Papers Were Sent:

Stacie Desai

Mailing Address: 1830 Ontario Place, NW

City, State, Zip Code: Washington, D.C. 20009

Date the papers were sent: May 23, 2016

Method of sending:

☐ Mail ☐ Commercial Carrier

☐ Fax (Give Fax number) _____

☐ Hand delivery

☒ Email (only if the person has agreed; provide email address: staciedesai@yahoo.com)

Person to Whom the Papers Were Sent:

Samantha Mazo, Griffin, Murphy, Moldenhauer & Wiggins, LLP

Mailing Address: 1912 Sunderland Place, NW

City, State, Zip Code: Washington, D.C. 20036

Date the papers were sent: May 23, 2016

Method of sending:

☐ Mail ☐ Commercial Carrier

☐ Fax (Give Fax number) _____

☐ Hand delivery

☒ Email (only if the person has agreed; provide email address: smazo@washlaw.com)

If you sent the papers to more than two people, provide the above information for the additional people on a separate sheet.

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
441 4th Street, N.W., Suite 450 North
Washington, D.C. 20001
TEL: (202) 442-9094 FAX: (202) 442-4789**

MICHAEL RAFFERTY	)	
STACIE DESAI	)	
Petitioners,	)	
v.	)	Case No.: 2015-DCRA-00108
1828 ONTARIO PLACE, LLC	)	Judge Paul B. Handy
Intervenor	)	
	)	
DISTRICT OF COLUMBIA	)	
DEPARTMENT OF CONSUMER AND	)	
REGULATORY AFFAIRS,	)	
Respondent	)	

**PRAECIPE – CONSENT BY APPELLANTS AND PERMIT HOLDER TO
DCRA’S MOTION TO DISMISS AS MOOT**

Respondent, the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”), hereby informs the Office of Administrative Hearings (“OAH”) that both Appellants, as well as the Permit Holder, have consented to DCRA’s Motion to Dismiss the Appeal as Moot due to the surrender by the Permit Holder of building permit B1412288 (the “Permit”) that was the subject of the Appeal, as can be seen in Attachments A and B. DCRA apologizes for failing to obtain consent prior to submitting its Motion to Dismiss as Moot.

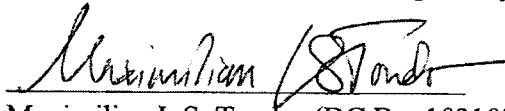
Since the Appellants have provided consent, DCRA respectfully requests that OAH grant DCRA’s Motion to Dismiss the appeal as moot.

Respectfully submitted,

CHARLES THOMAS
General Counsel

Date: June 7, 2016

Department of Consumer and Regulatory Affairs



Maximilian L.S. Tondro (DC Bar 1031033)

Assistant General Counsel

Office of General Counsel

Department of Consumer and Regulatory Affairs

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Washington, D.C. 20024

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maximilian.tondro@dc.gov

Attorney for Department of Consumer and Regulatory Affairs

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June 2016, a copy of the foregoing Motion to Dismiss was served by electronic mail to:

Michael Rafferty
730 Church Street, Apartment 3
San Francisco, CA 94114
Michael_rafferty@fanniemae.com
Appellant

Stacie Desai
1830 Ontario Place
Washington, D.C. 20009
staciedesai@yahoo.com
Appellant

Samantha Mazo
Griffin, Murphy, Moldenhauer & Wiggins, LLP
1912 Sunderland Place, N.W.
Washington, D.C. 20036
smazo@washlaw.com
Attorney for Permit Holder/Intervenor



Maximilian L.S. Tondro

Attachment A

Email chain with consent from both Appellants to DCRA's Motion to Dismiss as Moot

Tondro, Maximilian

From: Stacie Desai [staciedesai@yahoo.com]
Sent: Sunday, June 05, 2016 7:34 PM
To: Rafferty, Michael
Cc: Tondro, Maximilian; Gambrell, Alan (SMD 1C05); Thomas, Charles (DCRA); Eloy del Toro
Subject: Re: consent for the Motions to Dismiss the two 1828 Ontario Appeals due to surrendered permit

Max,
You have my consent as well for the Motion to Dismiss both the OAH and BZA appeals.

Thanks,
Stacie Desai

Sent from my iPhone

On Jun 5, 2016, at 5:38 PM, Rafferty, Michael <michael_rafferty@fanniema.com> wrote:

Max,

That is good news You have my consent regarding the Motion to Dismiss for both the OAH and the BZA Appeal.

Two more questions for you though. Is there any way for us to monitor the progress of the permit now that the DCRA permit status information has been taken off line? Also, we have received a notice from Bogdan relating to the current permit. We think it is deficient for several reasons. Who at DCRA should we copy on our response to the notice. The form references a mail address for the Chief Building Official, and it says that e-mail notice is authorized, but does not provide a name or e-mail address.

Thanks much,
-Mike
202-957-1326 mobile

From: Tondro, Maximilian [mailto:maximilian.tondro@dc.gov]
Sent: Friday, June 3, 2016 8:16 PM
To: Rafferty, Michael <michael_rafferty@fanniema.com>; Stacie Desai <staciedesai@yahoo.com>; Gambrell, Alan (SMD 1C05) <1C05@anc.dc.gov>
Cc: Thomas, Charles (DCRA) <charles.thomas@dc.gov>; Eloy del Toro <eloydeltoro@gmail.com>
Subject: [EXTERNAL] RE: consent for the Motions to Dismiss the two 1828 Ontario Appeals due to surrendered permit

Mike, Stacie, and Alan,

I have confirmed that permit B1602810 for 1828 Ontario will be reviewed under the new R-4 rules because the plans that accompanied the permit application were not submitted to DCRA until January 26, 2016, and thus the application was not vested under the R-5-B rules even though the application itself was submitted prior to the Zoning Commission setdown of the proposed Lanier Heights downzoning on December 15, 2015.

Please let me know if you have any questions and if you will give consent to my Motions to Dismiss for both the OAH and BZA appeals. I will need Alan and Mike's consent for the BZA appeal; and Mike and Stacie's consent for the OAH appeal.

Best,
Max

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From: Rafferty, Michael [mailto:michael_rafferty@fanniemae.com]
Sent: Thursday, June 02, 2016 6:27 PM
To: Tondro, Maximilian; Stacie Desai
Cc: Thomas, Charles (DCRA); Eloy del Toro
Subject: RE: consent for the Motions to Dismiss the two 1828 Ontario Appeals due to surrendered permit

Hello Max,

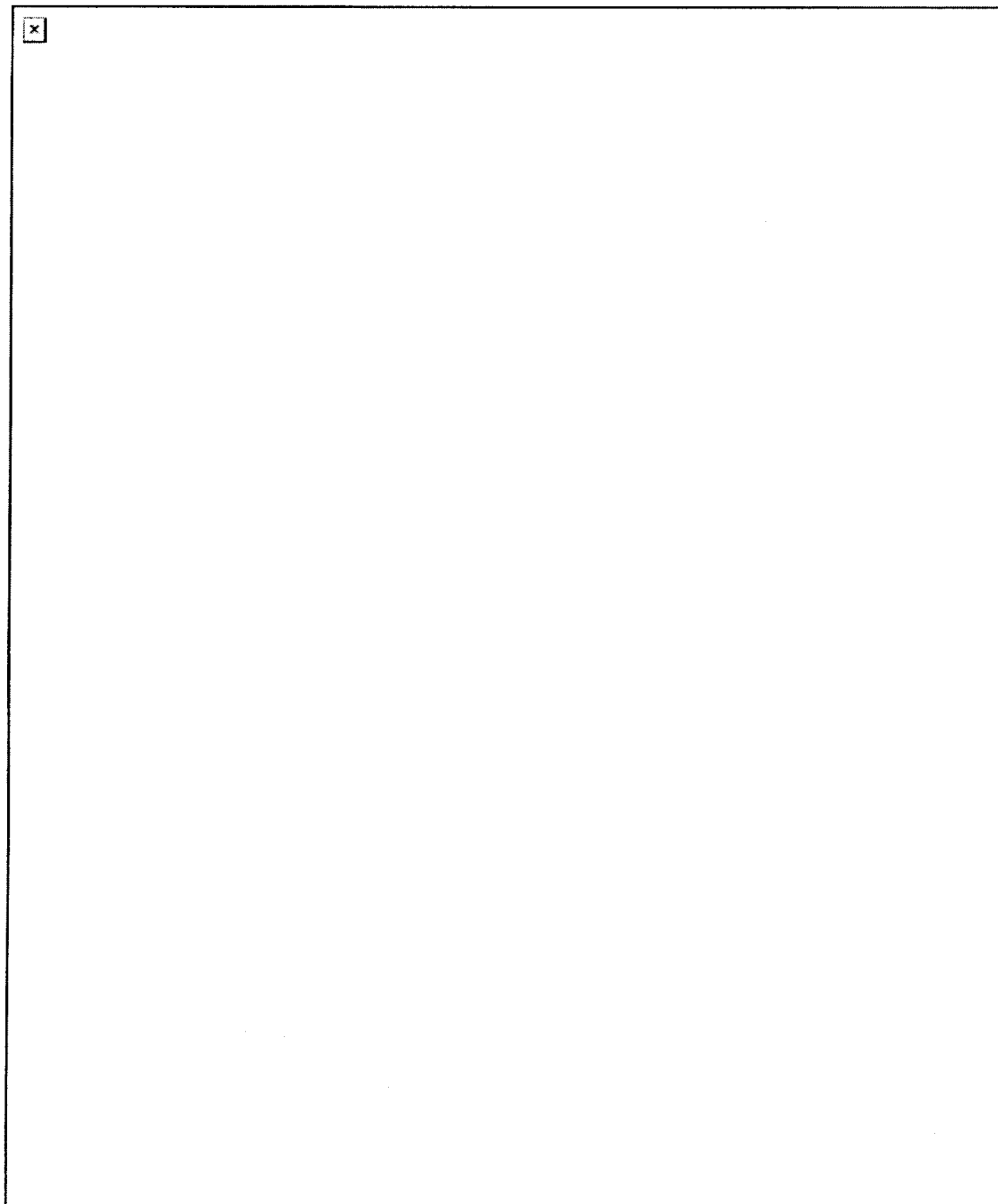
Sorry I missed your e-mails. I do have a couple of questions first.

When you told us that that Bogdan's permits were being revoked, you said that they had to reapply for a 2 unit building under the new R4 guidelines. The evidence that you had provided of the revoked permits did not reference a permit application that Bogdan had submitted back on December 14, 2015, presumably attempting to preserve a right under R-5B.

Since the DCRA seems to have taken the permit status information off its website, I cannot determine if that application has been withdrawn and a new application under R4 has been submitted. Can you verify the status of their current permit application?

Also, when I do a search on PIVS myself to try and verify the revoked status of the permits, I am not seeing the page that you provided. I am seeing the page below. Can you explain this?

Thanks much,
-Mike



From: Tondro, Maximilian [<mailto:maximilian.tondro@dc.gov>]
Sent: Wednesday, June 1, 2016 8:11 PM
To: Rafferty, Michael <michael_rafferty@fanniema.com>; Stacie Desai <staciedesai@yahoo.com>
Cc: Thomas, Charles (DCRA) <charles.thomas@dc.gov>
Subject: [EXTERNAL] Re: consent for the Motions to Dismiss the two 1828 Ontario Appeals due to surrendered permit
Importance: High

Mike and Stacie,

I just wanted to check in re: this issue. I know that the BZA, in addition to OAH, would like to confirm that you as the appellants consent to my Motions in these two appeals. Could you please let me know if you are fine with providing consent, or if you have any concerns? I am sure that both the BZA and OAH would prefer to be notified as soon as possible if they do not need to schedule time to hear the appeals.

Thanks,
Max

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The New Columbia Statehood Commission invites residents of the District of Columbia to participate in the Constitutional Convention on June 13, 17-18, 2016 at Woodrow Wilson High School. All District residents will be able to provide testimony on the draft New Columbia Constitution. Register today!
Learn more about statehood for the District of Columbia at statehood.dc.gov!

From: Tondro, Maximilian
Sent: Wednesday, May 25, 2016 11:06 AM
To: Michael_rafferty@fanniemae.com; Stacie Desai
Subject: RE: Order for Petitioner's Response

Mike and Stacie,

My apologies for not requesting your consent prior to filing with OAH – I simply overlooked it. Please let me know if you would prefer to simply send me emails indicating your assent to the dismissal that I will then include in a subsequent filing; or if you would prefer to file directly with OAH.

Best,
Max

Maximilian L.S. Tondro | Assistant General Counsel
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From: Jones, Ricky (OAH)

Sent: Wednesday, May 25, 2016 9:38 AM

To: Tondro, Maximilian; Michael.rafferty@fanniemae.com; Stacie Desai; smazo@Washlaw.com

Subject: Order for Petitioner's Response

Attachment B

Email chain with consent from Permit Holder/Intervenor to DCRA's Motion to Dismiss as Moot

Tondro, Maximilian

From: Samantha Mazo [smazo@washlaw.com]
Sent: Saturday, June 04, 2016 6:44 AM
To: Tondro, Maximilian
Subject: Re: BZA Appeal 19242 - DCRA Motion to Dismiss Appeal as Moot

We consent.

Sent from my iPhone

On Jun 3, 2016, at 8:22 PM, Tondro, Maximilian <maximilian.tondro@dc.gov> wrote:

Hi Samantha,

Just to be sure, I wanted to confirm that you give consent to the Motion to Dismiss that I filed in this case (sorry again for not requesting earlier) – could you please send me an email to that effect?

Also, I believe that this was already conveyed to you, but out of an abundance of caution, I wanted to confirm that B1602810, the new permit application, must comply with the R-4 rules because the plans for the application were not submitted to DCRA until January 26, 2016, some six weeks after the Zoning Commission set down the Lanier Heights downzoning.

Thanks,
Max

Maximilian L.S. Tondro | Assistant General Counsel
Office of the General Counsel
Government of the District of Columbia
Department of Consumer & Regulatory Affairs
1100 4th Street, SW, 5th Floor | Washington, DC 20024
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DC Bar Number 1031033

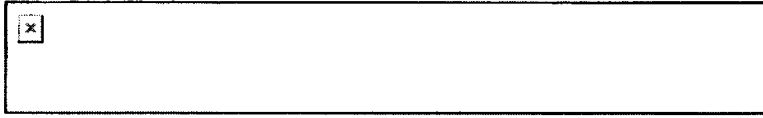
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From: Samantha Mazo [<mailto:smazo@washlaw.com>]
Sent: Wednesday, May 25, 2016 2:11 PM
To: Tondro, Maximilian
Subject: RE: BZA Appeal 19242 - DCRA Motion to Dismiss Appeal as Moot

No problem.



Samantha Mazo

1912 Sunderland Place, N.W. • Washington, DC 20036

smazo@washlaw.com • www.washlaw.com

Direct: (202) 530-7158

Office: (202) 429-9000 • Fax: (202) 232-7365

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From: Tondro, Maximilian [<mailto:maximilian.tondro@dc.gov>]

Sent: Wednesday, May 25, 2016 2:04 PM

To: Samantha Mazo <smazo@washlaw.com>

Subject: FW: BZA Appeal 19242 - DCRA Motion to Dismiss Appeal as Moot

Samantha,

My apologies – thanks for catching this. I was focused on the ANC/appellants as we had already discussed, but should have remembered.

Thanks,
Max

Maximilian L.S. Tondro | Assistant General Counsel

Office of the General Counsel

Government of the District of Columbia

Department of Consumer & Regulatory Affairs

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From: Tondro, Maximilian
Sent: Monday, May 23, 2016 7:26 PM
To: DCOZ - BZA Submissions (DCOZ)
Cc: Mossi, Gabriela (SMD 1C04); Gambrell, Alan (SMD 1C05)
Subject: BZA Appeal 19242 - DCRA Motion to Dismiss Appeal as Moot

Good evening,

Please see attached Motion to Dismiss Appeal as Moot.

Sincerely,

Maximilian L.S. Tondro | Assistant General Counsel
Office of the General Counsel
Government of the District of Columbia
Department of Consumer & Regulatory Affairs
1100 4th Street, SW, 5th Floor | Washington, DC 20024
Phone: (202) 442-8403 maximilian.tondro@dc.gov Fax: (202) 442-9477
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From: Gambrell, Alan (SMD 1C05)
Sent: Thursday, April 21, 2016 9:43 PM
To: Tondro, Maximilian
Cc: Rafferty, Michael; Mossi, Gabriela (SMD 1C04); cbarahona@dccouncil.us; g.rueda.aia@gmail.com; bnadeau@dccouncil.us; staciedesai@yahoo.com; Bryce Jacobs; Parris, Lori (DCRA); Personal _ Mike Rafferty 1828 Ontario Pl; Eloy del Toro; Bolling, Melinda (DCRA); LeGrant, Matt (DCRA); Englebert, Gary (DCRA); Varga, Stephen F. (DCOZ); Moy, Clifford (DCOZ)
Subject: Re: 1828 Ontario Rd NW - Permit Review B1412288 B1601746 B1602713 Corrected email
Importance: High

ANC1C does not object to the request for postponement. See attached. Could OZ staff upload this letter to IZIS? Thanks.

Alan Gambrell
ANC1C-05