



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



FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD

THIS FORM IS FOR NON-PARTIES ONLY. IF YOU ARE A PARTY, PLEASE FILE A FORM 150 – MOTION.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: BZA case no. 19441

I, Kenyan R. McDuffie, Councilmember, Ward 5 hereby request the following relief:

- Accept an untimely filing of _____
- To reopen the record to accept A letter regarding DCRA's issuance of a certificate of occupancy without an affidavit

Points and Authorities:

Accept an untimely filing: Please state each and every reason you believe the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your request to accept an untimely filing, including relevant references to the Zoning Regulations or Map. If you require more space, please use a separate piece of paper.

Reopen the Record: Please state each and every reason you believe the ZC or BZA should grant your request to reopen the record, including relevant references to the Zoning Regulations or Map. **The document(s) that you are requesting the record to be reopened for must be submitted separately from this form (see instructions). No substantive information is to be included on this form.**

It has come to my attention that during the March 22, 2017 hearing, the Board requested that the Department of Consumer and Regulatory Affairs (DCRA) provide additional details regarding a certificate of occupancy issued to Oak Tree Development without an affidavit to support it.¹

I request to reopen the record to include a letter from me that addresses the outstanding certificate of occupancy matter.²

While my letter does voice support for a particular party, its more significant purpose is to support the public interest in having a full record before the Board regarding DCRA action and the intersection of that action on District residents.

My submission of a letter on this matter will have no actual or potential prejudice to the parties. And each party was on notice that this matter was unresolved prior to the close of the record. Furthermore, each party will have a copy of this request and my letter and an opportunity to reply prior to the final decision of the Board.


Footnotes:

¹ Separately attached in this email (File name: BZA Letter 412 Richardson Place) pursuant to the Office of Zoning instructions.

² Pursuant to 11 DCMR Y 602.6, the Board may consider a request to reopen the hearing record if "the request ... demonstrate[s] good cause [and a] lack of prejudice to any party. Such requests may be granted by the presiding officer and, if granted, the -- supplemental materials shall be entered into the record." "Good cause" depends upon the circumstances of the individual case, and a finding of its existence [or nonexistence] lies largely in the discretion of the officer or court to which the decision is committed. By its

very nature, "good cause" requires the evaluation of a number of subtle factors, a task properly given to the administrative agency most experienced in dealing with such factors in the first instance." *Hotel Tabard Inn v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 747 A.2d 1168, 1778 (D.C. 2000); citing *Ammerman v. District of Columbia Rental Accommodations Comm'n*, 375 A. 2d 1060 (D.C. 1977).

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 27-2405)

Date:	April 13, 2017	Signature:	
Name:	Kenyan R. McDuffie		
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Board of Zoning Adjustment
District of Columbia
CASE NO 19441

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.