

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Advisory Neighborhood Commission 6C

BZA Appeal No. 19550

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
PARTIAL CONSENT MOTION TO STAY DEADLINE TO FILE AGENCY’S PRE-
HEARING STATEMENT UNTIL RESOLUTION OF PENDING MOTIONS**

The D.C. Department of Consumer and Regulatory Affairs (DCRA) respectfully submits this partial consent motion to stay the deadline to file DCRA’s Pre-Hearing Statement until the Board has issued a decision on the following motions: (1) DCRA’s Partial Consent Motion to Continue Hearing Until May 23, 2018; and (2) DCRA’s Partial Consent Motion to Incorporate By Reference the Revised Permit Into This Appeal filed on April 20, 2018. In support of its motion, DCRA states as follows:

On March 31, 2017, DCRA issued Building Permit B1706219 (Permit). On May 30, 2017, this appeal from the issuance of the Permit was filed by the Appellant. On April 13, 2018, DCRA’s attorney of record in this appeal, Maximilian Tondro, left DCRA and the undersigned attorney was appointed to represent the Agency in this appeal. DCRA issued a revised permit Building Permit B1805207 (Revised Permit) on April 18, 2018. Following the appointment of new DCRA counsel to this case, DCRA filed two motions: Partial Consent Motion to Continue Hearing Until May 23, 2018 and Partial Consent Motion to Incorporate By Reference the Revised Permit. In response, on April 26, 2018, the Appellant filed a “Memorandum In Opposition to the Motions of DCRA.” The Board of Zoning Adjustment (Board) issued a Memorandum stating that the Board will address both of DCRA’s motions during the public hearing scheduled for May 9, 2018.

In an effort to clarify the issues pending before the Board, DCRA submits that a thorough review of DCRA records shows that there is only one currently active building permit - B1706219 (the “Original Permit”) - which has been revised by B1805207 (the “Revised

Permit”). Per Section 105.3.8 of the Building Code,¹ the Revised Permit permanently amends the Original Permit so that only what is depicted on the approved plans for the Revised Permit is authorized to be constructed. Whatever changes the Revised Permit made to the Original Permit are final—the Permit Holder is not allowed to choose between the Original and Revised Permit. The Permit Holder may build only in accordance with the Revised Permit and approved plans associated with the Revised Permit, all of which are deemed to be part of the Original Permit per Section 105.3.8 of the Building Code.

In accordance with Title 11 Subtitle Y3 §302.17 of the Zoning Regulations, the Agency’s Pre-Hearing Statement is due May 2, 2018. To conserve the parties’ resources and in the interest of judicial economy, DCRA respectfully requests that the Board stay the deadline to file the Agency’s Pre-Hearing Statement until resolution of the DCRA’s pending motions. After the Board renders a decision on DCRA’s pending motions, the Board should set a new date for filing DCRA’s Pre-Hearing Statement. DCRA would be severely prejudiced if this Board does not grant this stay.

The Permit Holder consents to this continuance; the Appellant and the Intervenor do not consent.

For the foregoing reasons, DCRA respectfully, requests that the Board stay the deadline to file DCRA’s Pre-Hearing Statement until the resolution of pending motions.

Respectfully submitted,
ESTHER YONG MCGRAW
Interim General Counsel
Department of Consumer and Regulatory Affairs

Date: 5/2/18

/s/ Adrienne Lord-Sorensen
ADRIANNE LORD-SORENSEN (D.C. Bar # 493865)
Assistant General Counsel
Office of General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024
(202) 442-8401 (office)

¹ 12-A D.C. Municipal Regulations (DCMR) §105.3.8, “Once such amendments are approved and the revised permit is issued, it shall be deemed part of the original permit and shall be kept therewith in the official records of the Department.”

(202) 442-9477 (fax)

CERTIFICATE OF SERVICE

I certify that on this 2nd day of May 2018 a copy of the foregoing “DCRA’s Partial Consent Motion to Stay Deadline to File Agency’s Pre-Hearing Statement Until Resolution Of Pending Motions” was served via electronic mail to:

Mark Eckenwiler, Single Member Advisory
Neighborhood Commissioner, ANC 6C04
312 E Street, N.E.
Washington, D.C. 20002
6C04@anc.dc.gov
Appellant

Karen Wirt, Chair
Advisory Neighborhood Commission 6C
234 E Street, N.E.
Washington, D.C. 20002
6C02@anc.dc.gov

John Patrick Brown, Jr., Esq.
Greenstein DeLorme & Luchs, P.C.
1200 19th Street, N.W., 3rd Floor
Washington, D.C. 20036
jpb@gdllaw.com
Counsel for Permit Holder

Heather Edelman, Single Member Advisory
Neighborhood Commissioner, ANC 6C06
1152 5th Street, N.E.
Washington, D.C. 20002
6C06@anc.dc.gov

Kevin Cummins
1123 7th Street, N.E.
Washington, D.C. 20002
kevin.cummins11@gmail.com
Intervenor

/s/ Adrienne Lord-Sorensen

Adrienne Lord-Sorensen

Kaprelova, Anna P. (DCRA)

From: John Patrick Brown Jr. <JPB@gdllaw.com>
Sent: Tuesday, May 01, 2018 3:32 PM
To: Kaprelova, Anna P. (DCRA); Eckenwiler, Mark (SMD 6C04); kevin.cummins11@gmail.com
Cc: Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: RE: BZA Appeal No. 19550

The Property Owner, Atlas Squared, LLC consents.

In the event Atlas Squared, LLC files a similar motion, will ANC 6C and Mr. Cummins consent?

Thank you, Pat

John Patrick Brown, Jr., Esq.
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W.
Suite 900
Washington, D.C. 20036
202.452.1400 Phone
202.452.1410 Fax
jpb@gdllaw.com
www.gdllaw.com

INTERNAL REVENUE SERVICE CIRCULAR 230 DISCLOSURE: AS PROVIDED FOR IN TREASURY REGULATIONS, ADVICE (IF ANY) RELATING TO FEDERAL TAXES THAT IS CONTAINED IN THIS COMMUNICATION (INCLUDING ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (1) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (2) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY PLAN OR ARRANGEMENT ADDRESSED HEREIN.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION, AND IS ONLY INTENDED FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE, OR COPYING IS STRICTLY PROHIBITED, AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US AT THE FOLLOWING:

administrator@gdllaw.com <<mailto:administrator@gdllaw.com>>

THANK YOU.

From: Kaprelova, Anna P. (DCRA) [<mailto:anna.kaprelova@dc.gov>]
Sent: Tuesday, May 1, 2018 3:29 PM
To: Eckenwiler, Mark (SMD 6C04); John Patrick Brown Jr.; kevin.cummins11@gmail.com
Cc: Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: RE: BZA Appeal No. 19550

Commissioner Eckenwiler, Mr. Brown, and Mr. Cummins,

Kaprelova, Anna P. (DCRA)

From: Eckenwiler, Mark (SMD 6C04)
Sent: Tuesday, May 01, 2018 3:41 PM
To: Kaprelova, Anna P. (DCRA); jpb@gdllaw.com; kevin.cummins11@gmail.com
Cc: Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: Re: RE: BZA Appeal No. 19550

Ms. Kaprelova,

For the reasons given in our written opposition to DCRA's two recent motions, ANC 6C does not consent to the proposed stay.

Mark Eckenwiler
Commissioner, ANC 6C04
www.anc6c.org

From: Kaprelova, Anna P. (DCRA)
Sent: Tuesday, May 1, 2018 3:29 PM
To: Eckenwiler, Mark (SMD 6C04); jpb@gdllaw.com; kevin.cummins11@gmail.com
Cc: Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: RE: BZA Appeal No. 19550

Commissioner Eckenwiler, Mr. Brown, and Mr. Cummins,

DCRA's due date for filing its Pre-Hearing Statement is tomorrow. Since DCRA's Partial Consent Motion to Continue Hearing to May 23, 2018 and DCRA's Partial Consent Motion to Incorporate by Reference Revised Permit will be addressed by the Board on May 9, 2018, DCRA will be filing a Motion to Stay Deadline to File Agency's Pre-Hearing Statement until Resolution of Pending Motions today.

Please advise as to whether you consent to a requested stay of the deadline to file DCRA's Pre-Hearing Statement.

Respectfully,

Anna P. Kaprelova | Adviser to OCI
Office of Civil Infractions
Detailed to Office of General Counsel
Department of Consumer and Regulatory Affairs
Admitted to practice in Maryland
Practicing in the District of Columbia pursuant to D.C. Court of Appeals Rule 49(c)(4)
anna.kaprelova@dc.gov | 1100 4th St SW, DC 20024
desk: 202.899.3597 | dcra.dc.gov



Kaprelova, Anna P. (DCRA)

From: Kevin Cummins <kevin.cummins11@gmail.com>
Sent: Wednesday, May 02, 2018 2:33 PM
To: Eckenwiler, Mark (SMD 6C04)
Cc: Kaprelova, Anna P. (DCRA); jpb@gdllaw.com; Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: Re: RE: BZA Appeal No. 19550

Ms. Kaprelova, Mr. Brown,

For the reasons provided in my written opposition to DCRA's two recent motions, I do not consent to the proposed stay of the deadline to file a pre-hearing statement.

Regards,

Kevin

Kevin Cummins

On Tue, May 1, 2018 at 3:41 PM, Eckenwiler, Mark (SMD 6C04) <6C04@anc.dc.gov> wrote:
Ms. Kaprelova,

For the reasons given in our written opposition to DCRA's two recent motions, ANC 6C does not consent to the proposed stay.

Mark Eckenwiler
Commissioner, ANC 6C04
www.anc6c.org

From: Kaprelova, Anna P. (DCRA)
Sent: Tuesday, May 1, 2018 3:29 PM
To: Eckenwiler, Mark (SMD 6C04); jpb@gdllaw.com; kevin.cummins11@gmail.com
Cc: Lord-Sorensen, Adrienne (DCRA); McGraw, Esther (DCRA); Wyke-Ransome, April (DCRA)
Subject: RE: BZA Appeal No. 19550

Commissioner Eckenwiler, Mr. Brown, and Mr. Cummins,

DCRA's due date for filing its Pre-Hearing Statement is tomorrow. Since DCRA's Partial Consent Motion to Continue Hearing to May 23, 2018 and DCRA's Partial Consent Motion to Incorporate by Reference Revised Permit will be addressed by the Board on May 9, 2018, DCRA will be filing a Motion to Stay Deadline to File Agency's Pre-Hearing Statement until Resolution of Pending Motions today.