



Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A)

%o St. Mary's Court 725 24th Street, NW Washington, DC 20037 ZONING COMMISSION
District of Columbia

September 7, 2006

Patrick J. Canavan
Director, Department of Consumer and Regulatory Affairs
941 North Capitol St., NE, Room 2200
Washington, DC 20002
Deliver via Facsimile: (202) 442-9445

ZONING COMMISSION
District of Columbia

CASE NO. 05-422

EXHIBIT NO. 58

CASE NO. 06-12

EXHIBIT NO. 201

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D.C. OFFICE OF ZONING

RECEIVED

RE: Independent Headcount Audit of The George Washington University

Dear Dr. Canavan:

The purpose of this letter is to express my concern about the process by which your staff has used to conduct an "independent" audit of the headcount of The George Washington University (GWU or University).

As you know, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC 2A or Commission) requested that the Zoning Administrator conduct an independent audit of the headcount to ensure compliance with BZA Order 16553-I. The Commission requested this action by two resolutions. This matter is of significant consequence as Condition 20 of BZA Order 16553-I, the current campus plan for GWU, provides that no special exception application filed by the University may be granted unless the University first proves it has remained in substantial compliance with Conditions 1 through 19 of the Order, which includes limitations on headcount. This matter is of significant consequence as the University has submitted several applications which are currently pending before the Zoning Commission.

Many in the Foggy Bottom and West End community were encouraged when the Zoning Administrator agreed to conduct an audit of the University's headcount and that such audit would be conducted independently and with government funding. However, actions which have recently come to light have dramatically impacted both the veracity of the independent audit and the integrity of the Department in this matter.

Recently, I learned that a draft version of the scope of work for the independent audit was shared with University officials for comment and their input was incorporated into the final version. ANC 2A, which requested the audit, was provided no such opportunity. Further, it was suggested in an email about this subject that, as Chairperson, I consented to the document and this process. Specifically, an email to you from Bill Crews dated July 13, 2006, 6:58 pm, states, "Charles Barber and I have agreed on a scope of work for the GWU Student headcount audit. I have run this by the ANC Chair and he is satisfied with the scope."

I must correct the record. I *did not* agree to the scope of work. It was never shared with me, nor were my comments—or those of the Commission—ever solicited.

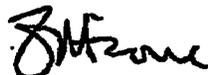
Frankly, I am shocked by the misrepresentation made on this matter. I first learned that an auditor had been secured through a representative of GWU. I am also stunned that the Department would share the scope of work for consent by the entity to be audited. This is particularly disturbing considering the

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FROM: MICONE & MICONE
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considerable weight that the community, ANC 2A, and the Zoning Commission places on the veracity and independence of Zoning Administrator. It is suggestive of collusion and a pre-determined outcome related to matters of extraordinary importance to my neighborhood and the District as a whole. You must take immediate action to rectify this issue. Further, the pending zoning matters must be postponed until a truly independent audit is conducted.

Please note that in my many years on an ANC, I have never taken action such as represented by this letter. Various requests for information by ANC 2A commissioners related to the audit have gone unanswered, as have FOIA requests. Further, Mr. Crews committed to neighbors to revisit the scope of work and he indicated a response to community concerns was forthcoming. This was weeks ago. We are waiting. Your prompt response to this matter is of critical importance. Your prompt attention to the FOIA requests submitted by Commissioner Michael Thomas is also requested.

Sincerely,



Vince Micone
Chairperson

cc: Councilmember Jim Graham, (202) 724-8109
Alfreda Davis, Chief of Staff to the Mayor, (202) 727-0505
Inspector General Charles J. Willoughby, (202) 727-9903
Carol Mitten, Chairperson, Zoning Commission, (202) 727-6072

Attachments: ANC 2A Resolution #0306-RA4

THE FOGGY BOTTOM AND WEST END ADVISORY NEIGHBORHOOD
COMMISSION (ANC 2A) RESOLUTION #0306-RA4

*Resolution Pertaining to Instructions Provided by the Zoning Administrator for an Independent
Audit of the Enrollment Provisions of The George Washington University Campus Plan*

WHEREAS, Condition 8 of the currently effective campus plan for The George Washington University (Board of Zoning Adjustment (BZA) Orders Nos. 16553-F and 16553-I) provides in part: "Student enrollment (headcount) over the life of the plan shall not exceed 20,000 students...;" and

WHEREAS, the University never challenged the enrollment limits before the BZA, and indeed stated that they should be continued (George Washington University v. District of Columbia Board of Zoning Adjustment, 831 A.2d 921, 937 (D.C. 2003); and

WHEREAS, the Court of Appeals for the District of Columbia described the effect of the quoted portion of Condition 8 as follows: "As a condition of approval of the campus plan, Condition 8 imposes limitations on student enrollment....During the ten-year life of the plan, total student enrollment, both full and part-time may not exceed 20,000 at any one time"; and

WHEREAS, the Zoning Administrator for the District of Columbia is undertaking to determine, with the assistance of an independent audit, whether The George Washington University is in compliance with Condition 8; and

WHEREAS, The George Washington University has reported to the U.S. Department of Education, to the Office of Planning of the District of Columbia, and has posted on its own web site (http://www.gwu.edu/~ire/on_campus_e05.htm) enrollment figures for the fall semester of 2004 and for the fall semester of 2005 which appear to exceed the 20,000 limit imposed by Condition 8; and

WHEREAS, nowhere in the plan documents, the orders adopting the plan, or the court decisions construing the plan, is there any suggestion that the plain language of Condition 8 should not control, so that all students being educated by The George Washington University at any one time should be counted toward the limitation of the condition; and

WHEREAS, based on the language of Condition 8, there is no justification for the exclusion of any students, as may be suggested by the University or other parties. For example, students resident at the Mount Vernon campus are transported to and from the Foggy Bottom campus at all hours, where they take courses and participate in the full range of campus activities; and

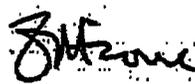
WHEREAS, the Zoning Administrator should determine whether persons not reported by the University for other purposes should properly be included in the enumeration of those within the limit of Condition 8. Such additional students could include, for example, exchange students, continuing students, and students in special or limited courses.

NOW THEREFORE, BE IT RESOLVED THAT ANC 2A requests the Zoning Administrator for the District of Columbia instruct the independent auditor retained for the purpose of auditing enrollment for The George Washington University to apply the plain language of Condition 8, which does not provide for exclusions of any classes of students.

BE IT FURTHER RESOLVED THAT ANC 2A requests that the Zoning Administrator require The George Washington University to disclose the numbers of all persons taking courses or participating in educational activities on any basis and for any length of time, and should instruct the auditors to include such persons within the applicable headcount for relevant dates.

DATE: March 15, 2006

ANC-2A SMD	AYE	NAY	ABSTAIN	ABSENT	MOVED	SECONDED
01 LEHRMAN				X		
02 THOMAS	X				X	
03 SAVAGE		X				
04 MORRIS		X				
05 MILLER	X					
06 MICONE	X					X


CHAIRPERSON