

MICHAEL KIMMEL  
2030 F STREET, N.W. #1004  
WASHINGTON, D.C. 20006

202-293-2951  
410-867-7325  
December 22, 2006

Ms. Sharon S. Schellin  
Secretary to the Zoning Commission  
441 - 4<sup>th</sup> Street NW, 2d Floor  
Washington DC 20001

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Dear Ms. Schellin,

Regarding my December 20 request to participate as a party in the **Square 54** case (No. 06-27), I appreciate your advice that the 14-day rule (11 DCMR 3022.3) runs prior to the November 20 hearing, i.e. the request should have been filed by November 6.

I did want to explain why the request was filed later. In October I was engaged in preparing a required inventory for my mother's estate (for which I am executor), which was submitted to the probate court October 16. I was on pre-arranged travel from October 22 to 28. I was engaged in researching and writing a legal memorandum filed with the Alcoholic Beverage Control Board on October 31, and heard by the Board on November 8.

During that period, although aware of controversy about Square 54, I was unaware of either actual height of the planned buildings, or whether views from Letterman House to the northwest skyline and National Cathedral would be blocked. On November 20 I attended the first hearing, and then ascertained facts relevant to standing, and grounds for objecting to the planned height.

The request for party status was filed 15 days before the January 4, 2007 resumed hearing at which the opponents will be heard. The press of other legal business prevented an informed request for party status by November 6. These circumstances, plus lack of prejudice to others and no cross-examination, may be deemed "good cause" for waiver of the earlier filing date in this instance. 11 DCMR 3000.8. If not, I would request to be a witness regarding the height issue on January 4.

Respectfully submitted,

  
Michael Kimmel

cc: P.Fiola, C.Hitchcock  
B.Kahlow, M.Thomas

ZONING COMMISSION  
District of Columbia  
CASE NO. 06-27  
EXHIBIT NO. 55  
ZONING COMMISSION  
District of Columbia  
CASE NO. 06-27  
EXHIBIT NO. 55

## **EXHIBIT G**

In response to the Commission's inquiries regarding the construction of the Square 54 Project and the proffered grocery store, the Applicant proposes the following as a condition of approval of the PUD:

The PUD approved by the Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for building permit for Phase 1 (defined below) as specified in 11 DCMR § 2409.1. The Applicant shall have the flexibility to construct the Project in two phases.

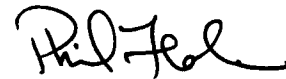
a. Phase 1 consists of the underground parking and loading and below-grade retail space, including the grocery store. Within two (2) years of the receipt of a certificate of occupancy for the occupiable areas of the Phase 1 improvements, the Applicant shall commence construction of Phase 2 improvements (defined below).

b. Phase 2 consists of the office, residential and retail components of the Project. A certificate of occupancy may be issued for any of the Phase 2 components of the Project provided that a building permit has been issued for the other Phase 2 components.

c. If a certificate of occupancy has not been issued for a grocery store measuring no less than 25,000 square feet within two years of the issuance of certificates of occupancy for the residential and office components, the Applicant shall return to the Zoning Commission for reconsideration of the grocery store requirement and appropriate amendment of the PUD.

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of this submission were hand delivered to the persons listed below on December 26, 2006.



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Phil Feola

ANC 2A (6 Copies)  
St. Mary's Court  
725 24<sup>th</sup> Street, NW  
Washington, D.C. 20037

West End Citizens Association  
c/o Barbara Kahlow  
800 25th St NW  
Apart. # 704  
Washington, DC 20037-2208

Vincent Micone  
Chair, ANC 2A  
1099 22nd Street, NW #1005  
Washington, DC 20037

Foggy Bottom Association  
Cornish F. Hitchcock,  
5301 Wisconsin Avenue, NW,  
Suite 350, Washington, DC 20015