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OFFICE OF ZONING
DISTRICT OF COLUMBIA

July 7, 1998

Sheri M. Pruitt-Williams
Interim Director
Board of Zoning Adjustment
441 4th Street, N.W.
Suite 441
Washington, D.C. 20001

BZA
CASE No. 16239
EXHIBIT No. 16

Dear Ms. Pruitt-Williams:

The Institute for Public Representation ("IPR"), a public interest law firm at Georgetown University Law Center, submits this letter on behalf of our client, the Near Northeast Task Force ("NNTF"). In May 1997, the NNTF requested permission to intervene in an appeal involving the denial of a Certificate of Occupancy ("CO") application filed by LG Industries ("LGI"). We are writing to clarify the status of this appeal and to urge the BZA to take appropriate actions to ensure that LGI does not continue to operate without a valid CO.

On September 3, 1996, LGI applied for a CO to operate a solid waste transfer facility at 1140 3rd Street, N.E. This application was processed by the Department of Consumer and Regulatory Affairs ("DCRA") and was denied on February 4, 1997 on the grounds that the solid waste handling facility was subject to proposed zoning regulations which would require LGI to obtain a special exception for the operation. On February 21, 1997, LGI filed an appeal of that decision with the BZA, arguing that the DCRA could not deny the CO on the basis of proposed, but not yet enacted, regulations. Although more than a year has passed since the appeal was filed, no hearing on the issue has ever been scheduled. Moreover, a BZA staff member recently told IPR that there were no plans to schedule a hearing in the immediate future.

Since the appeal was filed, the Zoning Commission finalized the regulations governing the siting of solid waste handling facilities in the District of Columbia. While these regulations clarify

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the standards that solid waste handling facilities should meet to locate within the District, their passage also creates a question about the status of LGI's appeal. Given this change in circumstances, LGI may prefer, or may be required to, apply for a special exception rather than proceed with its appeal. In any event, with the issuance of these regulations, there is no possible reason to delay a decision on LGI's CO application.

By delaying a hearing on LGI's appeal or a decision to require LGI to file an application for a special exception, the BZA is allowing LGI to operate a solid waste handling facility without a valid CO in a location which may not qualify for this use under the newly issued zoning regulations. The BZA's decision on LGI's CO application is also the trigger for other licensing decisions. Until these decisions are made, the community surrounding LGI's facility will continue to suffer from the noise, truck traffic, odors, and rats generated by this operation. IPR urges the BZA to determine whether LGI intends and should be allowed to proceed with its appeal or should be required to file an application for a special exception. Once that decision is made, we ask the BZA to act quickly to determine whether LGI should be permitted to operate a solid waste handling facility at its present location. In addition, for the reasons explained in its May 5, 1997 letter to the BZA, IPR reiterates its request that the NNTF be allowed to intervene in LGI's appeal or its application for a special exception.

Thank you for your attention to this matter. We would appreciate a response, explaining how the BZA intends to handle LGI's CO application and appeal. If you have any questions or would like to discuss this issue further, please contact Alma Lowry at (202)662-9549.

Sincerely,

Hope Babcock
Senior Attorney

Alma Lowry
Staff Attorney