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July 22, 2002
VIA FACSIMILE

Board of Zoning Adjustment
441 4th Street, NW, Suite 210-S
Washington, DC 20001

RECEIVED
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Re: BZA Appeal No. 16239; USA Waste of D.C., Inc.

Dear Board Members:

We write on behalf of the Near Northeast Neighborhood Task Force (NNNTF), which has party status in Appeal No. 16239, in response to USA Waste's request for a continuance of the July 30, 2002 hearing in this appeal. NNNTF consents to a continuance of the hearing, but requests that the case be re-scheduled on the Board's calendar as soon as practicable, and that no further continuances be granted for the purpose of "finalizing" a settlement agreement between the appellant and the District. NNNTF asks the Board to put USA Waste on notice that if the company is not prepared to proceed with the appeal at the time of the re-scheduled hearing -- nor has it withdrawn its appeal by that time -- the Board will dismiss the appeal, with prejudice.

A firm deadline to resolve this case is necessary, in light of both the long history of delay and the continuing harm to the members of NNNTF each day that the USA Waste facility continues to operate, notwithstanding the District's denial of USA Waste's 1996 application for a Certificate of Occupancy. As this Board is well aware, this appeal has been pending for five and one-half years, since February 1997. In the past four months alone, the case has been scheduled for a hearing on four different occasions (March 5, May 7, May 14, and July 30, 2002). USA Waste and the District have been engaged in settlement discussions since mid-2001. Since at least the May 14, 2002 hearing, the appellant and/or the District have indicated that a settlement, which would entail the closure of USA Waste's solid waste transfer facility, is imminent. Yet, in late July, only one week before a scheduled hearing, USA Waste now asserts that it is still "finalizing" the language of a settlement with the District.

This Board should not countenance indefinite delay in resolving this long-running dispute, which is of paramount importance to the residents of the Near Northeast neighborhood surrounding USA Waste's solid waste transfer facility. A full and fair hearing before this Board

BZA
Case No. 16239
Exhibit No. 45

Board of Zoning Adjustment
District of Columbia
CASE NO.16239
EXHIBIT NO.45

is the only legal recourse for NNNTF and its members to enforce its rights under the Zoning Code, since this Board alone has primary jurisdiction to interpret the zoning laws of the District of Columbia. *See Dist. of Columbia Dep't of Public Works v. L.G. Indus., Inc.*, 758 A.2d 950, 956 (2000). Morever, because NNNTF has been excluded from participation in the settlement discussions, it falls entirely to this Board to protect the legal interests of NNNTF in this case, by ensuring that a hearing be held unless USA Waste and the District are able to expeditiously conclude their negotiations.

For the foregoing reasons, NNNTF consents to a continuance of July 30, 2002 hearing, but respectfully requests that this Board put USA Waste on notice that no further continuances will be granted on the ground that settlement negotiations are ongoing.

Respectfully submitted,

Hope M. Babcock (by L.M.L.)
Hope M. Babcock
Senior Attorney / Associate Director

Lawrence M. Levine
Staff Attorney

cc: USA Waste, Inc.
Arthur Parker, Office of Corporation Counsel
Area Neighborhood Commission 6A