Southeast Citizens for Smart Development

16531

September 6, 2000

Mr. Michael Johnson
Zoning Administrator
441 4th St., NW - Suite 210
Washington, DC 20001

Dear Administrator:

Re: Father Flanagan's Boys Town of Washington
1300 Block of Pennsylvania Avenue, SE

I write as the Chair of Southeast Citizens for Smart Development (SCSD) to request a ruling on whether the referenced development has fully complied with District zoning law and that the issuance of any construction or other permits be withheld pending your determination.

The SCSD was recently formed to oppose Boys Town's plans to establish a facility for 40 boys (long-term treatment for 24 boys and short-term housing for 16 additional youth, plus administrative offices).The Boys Town project is also opposed by community groups, including Advisory Neighborhood Commission 6B and the Capitol Hill Restoration Society, Inc., and by senior executive and elected city officials, including Councilmember Sharon Ambrose (Ward 6).

You will recall that in September 1997, the Corporation Counsel, under threat of a lawsuit by the Department of Justice, signed a Stipulated Agreement, acknowledging that city zoning regulations discriminated against disabled persons and promised to amend the zoning regulations to permit Community-Based Residential Facilities (CBRFs) as a matter of right in an R-4 district. After hearings by Zoning Commission hearings, a new regulation was issued April 30, 1999:

> 330.5 (i) The following uses shall be permitted as a matter of right in an R-4 district: ...
>
> (i) Community based residential facility; Provided that notwithstanding any provision in this title to the contrary, ... is intended to be operated as housing for persons with handicaps. For purposes of this subsection, a "handicap" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

According to the Land Use Journal of January 1998 (p. 4), the definition of handicap in the Fair Housing Act allows facilities treating:

> ... recovering alcoholics and addicts not currently using drugs or alcohol, mentally handicapped and physically disabled persons, and elderly and other persons, such as

Will Hill, Chair
701 14th St., SE
Washington, DC 20003
202 544-3785 * (Email) willonthehill@starpower.net

BZA
Case No. 16531
Exhibit No. 69

Board of Zoning Adjustment
District of Columbia
CASE NO.16531
EXHIBIT NO.69

youth placed in group homes because of their having been abused or neglected, who are unable to live without assistance. Hovsons v. Township of Brick, 89 F.3d, 1096 (3rd Cir. 1996)

Adoption of Sec. 330.5(i) did not, however, revoke the CBRF regulations, which provide for a special exception procedure in C-5 districts for youth residential homes for 16 to 25 persons (homes with smaller number of residents are allowed as a matter of right).

SCSD is not aware that:

- Father Flanagan's Boys Town of Washington, or its related organizations, has applied for a special exception procedure to operate a youth residential home, as would appear to be required under the regulations, for a facility serving 40 youths;

- Father Flanagan's Boys Town has instituted screening or other procedures that would ensure that only persons complying with the Fair Housing Act definition of handicapped are admitted for treatment, even on a temporary basis. Indeed, Boys Town of Washington's literature, and actual practice at its Sargent Road facility, indicates that individuals admitted may indeed be adjudicated, or may be currently illegally using, or be addicted to, a controlled substance.

We ask that the Zoning Administrator advise whether Boys Town of Washington has complied with current law regarding the requirement for a special exception, and investigate whether Boys Town has instituted, or can institute, such procedures as may be necessary to comply with the law, should the facility be built. We further ask that the Zoning Administrator place a moratorium on the issuance of any building permits or permits sought by Boys Town of Washington, or its contractors or agents, until such investigation is completed.

We look forward to your acknowledgment of the receipt of this letter, and an early indication of how you plan to proceed.

Respectfully submitted,

Will Hill
Chair

cc:
The Honorable Anthony Williams, Mayor
The Honorable Sharon Ambrose, Councilmember (Ward 6)
The Honorable David Catania, Councilmember (At Large)
Ms. Sheila Cross-Reid, Chair, Board of Zoning Adjustment
Peter Waldron, Chair, Advisory Neighborhood Commission 6B
Brian R. Furness, President, Capitol Hill Restoration Society, Inc.

Will Hill, Chair
701 14th St., SE
Washington, DC 20003
202 544-3785 * (Email) willonthehill@starpower.net

To: Ms Sheila Cross - Reed

Fax: 727-6072

From: Will Hill

Date 9/20/2000

Pages 3

fax

From the desk of:....

Will Hill
ANC 6B-08, Vice Chair
PSA 112 East, Chair
MPD 1st District Citizens Advisory Council, Vice Chair

701 14th Street, SE
Washington, DC 20003-3014

(202) 544-3785
Fax (202) 544-7535

P.01

SEP-22-2000 02:57 AM