GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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JAN 12 2001

Norma Broadax
Advisory Neighborhood Commission 5A
1322 Irving Street N.E.
Washington D.C. 20017

BZA
Case No. 16531
Exhibit No. 81

Re BZA Application 16531

Dear Ms. Broadnax:

This letter is in response to your letter dated January 11, 2001, regarding the above-referenced case, which was received in the Office of Zoning on January 10, 2001.

The final Decision and Order of the Board of Zoning Adjustment was filed in the record and mailed to your ANC on December 21, 2001. Under 11 DCMR 3126.2,

> Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that such motion is filed with the Director within ten (10) days from the issuance of a final written order by the Board.

The Board's Rules of Practice and Procedure provide in 11 DCMR 3110.4 that whenever a party has the right to take an action after the service of a notice or other paper, and the notice or paper is served by mail, three days shall be added to the prescribed period. Therefore, any motion for reconsideration or rehearing was due on January 3, 2001.

Your letter, however, states that ANC 5A did not receive a copy of the Decision and Order until January 4, 2001. Under such circumstances, any motion for reconsideration or rehearing would not be due until Tuesday, January 16, 2001, since the tenth day for filing would fall on a Sunday and the following Monday is a legal holiday. To afford your ANC the opportunity to file a motion by January 16th, as Director of the Office of Zoning, I must ask that the ANC file an affidavit or sworn statement signed by a commissioner or appropriate staff member with personal knowledge of the circumstances under which the Decision and Order was received that:

(1) describes the ANC's regular business practices relating to the receipt of mail;



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(2) states whether the receipt of the Decision and Order was in accordance with the ANC's regular business practices and, if not, how the receipt differed from the ANC's regular business practices; and

(3) affirms that the Decision and Order was not received at the ANC's mailing address any earlier than January 4, 2001.

If available, please provide copies of any logs, receipts, the postmarked envelope that contained the Decision and Order, or other documents that would show that the ANC did not receive the Decision and Order at its mailing address any earlier than January 4th. The affidavit and supporting materials and any motion for reconsideration or rehearing should be filed no later than close of business, 5:00 p.m., on Tuesday, January 16, 2001. If the ANC files a motion by January 16th, the applicant will have seven days under 11 DCMR 3126.5 in which to respond and the motion will be scheduled for the Board's next decision meeting.

In any event, the Board may consider the ANC's request for a further extension of time on January 16, 2001. The Board will notify the parties in writing of any decision on the ANC's request for a further extension of time. If the Board determines to grant a further extension, it will establish new deadlines for the filing of any motions. Under 11 DCMR 3126.5, the applicant will then have seven days from the date of the filing of any motion in which to file a response and the decision will be scheduled for the Board's next decision meeting.

If you have any questions regarding this matter, please do not hesitate to call Sheri Pruitt at (202) 727-3780 or Paul Hart at (202) 727-0348.

Sincerely,

**JERILY R. KRESS, FAIA**
**DIRECTOR**

CC: Phil Feola
Kenneth Laden
Norma Broadax
Honorable Vincent B. Orange
Michael Johnson
Heath Hall