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January 12, 2001

By Facsimile

Ms. Jerrily R. Kress
Director, Office of Zoning
441 4th Street, NW, Ste 210S
Washington, DC 20001

D.C. OFFICE OF ZONING
RECEIVED
2001 JAN 12 PM 5:15

Re: BZA Case No. 16531
Father Flanagan's Boys Town of Washington ("Boys Town")
4801 Sargent Road, NE

Dear Ms. Kress:

On behalf of Boys Town, the applicant in the above-captioned case, we oppose ANC 5A's request for a time extension to file motions in the case. The ANC's request is untimely and has no basis in law or fact.

Section 3126.2 of the Zoning Regulations provides that a party must file a motion for reconsideration or re-hearing within ten (10) days of issuance of the Order. Clearly, the time for such motion has passed. Further, an extension of time is not warranted here and, in fact, would significantly prejudice Boys Town.

In evaluating this extension request, it must be considered that:

- ANC 5A had actual knowledge of the BZA's decision in this case on October 3, since an ANC Commissioner was present at the BZA meeting on that day.
- Further, since the BZA meeting approving this application, there have been three (3) Community Advisory Liaison Committee meetings, which Boys Town has held as required by the BZA Order and to which the ANC has been invited. These meetings have been attended by the community residents that the ANC claims, in its letter to you dated January 11, 2001, it needs time to inform of the BZA decision in this case.
- The Regulations allow for a rehearing only if there is new evidence that could not reasonably have been presented at the original hearing. ANC 5A could not have any new evidence to submit at this point after almost two years of public review of this project.

BZA
Case No. 16531
Exhibit No. 83

Board of Zoning Adjustment
District of Columbia
CASE NO.16531
EXHIBIT NO.83

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- ANC 5A has been very involved with the entire BZA process in this case. There are no new issues to evaluate. The ANC does not have to "respond" to the BZA Order. In fact, neither the BZA Order nor the Zoning Regulations anticipates a "response" to the final Order.

- Boys Town has spent considerable resources doing the work required by the Order, including the completion of the stormwater work (Condition No. 3), the enclosure of the emergency generator (Condition No. 6) and installation of the sound attenuation fence (Condition No. 7). Further, it has spent a considerable amount of monies in the development of construction documents to achieve the building permits necessary to develop the site pursuant to the Order. Any uncertainty at this time would significantly prejudice Boys Town.

For the above-stated reasons, we believe that it is unwarranted that an extension be granted. The Applicant has been subject to numerous delays and postponements during the course of this application which was originally filed on October 29, 1999. The Board has issued its decision and the Applicant must be able to rely on the decision without further delay and uncertainty. We respectfully request that ANC 5A's request be denied.

Sincerely,

Phil T. Feola

Martin P. Sullivan

cc: Father Val Peter
Connie Washington
ANC 5A
Marie Sansone, Esquire

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