Exhibit 5



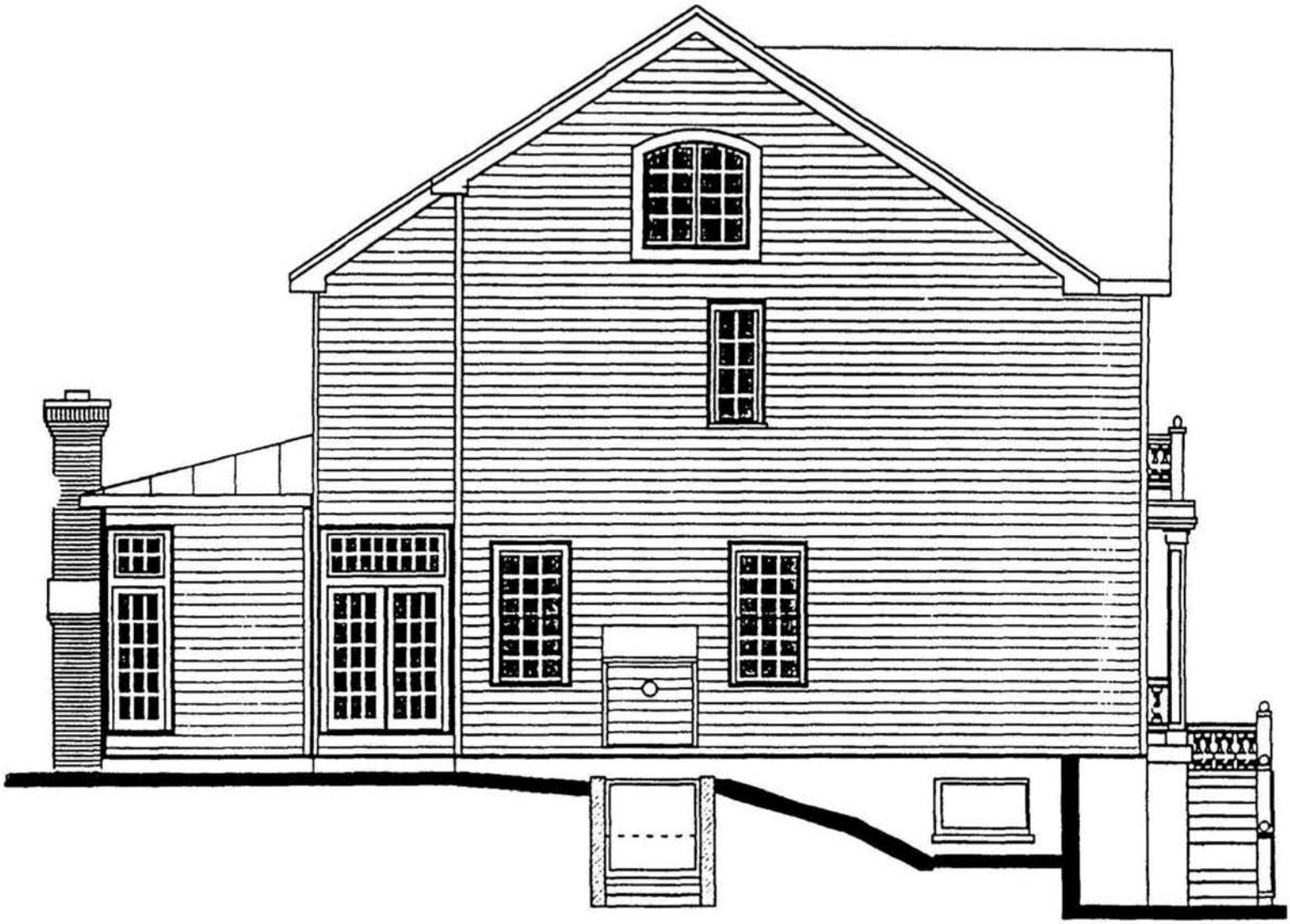
FRONT ELEVATION

1/8" = 1'-0"

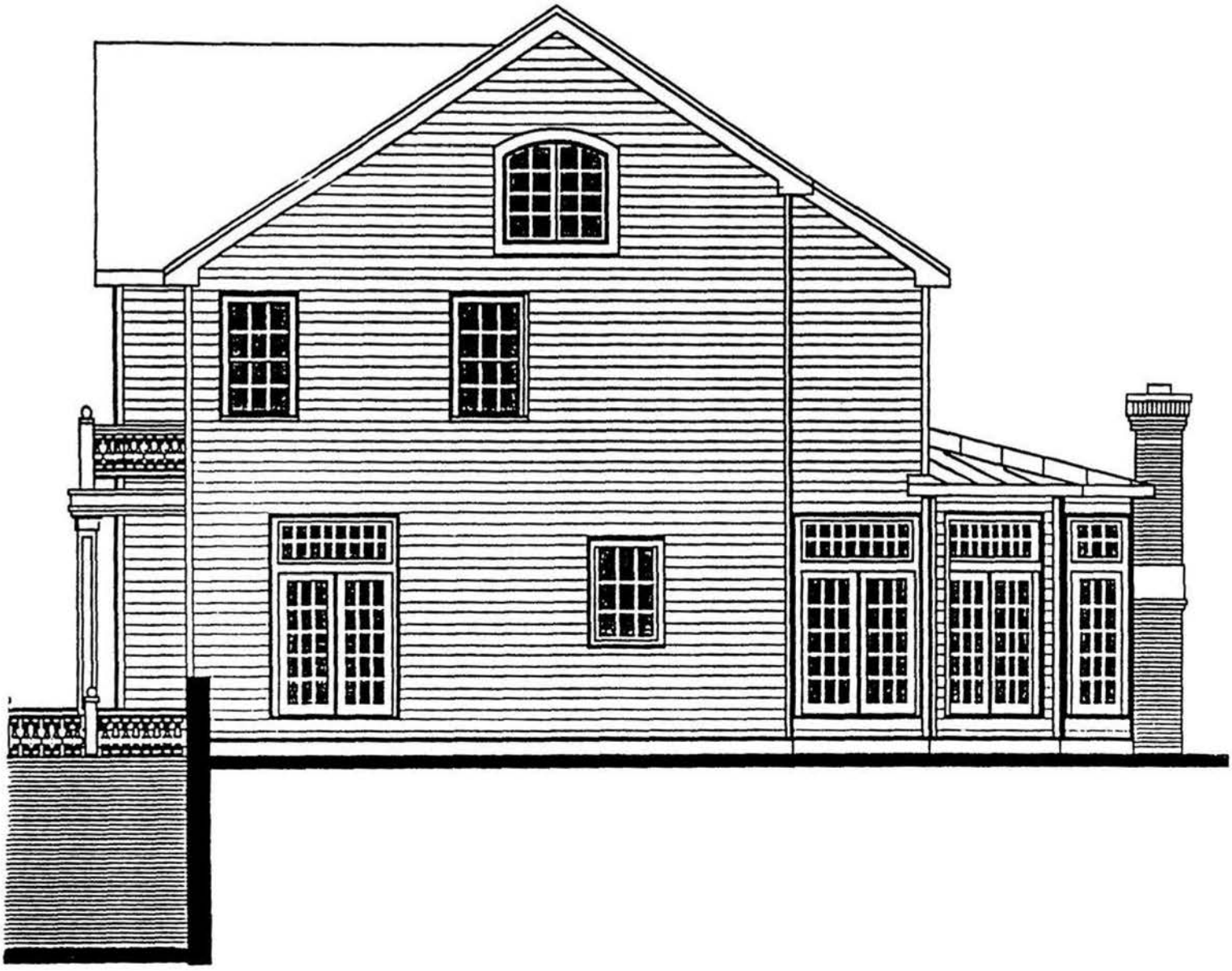


REAR ELEVATION

1 8" = 1'-0"



LEFT SIDE



RIGHT SIDE

Exhibit 6

August 20, 1999

BY HAND

Murray A. Cohen
Murray Cohen Custom Builder
P.O. Box 34208
Bethesda, MD 20827

Re: 4512 28th St., N.W.

Dear Mr. Cohen:

The undersigned are residents of the 4500 block, adjacent to the single family dwelling you are constructing. The purpose of this letter is to inform you that we believe that your construction is unlawful under Title XI , section 400 et seq of the D.C. Municipal Regulations ("Regulations") and, further, that we have so advised the Department of Consumer and Regulatory Affairs.

Specifically, (1) the "addition to existing footprint" set forth in your permit is non-conforming at least with respect to the width of the side yard; and (2) your plans indicate a completed structure of four stories, contrary both to the regulations and to the language of your permit ("construct 3 floors and addition to exist. footprint"). In fact, your plans call for the construction of three floors over a full, above grade basement.

Immediately upon review of the plans you provided to us, we contacted the D.C. Building and Land Regulatory Affairs Division ("Division"). That office then issued a stop order based upon the discrepancy between the permit issued upon your application and what you in fact are attempting to build. The stop order was lifted on the understanding that you would revise your plans so that they would conform to Regulations. Despite the fact that to the best of our knowledge the Division has not approved any such plans, you are continuing construction

pursuant to the original plans. Accordingly, your continued unlawful construction is at your own risk.

Very truly yours,

Greg R Clark 4525 28th Street NW
Stuart C. Sloane 4501 28th St., NW
[illegible] 4517 28th ST., NW
[illegible] 4531 28th St., N.W.
Helen Kempton 4511 28th St NW

Cc: Edgar Nunley, Chief Zoning Review Branch, Building and Land Regulatory Affairs Division
Kathy Patterson, Member D.C. City Council

Exhibit 7

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.

SUITE 1100 - EAST TOWER

WASHINGTON, D.C. 20005-3317

202-414-9200

FAX 202-414-9299

HARRISBURG PA
McLEAN VA
NEW YORK NY
NEWARK NJ
PHILADELPHIA PA
PITTSBURGH PA
PRINCETON NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

August 25, 1999

VIA FACSIMILE (202) 442-4871

Edgar T. Nunley
Chief of Zoning Review Branch
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, N.W.
Suite 2000
Washington, D.C. 20002

Re: 4512 28th Street N.W.

Dear Mr. Nunley:

In connection with your review of the zoning and permits at 4512 28th Street N.W., I have attached a copy of a postcard which the builder's real estate agent has circulated this week in the neighborhood (although apparently not to anyone who lives on the "beautiful street" where the house is being built). You will note that it states there will be four finished floors. The drawing also clearly shows that the builder is planning a four-story house, which is not permitted under the D.C. zoning regulations. The basement is at least six feet out of the ground at the measuring point in front.

I am writing today because construction is continuing on the site. The builder has been working rapidly this week, even in inclement weather.

We believe that the situation is reaching a critical stage. As we understand it, the builder does not have approved plans for four-story house, although he continues to build and is now advertising as if he does.

We request that the department issue a stop order on construction until this issue is resolved, including the right of the neighbors to meet with you if approval is granted. We believe that

the earlier stop order should not have been lifted before new and comforming plans were approved.

As you know from our earlier discussions, and as the department acknowledged in its stop order, the builder is not constructing three floors on the existing footprint, although that is all his permit allows. It is four floors. The builder has also expanded the existing nonconforming use (the side yards are far less than eight feet) and he is putting three floors on that nonconforming expansion. The side yards at the point of expansion are less than five feet.

The builder has also taken down the center supporting wall in the basement (see the pictures delivered yesterday). While two 2x4s now form the support for the beam, an architect tells me there is a serious question as to whether the full weight of three floors can be supported on that existing foundation which was built for a single floor with a crawl space attic.

I also request that you please fax to me, or tell me how I can simply obtain, the zoning computation sheet for the property.

The other neighbors and I thank you for your assistance.

Sincerely yours,

George R. Clark

GRC/ydl

Enclosure

cc: Michael Johnson, Zoning Administrator (via fax/202-448-4863)
Kathy Patterson, Councilperson (via fax/202-724-8118)

4512 28th Street, NW
In Forest Hills

"Fit for an Ambassador!"
STUNNING NEW 6 BR, 5 5 BA HOME on beautiful street in great neighborhood w/4 finished floors, top-of-the-line finishes! For more information, please call:

Barbara Lenkin Zuckerman
202-363-5093 (h) 202-364-5200 (o)
Visit my website - barbaraz.com
E-mail: barbarazdc@aol.com
Top 1% Nationwide
1% of my proceeds go to children's causes

5101 Wisconsin Ave, NW
Washington, DC 20016

PAID
LONG & FOSTER

[822] *****ECRLOT**C029
Neighbor
[redacted] Brandywine St NW
Washington DC 20008-2136

This is not intended as a solicitation if your home is currently listed with another agent.

JUST LISTED!



4512 28TH STREET, NW

Exhibit 8

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.

SUITE 1100 - EAST TOWER

WASHINGTON, D.C. 20005-3317

202-414-9200

FAX 202-414-9299

HARRISBURG PA
McLEAN VA
NEW YORK NY
NEWARK NJ
PHILADELPHIA PA
PITTSBURGH PA
PRINCETON NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

September 2, 1999

VIA FACSIMILE (202) 442-4871

Edgar T. Nunley
Chief of Zoning Review Branch
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, N.W.
Suite 2000
Washington, D.C. 20002

Re: 4512 28th Street N.W.

Dear Mr. Nunley:

Thank you for calling me on Friday August 27, 1999 about this property. Unfortunately, I have not been able to reach you this week to find out the status.

As you acknowledged on August 27, you wanted to get back to me because the issues at this property have been pending for some time. When we first spoke, there were no walls up. The builder now is ready to put up the fourth story on the house, and as we understand it, he does not have approved plans for that construction. And unless he builds something dramatically different than he is currently building, he cannot have approval under the zoning code because four stories are not allowed.

I hope you were able to visit the property over last weekend, as you had planned. I do know that Mr. Neal has visited the property. As you know, the builder is also not constructing the structure for which he has a permit, and the side yards are less than five feet.

I have heard, however, that the developer has submitted a new set of plans providing for a "berm" in front of the basement story. Mr. Bellow told another of the neighbors (I am afraid only partly tongue in cheek) that a builder could put up a 10 story house in an R-1-A zone as long as he put a 7 story berm in front of it. Obviously, the law does not allow that.

But that is in effect what is taking place at 4512. With only the two stories already on top of the basement story, the house is already taller than any house on the block. And the roof story is planned to be 15 feet at the peak according to the drawings we have obtained from the builder. The front door of the house already sits 15 feet above the street level. The garage will remain open to the street level so that at least half of the house cannot have a berm in front of it. If all the builder has to do is put four feet of dirt in front of a three foot section of the house, the D.C. zoning code becomes meaningless.

I also request that you please fax to me, or tell me how I can simply obtain, the zoning computation sheet for the property.

Thank you for your assistance.

Sincerely yours,

George R. Clark

GRC/ydl

cc: Michael Johnson, Zoning Administrator (via fax/202-442-4863)
Kathy Patterson, Councilperson (via fax/202-724-8118)

Exhibit 9

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.
SUITE 1100 - EAST TOWER
WASHINGTON, D.C. 20005-3317
202-414-9200
FAX 202-414-9299

HARRISBURG, PA
McLEAN, VA
NEW YORK, NY
NEWARK, NJ
PHILADELPHIA, PA
PITTSBURGH, PA
PRINCETON, NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

September 2, 1999

VIA FACSIMILE (202) 442-4863

Mr. Michael Johnson
Zoning Administrator
DCRA/BLRA
Zoning Division
941 North Capital Street, N.E.
Suite 2200
Washington, D.C. 20002

Re: 4512 28th Street, N.W.

Dear Mr. Johnson:

A number of neighbors and I have been trying to work with the zoning division about a four-story house which is being constructed at the above location in an R-1-A zone, which permits only three stories. This week none of us have been able to get a call returned to discover the actual status of the division's approval process (the inspector has called us to tell us of his visit). Councilperson Patterson's office tells us that their calls are not being returned either.

We know that you are new to your position. As long time D.C. residents, we perhaps are too easily frustrated because of the long-time nonresponsiveness of the D.C. Government. We are all hoping that that has changed.

In the meantime, construction of the illegal house continues, as is shown in my letters of August 25 and September 2. This is not a hard issue. Can you help us?

Sincerely yours,

George R. Clark

GRC/ydl
cc: Kathy Patterson, Councilperson (via fax/202-724-8118)



interior - walls of glass in living room, dining room and family room overlooking lovely, private, professionally landscaped yard! Large rooms, new kitchen, 1st floor family room, 2 fireplaces, hardwood floors, Master bedroom w/private deck and new bath w/Jacuzzi & separate shower! 2-story foyer! 2-car garage, decks, patio! **$749,000.**

Virtual Tour click here



FOREST HILLS, DC "Fit for an Ambassador!" Stunning new 6 BR, 5.5 BA home on beautiful street in great neighborhood. 4 finished floors, top-of-the-line finishes! $1,359,000



KENSINGTON, MD - Stunning 4-bedroom, 2.5 bath 4-year-old Victorian "painted lady" home on private cul-de-sac in historic Capitol View Park. Fabulous kitchen with cooking island and all the goodies, 1st floor family room w/French doors to patio and yard, hardwood floors and 9 ft. ceilings on 1st floor, large rooms, 2 bay windows, 1 fireplace, 2-car garage with shop area, beautifully landscaped yard! **$439,900.**

Virtual Tour click here



BACK Talk to Barbara!

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Exhibit 10

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.

SUITE 1100 - EAST TOWER

WASHINGTON, D.C. 20005-3317

202-414-9200

FAX 202-414-9299

HARRISBURG PA
McLEAN VA
NEW YORK NY
NEWARK NJ
PHILADELPHIA PA
PITTSBURGH PA
PRINCETON NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

September 8, 1999

VIA FACSIMILE (202) 442-4863

Mr. Michael Johnson
Zoning Administrator
DCRA/BLRA
Zoning Division
941 North Capital Street, N.E.
Suite 2200
Washington, D.C. 20002

Re: 4512 28th Street, N.W.

Dear Mr. Johnson:

Late on the afternoon of September 7, 1999, I received a message via Kathy Patterson's office that you and your department had approved the construction of a four-story house at 4512 28th Street N.W. As we are both aware, the D.C. zoning code prohibits structures of more than three stories in an R-1-A zone. We were informed that the structure was being approved because it is less than 40 feet in height, even though it is four stories.

This morning I received your voicemail that this "purportedly" four story house had no zoning issues and was approved, despite the fact that it "looks very awkward." I very much appreciate your call and look forward to meeting with you in the immediate future as you suggested. I hope we can do as soon as today.

In the interim, I must write to protest this illegal action which goes beyond the authority of the department. Under the code, only three stories are allowed, and the permit approves the construction of only three stories. There is no doubt that the building being constructed has four stories. As previous correspondence has explained, the full basement is a story because it is more than four feet out of the ground at the measuring point. DCRA did not dispute this prior to today.

To circumvent the clear terms of the code, as well as its intent, the department has admitted suggesting to the builder that he can put a "berm" in front of some portion of the length of the basement so that it can be pretended that there are not more than four feet of basement exposed. This is a deliberate attempt at evasion of the zoning requirements.

First, the house is some fifty four feet wide. Unless the garage (which opens at the front of the house) and the front steps leading immediately from the doorway are to be fully covered with dirt, at least one-half of the basement will remain exposed more than four feet. I seriously doubt that the builder is planning on burying the garage and the front steps which lead immediately from the front door. If the berm is on the other side, the basement windows must be filled in and covered.

Second, unless the "berm" is only a foot or less in width, the house is so close to the sidewalk (where there is a four foot retaining wall), there will be no way to get from the front door to the street via walkways unless one is pitched at a 45 degree angle to descend the 15 feet from the front door down to the sidewalk. The only other alternatives are a rope, an elevator, a chairlift or a helicopter. I hope that you have been to the property to see what I mean. And the builder has narrowed the existing steps from the front door from 5 feet to 3 feet wide by building two feet past the original foundation (yes I have pictures).

Third, the existing basement wall in the front ends at or below the grade level. The rest of the basement wall is two courses of bricks thick on top of the foundation, with no cement foundation or cement blocks. And those two courses of bricks have four large window holes in them that would need to be filled in before a "berm" could be constructed.

The department need not fear a claim by the builder that it must let the construction go forward because it approved the original application. Mr. Bellow, who approved that application, has told my neighbor Stuart Sloame that he now recognizes that the original application called for a different structure than in fact is being built. This deliberate deception removes all claims of equity by the builder.

There is also no question but that the building does not match the permit, and not only because it is four stories instead of three. The three new stories are <u>not</u> being built on the existing foundation. The three stories are being added on the original one

story basement foundation plus an extension to that foundation. That extension is 6.5 feet x 50 feet and is shown on the plans as part of the original foundation. The application is simply wrong. You have been deceived.

All of this shows that there is no reason for the department to stretch the code to accommodate a builder who has deliberately not been forthright in its application. It makes no sense to us that citizens who want compliance with the law cannot even get a meeting with the department, while the department goes out of its way to aide a builder who has made deliberate misrepresentations to it. This is not fair consideration.

The five sets of neighbors who have petitioned to your department to enforce the law have lived in the City for well over 100 years combined. It is in the interest of all of us to have a house built which adds to, rather than detracts from, property values. The owner has refused to talk with us about complying with the law, claiming that he can build four stories "as of right." His plans submitted to your department deliberately failed to describe his project with any degree of accuracy. I can see no legitimate reason for the Williams Administration to try to torture the rules to favor such an applicant over long-time District residents.

This argument is not about style. A drive down our street reflects a diversity of style, size and siting. There was no opposition to the last home built on the block, which is very different stylistically from all of the others. All of the current petitioners lived on 28th Street during its construction. There is no reason to give an exception for a building which everyone who has seen it immediately recognizes as inappropriate to the site.

The builder has been racing to frame his illegal structure while the city considers what to do. All three of the new stories have gone up since I first spoke to Mr. Nunley. They have built in rain, hurricane, Saturdays, some Sundays, and even all day on Labor Day. There could be little better demonstration of guilty knowledge of wrongdoing.

The lot is 7494 square feet, below the minimum lot size in the District for building. The house will have at least 8000 square feet, counting all four stories. It towers above every other house on a street of large houses. It is at best 15 feet (again the bare minimum) from the building restriction line in front. And the floor of the first story above the basement is at least 15 feet above the street. At four stories it is an eyesore which detracts from all of

our property values. At three stories it may be domineering, but at least it would be legal.

In addition to the height problem there is a second issue. We have also been told by the inspector that the house sits illegally close to the adjacent properties. As the only person from the department who has visited the site he agrees with us. I have measured it myself and it is less than five feet away. The builder (without disclosing it in his permit application) expanded the existing foundation 6 1/2 feet from the back of the house on which he is placing three stories. And he has added a chimney on the south side of the house which is not on the plans and which encroaches the eight foot limit.

As you know, this activity is illegal under 11 DCMR § 405.8. Absent that section, 11 DCMR § 2002.5 prohibits the enlargement of a nonconforming use unless the enlargement is conforming in all respects. Under 11 DCMR §401.1, a building may not be enlarged or replaced by a new building unless it meets all other code requirements. This one clearly fails among other reasons because the side yards are less than eight feet. Therefore, § 405.8 is the only arguable way for the builder to avoid code requirements.

But § 405.8 does not help the builder. There is no extension or addition being made to a building existing on or before May 12, 1958. As the application admits, the previous single-family dwelling was demolished. Under the zoning definitions, a "building" is a structure having a roof for the shelter, support, or enclosure of persons. Once the existing dwelling was destroyed there was no roof and therefore no building to expand or add to.

Under § 405.8 "an extension or addition may be made to the building." That is not what has taken place here. An entirely new building has been constructed within the definition of the code. Therefore a new building must have 8 foot side yards. The plans show side yards of 6 feet.

Even if your department takes the arbitrary and capricious view that this was the expansion of an existing building (which of course was destroyed according to the permit) it still violates § 405.8. That section says that the width of the side yards "shall not be decreased." Yet that is what has happened at the two new corners of the extended foundation.

Finally, even under § 405.8 the width of the side yard "shall be minimum of five feet." The new building is less than five feet from either of the adjacent properties.

I am a University of Illinois graduate and am hopeful that you will bring some midwestern Champaign common sense to your new position. Please do not leave the citizens of the District of Columbia in the same unprotected position they have long suffered in. Please protect us from builders who submit less than accurate and forthright applications and then claim that they are entitled to build because the department approved the plans. Please show the citizens that the Barry days really are over. Those of us on 28th Street will accept nothing less.

As you know from my message of this morning, I look forward to your call to arrange our meeting.

Sincerely yours,

George R. Clark

GRC/ydl
cc: Mayor Anthony Williams
Kathy Patterson, Councilperson (via fax/202-724-8118)
Lloyd Jordan, Director of DCRA (via fax/202-442-9445)
Richard Nettler, Esq., (via fax/202-223-8604)

Exhibit 11

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

KATHY PATTERSON
COUNCILMEMBER, WARD 3

CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

OFFICE: (202) 724-8062
FAX: (202) 724-8118

September 8, 1999

Lloyd J. Jordan, Director
Department of Consumer and
Regulatory Affairs
941 North Capitol Street NE, Suite 9500
Washington DC 20002

By facsimile and mail

Dear Mr. Jordan: Lloyd

Please find enclosed correspondence my constituent, George Clark, regarding a home being built at 4512 28th Street NW. In a conversation with my staff on September 7, 1999, Armando Lourenco stated that one issue the neighbors believe is a violation appears not to be–the height of the house. It is my understanding that Mr. Lourenco said if the grade is raised, the house height is measured from the grade. If this is the case, Mr. Clark's September 2, 1999 letter is accurate, "...that a builder could put up a 10 story house in an R-1-A zone as long as he put a 7 story berm in front of it." Mr. Lourenco was still in the process of reviewing the plans and permits to make a determination about the size of the side yard and if the actual structure matches the permits on file. Meanwhile, work on the house continues.

Time is of the essence. When will the Department make a final decision on the points raised by Mr. Clark? When can Mr. Clark expect to receive a written reply to his letters? Thank you for your attention to this issue. I look forward to your response.

Sincerely yours,

Kathy

Kathy Patterson

Enclosures

cc: Mayor Anthony Williams
Carlynn Fuller
George Clark

ps And when will you return my calls?!

Exhibit 12

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.

SUITE 1100 - EAST TOWER

WASHINGTON, D.C. 20005-3317

202-414-9200

FAX 202-414-9299

HARRISBURG PA
McLEAN VA
NEW YORK NY
NEWARK NJ
PHILADELPHIA, PA
PITTSBURGH PA
PRINCETON NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

September 10, 1999

VIA FACSIMILE (202) 442-4863

Mr. Michael Johnson
Zoning Administrator
DCRA/BLRA
Zoning Division
941 North Capital Street, N.E.
Suite 2200
Washington, D.C. 20002

Re: 4512 28th Street, N.W.

Dear Mr. Johnson:

On September 8, 1999 you called me early in the morning to tell me that the department saw no violations and approved amended permits for this property. You kindly offered to meet with me to explain the department's decision, but could not do so before that afternoon because of other commitments.

I called your office on September 8 to try to arrange an appointment. I also called your office early on September 9 and was told that you would get back to me that day about your call and a meeting. As of this morning, I have not heard back from you.

While I am most desirous of having a meeting to hear the department's explanation for its action, we also need to have some evidence of a decision from the department so that we can file an appeal with the Board of Zoning Adjustment to overturn this arbitrary and capricious decision. As Mr. Bellow of your office has admitted, your position would allow the construction of 10 story dwellings in R-1-A zones. You can be certain that there will be developers asking for approval of five-story homes with two-story berms, especially on "tear down" properties, within months, if not days. The zoning laws will be rendered meaningless.

Even the "new" DCRA does not have the authority to change the zoning regulations. In the meantime, construction continues, even though there are no new permits posted reflecting the

department's approval of any change to try to eliminate the fourth story. We citizens wonder what is going on when we cannot get a meeting even after one is offered. It does not seem that the developers have that problem.

I have heard that Mr. Jordan said yesterday that he has sent his best inspectors to the property this week and everything is fine. But how can they ignore what can easily be seen in the attached picture taken this week? Is this the type of violation that DCRA's new and expensive computerized inspection system, so widely heralded when it was announced September 8, still cannot find?

Sincerely yours,

George R. Clark

GRC/ydl

cc: Mayor Anthony Williams (via fax/202-727-6561)
Lloyd J. Jordan (via fax/202-442-9445)
Kathy Patterson (via fax/202-724-8118)
Richard Nettler, Esq. (via fax/202-223-8604

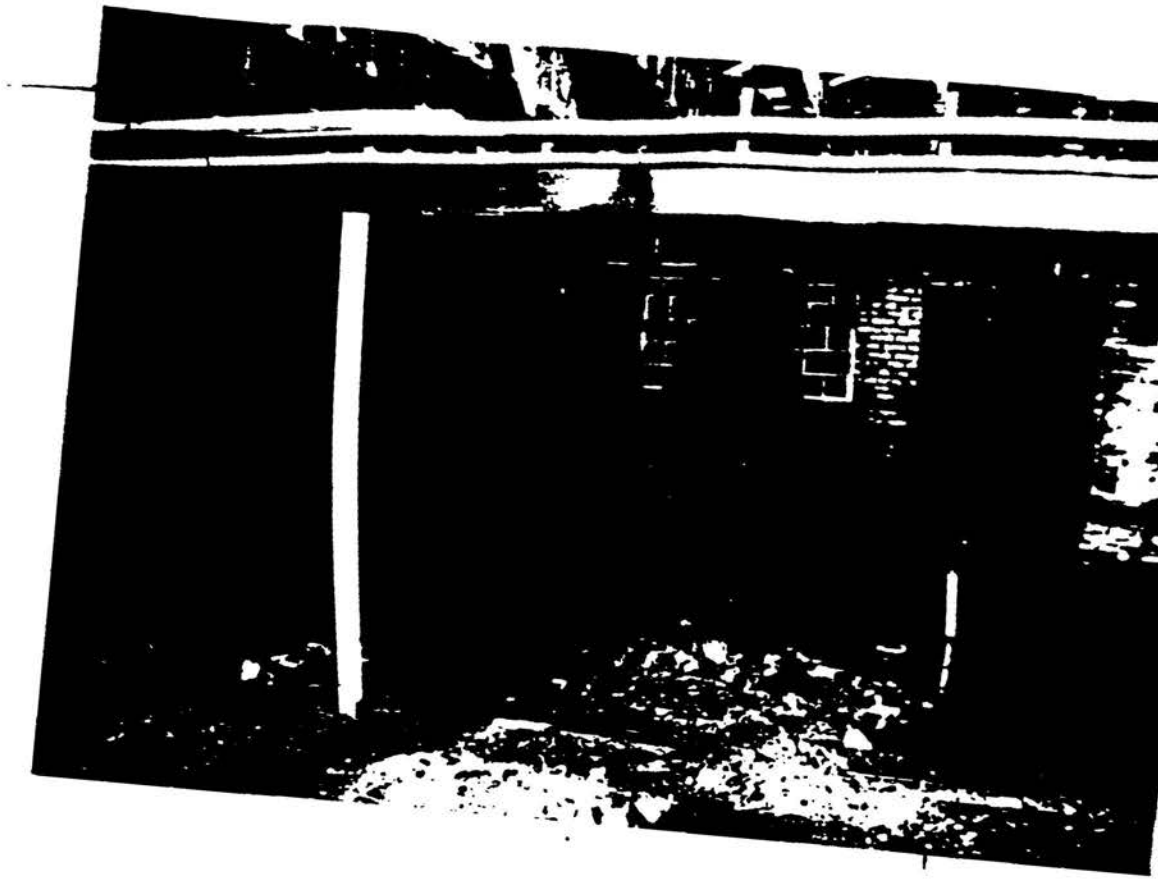


Exhibit 13

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

KATHY PATTERSON
COUNCILMEMBER, WARD 3

CHAIRPERSON
COMMITTEE ON GOVERNMENT OPERATIONS

OFFICE: (202) 724-8062
FAX: (202) 724-8118

September 13, 1999

Lloyd J. Jordan, Director
Department of Consumer and
Regulatory Affairs
941 North Capitol Street NE Suite 9500
Washington DC 20002

By facsimile and mail

Dear Mr. Jordan:

In a telephone conversation Thursday, September 9, 1999, you assured me that I would receive from you the following morning, by hand delivery, your written opinion that the structure under construction at 4512 28th St. NW is in compliance with all relevant requirements, including height and footprint.

Instead, I received by fax at close of business Friday a lengthy letter from Armando Lourenco on your staff stating, in conclusion, that "none of these considerations amount to a violation of the applicable regulations that would warrant any enforcement action on our part." I presume, therefore, that Mr. Lourenco speaks on your behalf.

Mr. Lourenco writes that "a professional land surveyor performed a survey of the walls." Please provide me, as soon as possible, with a copy of that survey. Please inform me as to who hired the surveyor, who compensated the surveyor, and the timeframe for the survey. If the survey was made at the request of a private party I would question Mr. Lourenco's assertion that "I have to rely on the results of this survey."

In your letter, you also acknowledge that "...the owner filed an application to revise the profile of the existing berm, at the front of the building, to bring the finished grade to four feet below the level of the main floor of the building" because "...the approved plans appeared to show the proposed finished grade, at the front of the building, more than 4 feet below the ceiling of the lower level of the building." Therefore, the owner amended his original application because your agency concluded that the actual structure was not in compliance with regulations. Is it common practice to permit a developer to raise the berm, rather than reduce the height, when a building is found not to be in compliance with regulations? Do you anticipate changing regulations that permit such a practice or will it be necessary for me to pursue a legislative route?

Thank you.

Sincerely yours



Kathy Patterson

cc: George Clark

Exhibit 14

8-18-99

DISTRICT OF COLUMBIA GOVERNMENT
Office of the Surveyor

Wall Report for SQUARE 2251 LOT 23

Scale: 1 inch = 20 feet Recorded in Book 83 Page 44

S.O. SEAL

S.O. Receipt No. S-06583

Received by _____
Surveyor, D.C.

Date August 27, 199

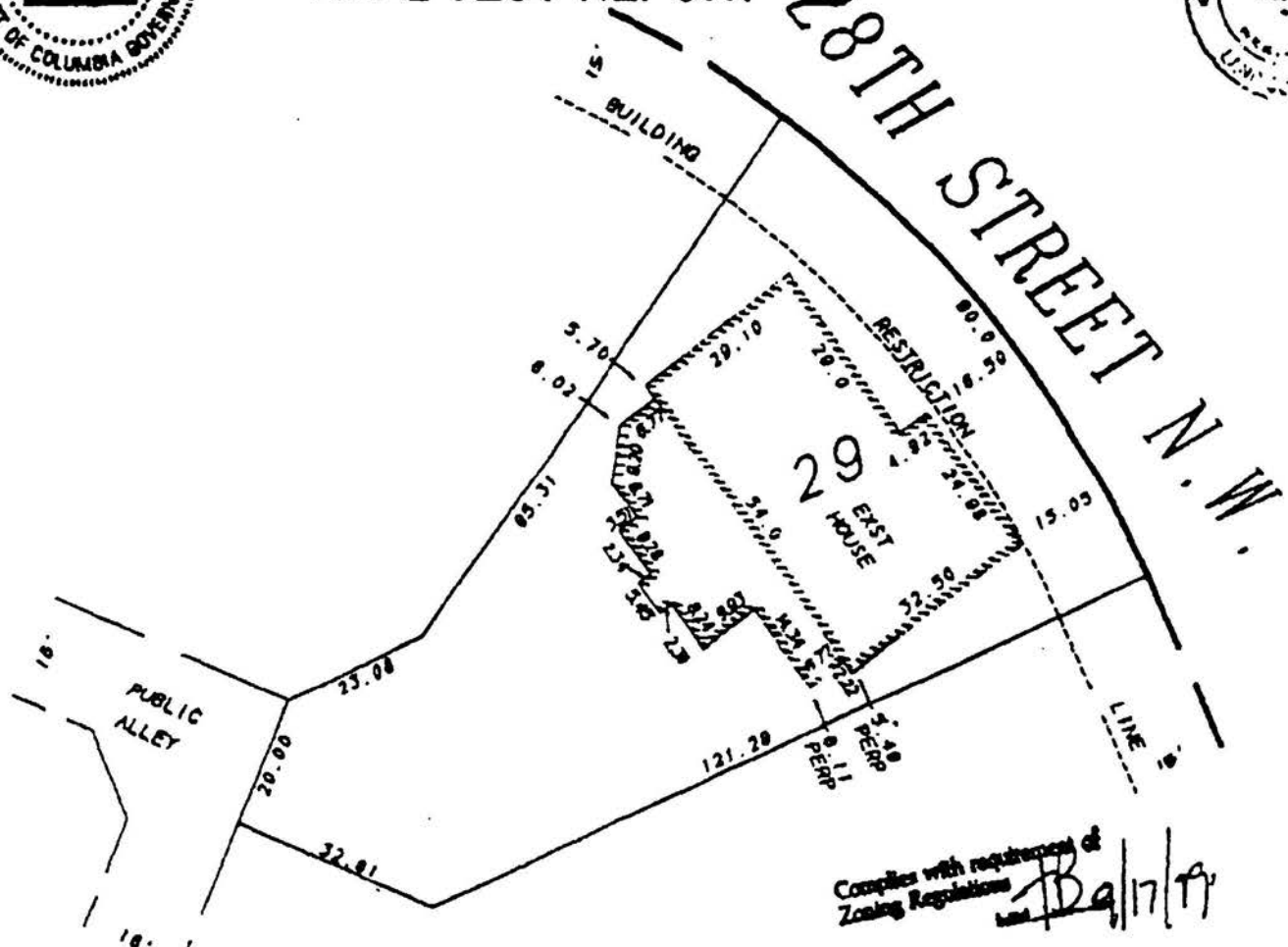
REGISTERED LAND SURVEYOR'S CERTIFICATION

I certify that the wall locations shown hereon have been determined by me, or under my direction, in accordance with Chapter 28 of Title 10 DCMR, and that I have not engaged in the construction layout of this site.

RLS SEAL

DISTRICT OF COLUMBIA — THOMAS A. WADDOX — No. 91-4

WALL TEST REPORT



Complies with requirements of Zoning Regulations [illegible] 8/17/99

B424294

2512 28th St NW

CINDERBLOCK CORNERS LOCATED

Exhibit 15

REED SMITH SHAW & MCCLAY LLP

1301 K STREET, N.W.
SUITE 1100 - EAST TOWER
WASHINGTON, D.C. 20005-3317
202-414-9200
FAX 202-414-9299

HARRISBURG PA
McLEAN VA
NEW YORK NY
NEWARK NJ
PHILADELPHIA PA
PITTSBURGH PA
PRINCETON NJ

GEORGE R. CLARK
202-414-9215
e-mail: grclark@rssm.com

September 14, 1999

VIA FACSIMILE (202) 442-9445

Lloyd J. Jordan, Director
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, NE
Suite 9500
Washington, DC 20002

Re: 4512 28th Street, N.W.

Dear Mr. Jordan:

I have seen a copy of Armando Laurenco's September 10, 1999 letter to Kathy Patterson concerning this property. I have also seen a copy of her letter of September 13, 1999 to you. I hope you will have answers to her questions forthwith, including whether it is common practice to allow a builder to change the ground level when a structure is found not to be in compliance with the regulations, rather than enforcing the law. I know that various citizens' associations and members of the media are very interested in DCRA's answer. No other local jurisdiction takes this view.

I will admit to being perplexed, however, as to your department's lack of concern that the structure is "technically, a four story building" and your proposed solution to in effect, "wait and see what happens."

According to Mr. Laurenco's September 10, 1999 letter, there is no approved permit application to revise the profile of the existing berm. His recommended course is to

allow the builder to finish the house, and then see if the builders does something which your department will find acceptable. Quite frankly we are simply dumbfounded at this complete abdication of responsibility by the DCRA. Under your "plan," the builder will finish the home and then discover it can't fix the problems. You will then be "forced" to approve the illegal structure.

Please provide me a copy of the revised application. There are many questions. Are the four basement windows to be covered? Is the existing garage now to be underground?

The original application states that the previous building had "2" existing stories and the proposed one has "3". You have acknowledged that the building in the original application has four stories by any measurement. Why does this misrepresentation entitle the builder to special consideration.

The department approved plans for a four-story house that it should never have approved. Now it is trying to find a way to say that it did nothing wrong. My only thought is that every President from Nixon to Clinton has learned that the cover-up is far worse than the original misdeed.

Mr. Laurenco is also incorrect when he tries to imply that the old building was conforming for purposes of 11 DCMR §405.8. Yet by referring to the five foot side yard requirement, he admits that §405.8 does apply to this property (that 5 foot requirement appears nowhere else in the regulations). That section says in full:

> In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; Provided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the

existing side yard shall be a minimum of five feet (5 ft.).

Mr. Laurenco admits that the new structure is 5 feet 2 inches on one side. The old house which was demolished had a minimum side yard of six feet according to the plans which your department approved. Therefore there has been a reduction in the side yard in violation of §405.8. Even Mr. Laurenco admits that any alteration or addition cannot "reduce the side yard" (page 3). Yet the department's own measurements (assuming it did the measuring) prove that that is exactly what has happened.

Mr. Laurenco is also incorrect in saying that the sides of the house "remain at the same location as before" (page 3). The main story and the two additional stories of the house have been extended by 6 1/2 feet along each side, before an additional 10 foot single story extension. Once again Mr. Laurenco has not looked carefully either at the plans or the property.

Finally, Mr. Laurenco has not at all addressed the point that § 405.8 does not allow this addition or extension, as is explained in my letter of September 8, 1999. The plans which your department approved say "remove roof above completely." Therefore there is no building under § 405.8 which can be expanded or added to. This is not a "technicality" to be ignored -- it is the law you are sworn to uphold.

Please let me know whether the department has in fact approved amended plans, and on what date it did so. If it has not, please let me know on what basis the department is allowing construction to go forward. I also request that you make a copy of the application and the plans available to me immediately.

Thank you for your assistance.

Sincerely yours,

George R. Clark

GRC/ydw

cc: Anthony A. Williams, Mayor
Kathy Patterson, Councilperson
Michael Johnson, Zoning Administrator
Richard Nettler, Esq.

Exhibit 16

FS

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
P.A.D.C. No.:	O.G. No.:	A		B426784	By:
H.P.A. No.:	S.L. No.: R-1-A	Ward No.:	Receipt No.:	Date: 9/17/99	Receipt No.:

★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
BLRA-33 (Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

9703

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

CLEARANCE TO FILE
By: _____ Date _____

ERASING, CROSSING OUT, WRITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work:	Suite No.:	2. Lot:	3. Square:	4. Application Date:
4512 28th STREET, N.W.		29	2251	8/25/99

5. Owner of Building or Property:	6. Address: (include Zip)	7. Phone:
FOREST HILLS, LLC	PO BOX 34208 BETHESDA, MD 20827	Work: 301- Home: 231-5092
8. Agent for Owner: (if applicable)	**9. Address: (include Zip)**	**10. Phone:**
RICK GANGLOFF	13312 ORIENTAL ST ROCKVILLE, MD 20853	Work: 301- Home: 949-6089

11. Type of Proposed Work (check all applicable boxes):

- ☐ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☒ Other (Specify) REVISION

12. Description of Proposed Work:

REVISE BUILDING PERMIT # B424294.
CHANGE FINISHED GRADE TO CONVERT BASEMENT TO CELLAR. PM.

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:
SFD	3½	1
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**
SFD	3½	1

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve disturbing the earth or razing a building?
ASAP	ASAP	☐ Pick-up Truck ☒ Dumpster ☐ Other (specify):	☑ Yes, answer q. 23 ☐ No, SKIP q. 23-27

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☑ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25		sq. ft.		sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is new building, addition or alteration. (Page 2)
Complete Section C if the proposed work is razing a building. (Page 2)
Complete Section D if the proposed work is a retaining wall. (Page 2)
Complete Section E if the proposed work is a fence. (Page 3)
Complete Section F if the proposed work is a shed/garage. (Page 3)
Complete Section G if the proposed work is an awning. (Page 3)
Complete Section H if the proposed work is a sign. (Page 3)

OFFICIAL USE ONLY					
M					
P					
E					W. ☐ Yes ☐ No
F					PLANS
S					☐ No ☐ Sm. ☐ Lg.

2 0307 wd 375

Exhibit 17

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE DIRECTOR

September 20, 1999

Honorable Councilmember Kathy Patterson
Ward 3
Council of the District of Columbia
441 4th Street, NW
Washington, DC 20001

Re: 4215 28th Street, NW

Dear Councilmember Patterson:

I apologize for the misunderstanding as to who was going to issue an opinion on the subject property.

I thank you for bringing to my attention this matter of the potential abuses of the Zoning Regulations by regrading properties so as to fit certain new homes, or additions to existing homes, under the height cap allowed by the rules. I agree with you that the Zoning Regulations have too many gray areas that need to be clarified and this administration will work with your office towards this goal. The special nature of the regulation of land use in the city, that the city charter assigned to the Zoning Commission, will require a truly collaborative effort of various branches of government to achieve such a goal.

I addressed your concerns to the Building and Land Regulation Administration staff. They reported that the enforcement of the regulations has been based on allowing matter-of-right development upon request. The regulations do allow property owners to regrade their lots as they see fit, including raising the finished grade. This has been a practice allowed by the Zoning Administrator, for years.

The Zoning Regulations do not restrict the way in which berming at the front of a residence is accomplished and at this time I do not anticipate requesting the Zoning Commission to address this particular aspect. Given the wide range of conditions that the terrain may present in the different neighborhoods of the city, this is an area where the impact of further regulatory constraints should be very carefully assessed before new rules are enacted. The City is full of areas with very steep slopes, many of which in Ward 3. A change in the rules, even a small one, to prevent regrading of lots, may result in a dramatic impact on the ability of property owners to use their properties.

On the issue of the wall check, the procedure currently in place is that the owner of a property where new construction occurs is responsible for contracting a land surveyor registered in the District of Columbia to perform a survey of the location of the walls as they reach grade level. The surveyor files the plat thus produced with the D.C. Surveyor, who reviews the methodology used in performing the survey and transmits it to the Zoning Division. Upon comparison of the field conditions depicted on the wall check plat with the approved plans, the Zoning Administrator transmits his concurrence to building inspections, to proceed with the construction. When Mr. Lourenco stated that he had to accept the results of the surveyor's wall check, he meant that it is practically impossible to obtain the same precision with a cursory field measurement as the precision level achieved in a professionally performed survey that starts from permanent markers and utilizes precision surveying equipment.

As you certainly recall, the Second Omnibus Regulatory Reform Bill, passed by the Council at the end of 1998, mandated that private professional land surveyors be allowed to perform certain surveying functions that include, and far exceed, these wall check surveys. It is implicit in this process that a licensed professional surveyor will perform his or her job dutifully. That is the principle that both the Council and the Financial Authority embraced when the policy of expanding the scope of regulatory functions that could be outsourced to third party private entities was adopted and enacted in the two omnibus bills. In the particular case of third-party wall checks by D.C. registered professional land surveyors, more than ten years of experience have proven to be very successful, therefore we see no reason to believe that this particular survey (copy appended) is flawed.

Should the adjoining neighbors believe that the determination of the lot line done by the first surveyor is wrong, they have the option of contracting another D.C. registered land surveyor to establish independently the location of the lot line. The neighbors may obtain a list of professional land surveyors registered in the District from the D.C. Surveyor's Office upon demand, by calling (202) 442-4690. If a significant discrepancy is found, I certainly would like to be apprized of it, to investigate the matter and take any steps that may be warranted to ensure the continued integrity of the process.

Sincerely,

Lloyd J. Jordan
Director

Attachment

8-18-99

DISTRICT OF COLUMBIA GOVERNMENT
Office of the Surveyor

Wall Report for SQUARE 2251 LOT 29

Scale: 1 inch = 20 feet Recorded in Book 83 Page 44

S.O. SEAL

S.O. Receipt No. S-06583

Received by _____ Surveyor, D.C.

Date: August 27, 199_

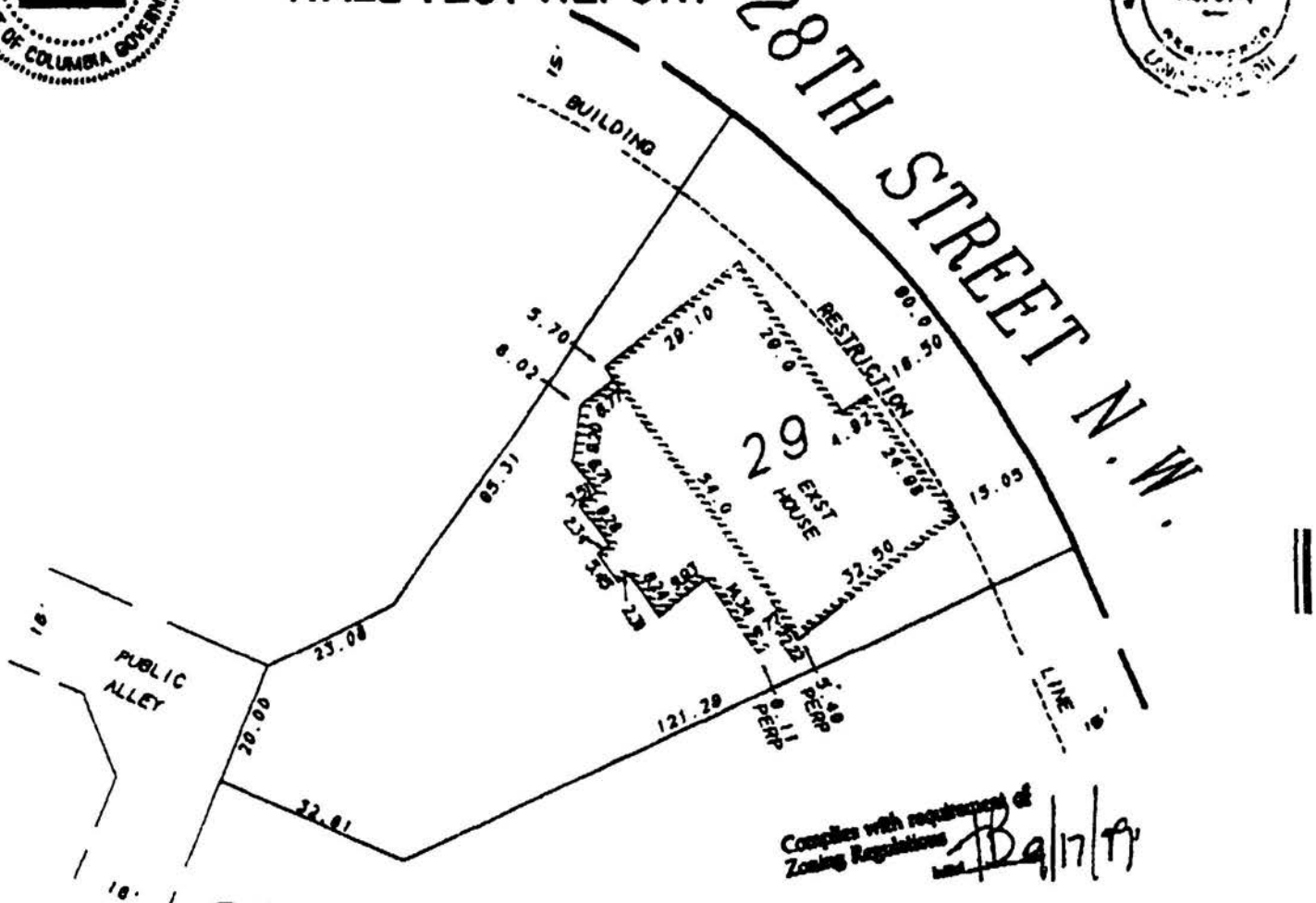
REGISTERED LAND SURVEYOR'S CERTIFICATION

I certify that the wall locations shown hereon have been determined by me, or under my direction, in accordance with Chapter 28 of Title 10 DCMR, and that I have not engaged in the construction layout of this site.

RLS SEAL

DISTRICT OF COLUMBIA — THOMAS A. WADDOL — No. 91-4

WALL TEST REPORT



Complies with requirements of Zoning Regulations and 8/17/99

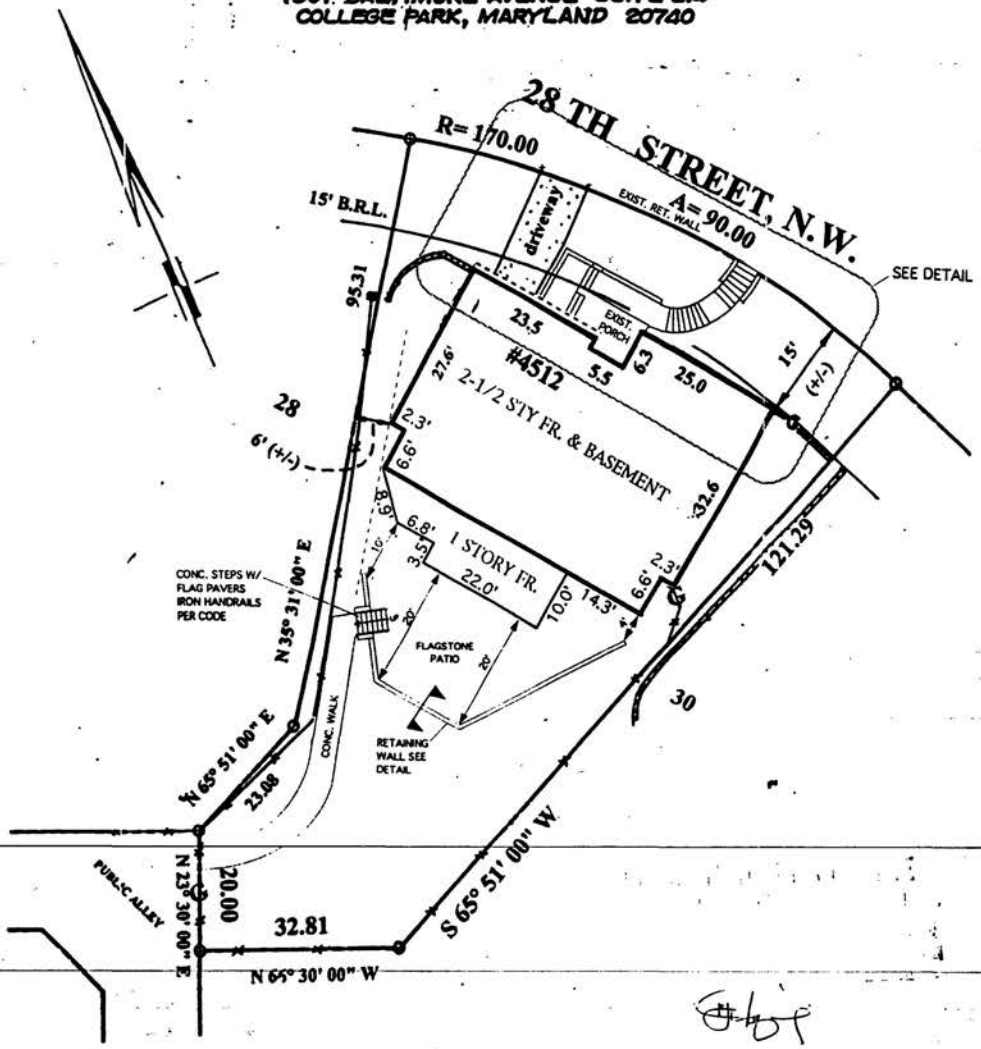
B424294

4512 28th St NW

CINDERBLOCK CORNERS LOCATED

Exhibit 18

LANDTECH ASSOCIATES, INC.
7807 BALTIMORE AVENUE SUITE 214
COLLEGE PARK, MARYLAND 20740



NOTE: THIS PROPERTY LIES IN FLOOD ZONE C, AN AREA OF MINIMAL FLOODING AS DELINEATED ON THE MAPS OF THE NATIONAL FLOOD INSURANCE PROGRAM

Compliance with requirement of Zoning Regulations

12/7/99

STATE OF MARYLAND — BRADLEY A. ROGERS — No. 119 — REGISTERED PROPERTY LINE SURVEYOR

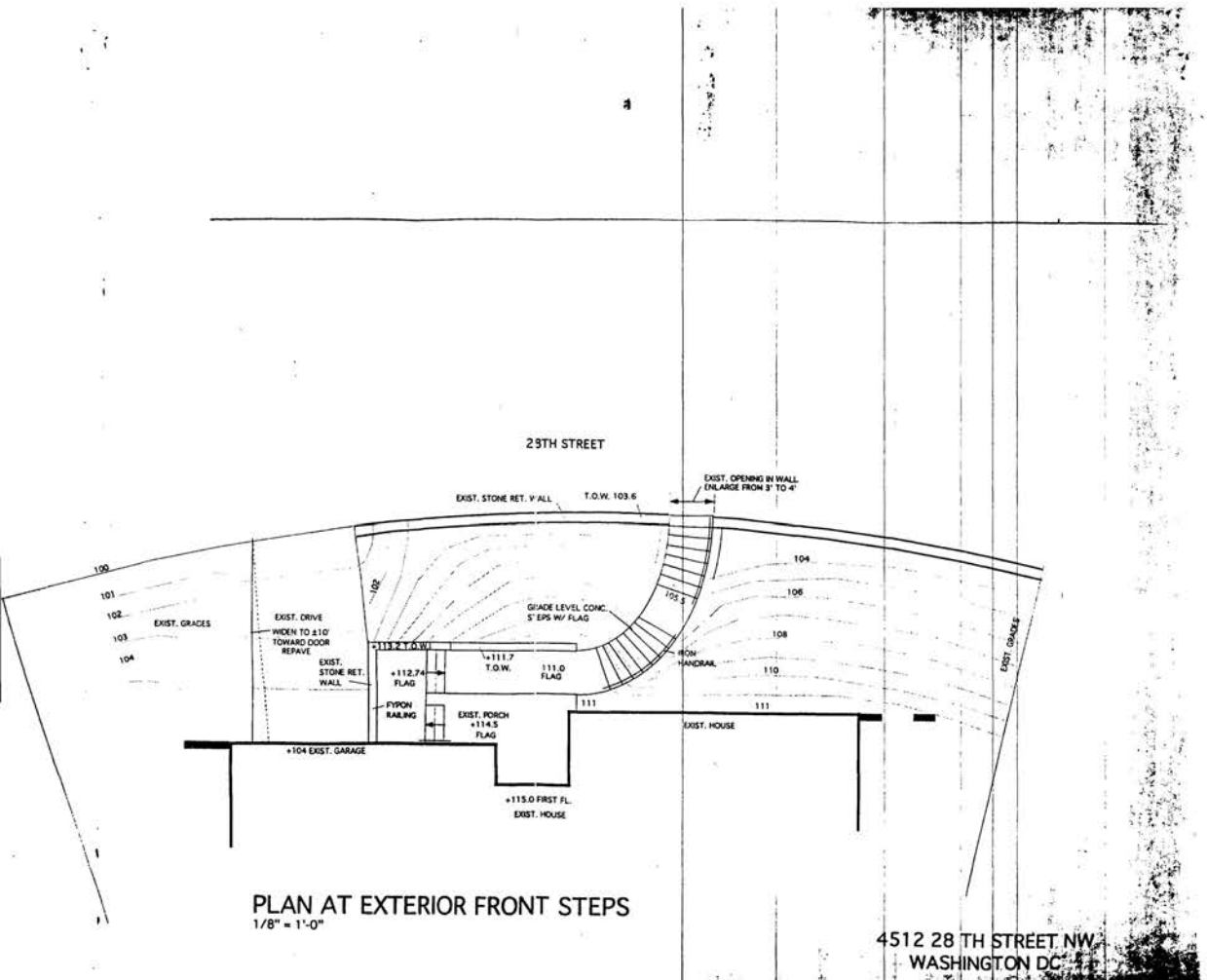
NO TITLE REPORT FURNISHED

LOCATION SURVEY OF
4512 28TH STREET, N.W.
WASHINGTON, D.C.

LOT: 29	SQUARE: 2251
LIBER: 83	FOLIO: 44
DATE: 12-22-98	SCALE: 1" = 20'
CASE NO:	FILE NO: AT-98141

CERTIFICATION: I hereby certify that the position of all the existing visible improvements on the above described property has been determined as established in relation to the apparent title lines and that, unless otherwise shown, there are no visible encroachments. This is not a property line survey and should not be used for the location of fences or any other improvements.

MD. LIC. NO. 119



PLAN AT EXTERIOR FRONT STEPS

1/8" = 1'-0"

4512 28 TH STREET NW
WASHINGTON DC



EAST ELEVATION

1/8" = 1'-0"

Exhibit 19


Tyvek
Tyvek
Tyvek
Tyvek
Tyvek


NEW HOME
LONG & FOSTER
364-8200



Exhibit 20

NEW HOME
LONG & FOSTER
REALTORS
(202) 364-5200
ASK FOR BARBARA LENKIN ZUCKERMAN
202-363-5093

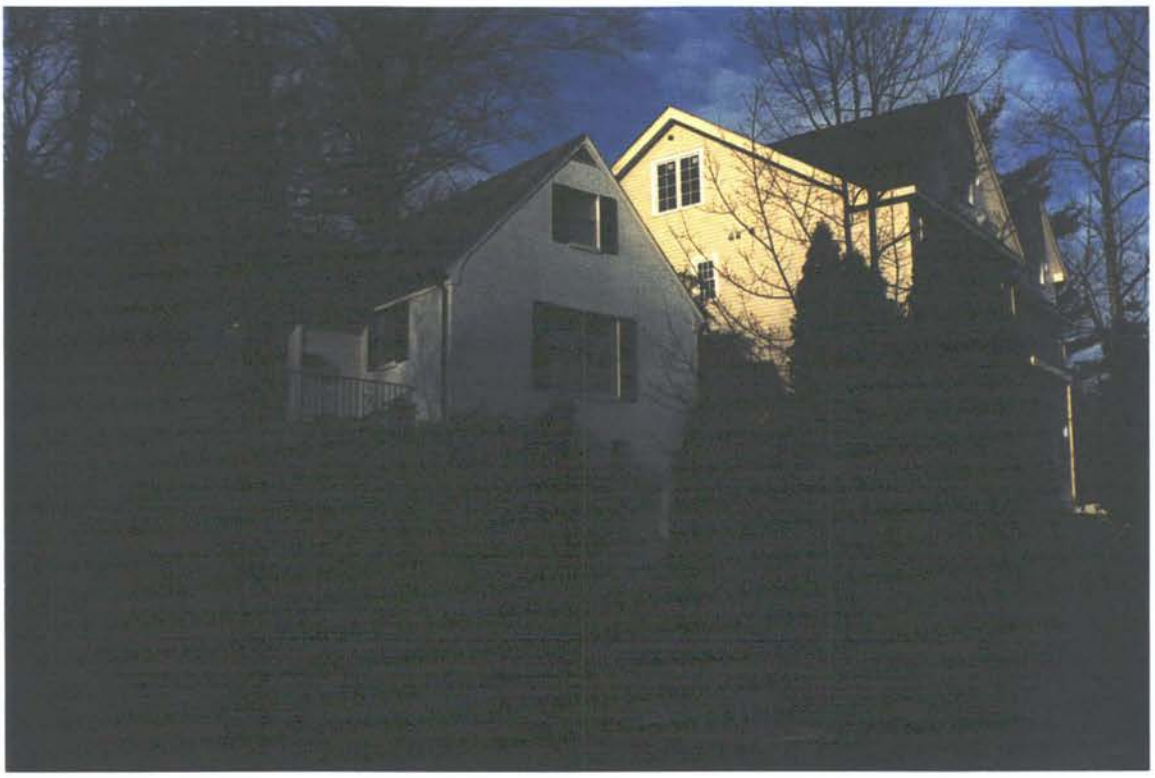






Exhibit 21





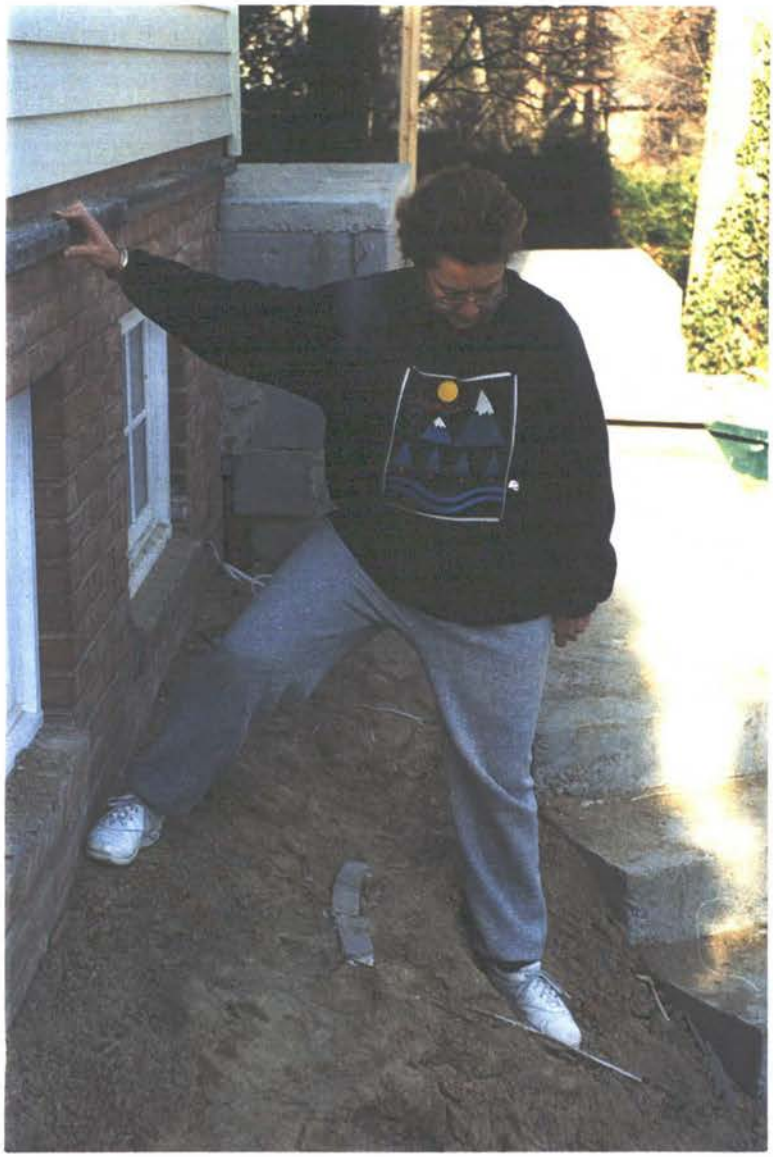






Exhibit 22



Exhibit 23







EXHIBIT 17

FROM

CASE 16533

HAS OVERSIZED DOCUMENTS

PLEASE SEE AT OFFICE