GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

IN THE MATTER OF:	)	
	)	
Appeal of George R. Clark, et al,	)	**Hearing Date: June 7, 2000**
From the Administrative Decision	)	**ANC 3F**
Of Lloyd J. Jordan, Director of the	)	
Department of Consumer and	)	
Regulatory Affairs, to Grant Building	)	**BZA Appeal No. 16533**
Permits on June 7, 1999 and	)	
September 17, 1999 to Forest Hill LLC,	)	
For Construction at 4512 28th Street,	)	
N.W., Washington, D.C., Square 2251	)	
Lot 29.	)	

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ZONING ADMINISTRATOR'S MOTION FOR EXPEDITED CONSIDERATION OF AN ORDER STAYING FURTHER CONSTRUCTION PENDING THE BOARD OF ZONING ADJUSTMENT'S FINAL DECISION

The Zoning Administrator for the District of Columbia ("Administrator"), through his attorneys, respectfully moves the Board of Zoning Adjustment ("Board"), for expedited consideration of his motion for an order staying further construction by Forest Hills LLC at 4512 28th Street, N.W., Washington, D.C. and submits the following in support of his motion.

On April 18, 2000, following a hearing in BZA Appeal No. 16533, the Board voted to grant the appeal of George R. Clark, et al, from the Administrator's issuance of building permits for the construction of a single-family dwelling on the above property. The Board rendered an oral decision that found that the building permits that were issued to Forest Hills LLC did not comply with the District of Columbia's zoning regulations.

Before the Board's oral decision becomes final, the decision must be reduced to writing and all post hearing proceedings must be resolved. Additionally, the Board's final decision must be published in the D.C. Register before it becomes effective. 11

BZA
Case No. 16533
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO.16533
EXHIBIT NO.44

DCMR § 3028.9 (1999). Unless the Board issues an order to stay further construction at 4512 28th Street, N.W., the result will be that the construction which the appeal sought to stop will be completed before a final decision is rendered. Therefore it is necessary for the Board to issue a stay of construction to carry out its oral decision.

The Board's Authority to Issue an Expedited Stay of Construction

The Board has the authority to issue a stay of further construction pursuant to 11 DCMR § 3101.5 (1999) which states:

> In exercising the powers set forth in this Chapter, the Board may, in conformity with the provisions of D.C. Code Ann. §§ 5-413 to 5-423 (1981), "reverse or affirm, wholly or partly; or may modify the order, requirment, decision, determination, or refusal appealed from; **or may make any order that may be necessary to carry out its decision** or authorization; and to that end shall have all the powers of the officer or body from whom the appeal is taken (emphasis added).

Additionally, the Board may take expedited action pursuant to 11 DCMR § 3101.6 which states:

> Except for §§ 3100 through 3105 and 3121.5 and 3125.4, the Board may, for good cause shown, waive any of the provisions of this Chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

The Board should issue a stay of further construction because it is necessary to carry out the intent of its oral decision of April 18, 2000. That decision created a new status quo. Prior to the decision, the building permits which authorized Forest Hill LLC to begin construction at 4512 28th Street, N.W. were presumptively correct. Now that the Board has determined that the permits were invalid, the new status quo is that the existing construction should never have been permitted. Consequently, any further

construction would alter the new status quo established by the Board. Furthermore, because the Board decided that Forest Hill LLC was never entitled to construct its non conforming structure, an expedited order to stay further construction will not prejudice the owner's rights because the owner should never have been granted the permission to begin construction.

Wherefore, all of the above reasons, the Administrator respectfully moves the Board to give expedited consideration to his motion and grant his request to stay further construction pending the Board's final written decision in this matter.

Respectfully submitted,

ROBERT R. RIGSBY
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ORDER

Upon consideration of the Zoning Administrator's Motion For Expedited Consideration Of An Order Staying Further Construction Pending The Board Of Zoning Adjustment's Final Decision, any opposition thereto, and finding that there is good cause, it is this _____ day of _____, 2000

ORDERED: That the Zoning Administrator's motion be, and it is hereby, Granted; and it is

FURTHER ORDERED: That all construction at 4512 28th Street, N.W., Washington, D.C., Square 2251 Lot 29, shall be stayed until the final written decision of the Board is issued.

_____
BOARD MEMBER

_____
BOARD MEMBER

_____
BOARD MEMBER

cc: Whayne S. Quinn, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2000 a copy of the foregoing Zoning Administrator's Motion For Expedited Consideration Of An Order Staying Further Construction Pending The Board Of Zoning Adjustment's Final Decision and proposed Order was delivered by hand to Whayne S. Quinn, counsel for Forest Hill LLC at Wilkes Artis, Suite 300, 1666 K Street, N.W., Washington, D.C. 20006, George R. Clark, appellant and counsel for the appellants, at Reed, Smith, Shaw & McClay, LLP, at Suite 1100 East Tower, 1301 K Street, N.W., Washington, D.C. 20005, Phil Kogan, Chairman, Advisory Neighborhood Commission 3F, at Suite CC08, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008.

Arthur J. Parker
Assistant Corporation Counsel