Philip G. Hampton, II

1439 Juniper Street N.W.
Washington, D.C. 20012

March 31, 2000

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BY HAND

Sheila Cross Reid, Chairman
District of Columbia
Board of Zoning Adjustment
441 Fourth Street, N.W. Room 220
Washington, D.C. 20001

Re: BZA Application No. 16556 – Request for Reconsideration

Dear Chairman Reid:

This letter is responsive to the March 29, 2000 letter of Ms. Madeleine Dobbins in which Applicant strongly opposes the request for reconsideration of the Board's ruling concerning the submission of proposed findings of fact and conclusions of law.

In her response, Ms. Dobbins correctly points out the 11 DCMR 3121.2 does not require the parties to submit proposed findings of fact and conclusions of the law. However, the rule does require that parties have the opportunity to submit their proposed findings of fact and conclusions of the law to the Board and that opportunity must remain open for seven (7) days after the transcripts are delivered to the Office of Zoning.

Ms. Dobbins states that by determining that the findings of fact and conclusions of law were due on March 31, 2000, that the Board waived 11 DCMR 3121.2. This is not true; as of the close of the hearing, the issue of waiver was not before the Board -- it was possible that the transcripts would be delivered to the Office of Zoning on or before March 24, 2000. In fact, the parties in opposition had no reason to believe that a full transcript would not be available on March 24, 2000, since rule 3121.2 is well known to the Board and Applicant's representative.

If Ms. Dobbins' letter is construed to be a belated request to waive 11 DCMR 3121.2, the parties in opposition strongly oppose. Any such belated waiver of the rule would be highly prejudicial to the parties in opposition.

In her letter, Ms. Dobbins correctly points out that either party may request and pay for an expedited preparation of the transcript. However, the parties in opposition do not believe there are any extenuating circumstances (except possibly those of Applicant's own making) requiring an expedited decision of this matter. Consequently, it is incumbent upon the Applicant to make sure the record is complete, as required by the rules, prior to any expedited decision of the Board.

BZA
Case No. 16556
Exhibit No. 336

Board of Zoning Adjustment
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CASE NO.16556
EXHIBIT NO.336

Contrary to the assertion of Ms. Dobbins, the integrity of the Board's hearing is at issue since the record is not full and complete. Until a transcript becomes available, there is no reliable, probative or substantial account of what transpired during the hearing, which lasted more than 15 hours over two days. Without a transcript, any decision of the Board lacks integrity, since a majority of the Board was not present for the entire hearing and cannot objectively decide this matter. Moreover, such a decision is violative of the D.C. Administrative Procedures Act which requires that findings of fact and conclusions of law "be supported by and in accordance with reliable, probative and substantial evidence."

Further, Ms. Dobbins incorrectly indicated that the parties in opposition would not prejudiced by a waiver of the rules. Any waiver of the rules that would allow the Board to decide this matter based upon an incomplete record and/or without the parties being allowed adequate time to review the complete record prior to submitting their proposed findings of fact and conclusions of law, would be highly prejudicial.

Respectfully submitted,



Philip G. Hampton, II
Representative of the Parties in Opposition

cc: Ms. Madeleine H. Dobbins
Mr. Joseph H. Hairston

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