Philip G. Hampton, II

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Washington, D.C. 20012

April 7, 2000

OFFICE OF ZONING
DISTRICT OF COLUMBIA
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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 submitted on behalf of the parties in opposition to BZA Application No. 16556 in support of their request for reconsideration of the ruling concerning the submission of proposed findings of fact and conclusions of law. In addition, the parties in opposition request that the Board postpone its decision until the parties have been given the requisite time, as mandated by regulation, to complete its post-hearing submissions.

On March 31, 2000, the Secretary to the BZA informed the parties, through their representatives, that the transcripts of the hearing related to BZA Application No. 16556, would be available on April 3 or April 4. At that time, the Secretary to the BZA directed the parties to submit proposed findings of fact and conclusions of law by Tuesday, April 11, 2000 and informed the parties that the Board planned to decide this case at its April 12, 2000 meeting. As of the close of business yesterday, the entire transcript of the hearing was not available at the Office of Zoning.

The Board of Zoning Adjustment Rules of Practice and Procedure (D.C. Register, October 1, 1999) encourage parties to submit proposed findings of fact and conclusions of law in order to assist the Board of Zoning in reaching a fair decision. Section 3121.2, which provides clear and precise standards for the submission of proposed findings of fact and conclusions, says in part that the parties should have at least seven (7) days to review the transcript of the hearing before submitting their proposed findings of fact and conclusions of law. The Board's rules clearly contemplate that the proposed findings of fact and conclusions of law will be based upon a full and complete transcript of the hearing. So does the D.C. Administrative Procedures Act, which requires findings of fact and conclusions of law be supported by and in accordance with reliable, probative and substantial evidence.

The Board needs the parties' proposed findings of fact and conclusions of law to objectively decide BZA Application No. 16556. And the parties need at least seven days, as prescribed by the Board's own rules, to review the transcript of the hearing so they can

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provide the Board with appropriate proposed findings of fact and conclusions of law. Only with the assistance of the parties, as contemplated by the regulations, can the Board fairly decide this matter. In this contentious matter, fundamental fairness requires the Board to comply with, and not waive, its rules and regulations and not take any actions that violate the letter, or spirit, of the D.C. Administrative Procedures Act.

Accordingly, the parties in opposition request that the Board vacate its previous decision concerning the submission of proposed findings of fact and conclusions of law and its proposed April 12 decision date. Because the actual availability of the transcripts is unknown, we look forward to receiving a telephone call from the Secretary to the Board advising us when the entire transcript of the hearing is available at the Office of Zoning. At that time, the Board, through the Secretary to the Board, can inform the parties when the proposed findings of fact and conclusions of law are due. Similarly, we look forward to being informed of the new decision date, which must be no less than eight days after the full and complete transcript is available at the Office of Zoning.

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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