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April 23, 2001

D.C. BOARD OF ZONING ADJUSTMENT
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Ms. Sheri Pruitt
Secretary
D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Washington, D.C. 20001

Complaint:
BZA Decision issued September 7, 1983 and Final Order dated October 4, 1983 in application No. 13986, as amended, of Edmund Burke School

Dear Ms. Pruitt:

This complaint concerns the Board of Zoning Adjustment decision dated September 7, 1983 and final order dated October 4, 1983 issued in Application No. 13986, as amended, of Edmund Burke School, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to construct an addition to a private secondary school and for certain variances. The October 4, 1983 final order issued by the BZA granted the application, subject to five conditions. Condition four of the final order states that "The number of students shall not exceed 270 and the total number of faculty and staff shall not exceed thirty-five."

The Edmund Burke School has, unilaterally and without notice to the BZA or an application to amend condition four, exceeded the number of students and number of faculty and staff authorized in condition four of the final order.

I request that the BZA investigate this noncompliance and order Edmund Burke School to comply with the student and staff/faculty caps established in the October 4, 1983 final order. I also request that sanctions be applied to the school

BZA
Case No. 16611
Exhibit No. 147

Board of Zoning Adjustment
District of Columbia
CASE NO.16611
EXHIBIT NO.147

for the willful violation of the BZA's decision and final order.

In a pre-hearing statement filed with the BZA by Edmund Burke School for a public hearing scheduled for October 24, 2000, in BZA Application No. 16611, it is stated "The School currently has 299 students in grades sixth through twelfth and employs fifty-nine faculty and staff." This is clear evidence that in 2000 the school was in violation of both the student and faculty/staff caps provided for in condition four. However, the violations started prior to 2000. In a letter date April 10, 2001, (copy enclosed) Mr. David Shapiro, Head of School, Edmund Burke School, states that "It was not until the fall of 1997 that the school exceeded its enrollment cap. I am convinced that the faculty/staff numbers exceeded 35 some time earlier . . ." Therefore, the school has been in violation of the student cap for four school years and in violation of the faculty/staff cap for a longer period.

On March 19, 2001, I sent a letter (copy enclosed) to Mr. Shapiro, with five questions regarding the school population and faculty/staff population. Mr. Shapiro's response of April 10, 2001 did answer the questions but did indicate that the school is now on a path to grow the student population to 360, or 90 students above the current BZA mandated cap of 270.

There is no justification for the Edmund Burke School to ignore, with impudence, the conditions of an order of the D.C. Board of Zoning Adjustment. This scoff law behavior by the school's administrators also sends the wrong message to the students.

I am looking forward to the BZA addressing this serious violation of its final order of October 4, 1983 at an early date.

Very sincerely yours,

Robert V. Maudlin

enc.

cc: Mr. David Shapiro
Mr. Michael Johnson, DCRA
ANC3F Commissioners

EDMUND BURKE SCHOOL

Dear Commissioner Maudlin, April 10, 2001

I write in response to your letter of inquiry about Edmund Burke School's non-compliance status regarding its enrollment and staffing. I am well aware, of course, of the concerns that have been raised by the ANC and community members regarding Burke's accountability for having exceeded its enrollment cap of 270 students and 35 teachers.

Edmund Burke School stayed within its enrollment cap for thirteen years after the BZA's 1984 zoning order was put in place. It was not until the fall of 1997 that the school exceeded its enrollment cap. I am convinced that the faculty/staff numbers exceeded 35 some time earlier as a result of program development and the addition of student services (e.g., Community Service Director, Director of Diversity and Community, Academic Dean, et al). We have leased space in a nearby office to move some administration functions off site and have leased additional parking spaces, but the net faculty/staff number exceeds our current limits.

The school did not make a decision to grow the enrollment of the school beyond the cap. Beginning in 1998 the school experienced very different dynamics associated with the admissions and yield patterns of the past which resulted in many more acceptances of offers of admissions than had previously been the case. There was a decision not to reduce the enrollment at these entry points to manage growth because that leads you to a very uneven enrollment pattern grade by grade and becomes a staffing and scheduling nightmare. After careful consideration, Burke concluded that a distributed growth among all grades to a total enrollment of 360 students would best sustain the small community feel of the school, allow for much needed facilities improvement, and enable the school to invest in major site improvements that would benefit parking and traffic in the neighborhood.

We shared our enrollment figures and potential plans with neighbors in the late spring of 1999, and we anticipated going before the BZA soon after. The process has taken far longer than we anticipated, and the imbedded fixes to the site have been consequently put off as well. We have annually reported the accurate numbers of enrollment and faculty and staff to the DC Public School office.

Respectfully,

David Shapiro
Head of School

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March 19, 2001

Mr. David Shapiro
Head of School
Edmund Burke School
2955 Upton Street, N.W.
Washington, D.C.

Dear Mr. Shapiro:

Reference is made to your e-mail of January 31, 2001 to the Commissioners of ANC3F in which you address several concerns raised at the January 16, ANC meeting. One of the issues was condition 4 in the September 7, 1983 decision of the DC Board of Zoning Adjustment (BZA)in Application No. 13986 which is:

> "The number of students will not exceed 270 and the total number of faculty and staff shall not exceed thirty-five."

This condition, in my reading, is clear that the cap is not to exceed 270 students and 35 faculty and staff. There are management tools available to control both student and faculty and staff levels. However, even though Edmund Burke School operations were being managed under the terms of an official BZA order on the maximum number of students the school elected to exceed that number in the spring of 1997.

In order to better understand this issue and the school's justification for this action, please provide responses to the following questions.

1. When did Edmund Burke School make its decision to exceed the faculty and staff cap of 35 and when did the school actually hire faculty and staff that exceeded the cap?

2. What action was taken by Edmund Burke School to notify the Board of Zoning Adjustment or other DC agency that the student and faculty/staff caps had been exceed? When was the action taken?

3. What action was taken by Edmund Burke School to come back into compliance with the student and faculty/staff caps after they had been exceeded?

4. What was Edmund Burke's justification for exceeding student, and faculty and staff caps?

5. What was the highest student population, by class, the highest faculty population and the highest staff population for each of the following school years?

1995-1966
1996-1997
1997-1998
1998-1999
1999-2000
2000-2001

In providing faculty/staff numbers, please include as a separately identifiable item any faculty/staff located in the Van Ness/Upton neighborhood such as those located at 4201 Connecticut Avenue, N.W.

Your representative, Mr. Phil Feola indicated at the March 5, meeting with DPW that the school's pre-hearing statement for the May 15, B.A. hearing will be available not later than April 9, 2001, one week prior to ANC3F's April meeting. It would be helpful if you could provide your responses to the above questions along with the pre-hearing statement by April 9.

I look forward to receiving your response to these questions since this information is very important in understanding the Edmund Burke School's request for a special exception.

Very sincerely yours,

Robert V. Maudlin

cc: ANC3F Commissioners