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July 19, 2001

VIA FACSIMILE and FIRST CLASS MAIL

Ms. Sherri Pruitt; Secretariat
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 210
Washington, D.C. 20001

RE: BZA Application No. 16611; 2969 Upton Street, N.W., 4101 and 4103 Connecticut Avenue, N.W. – Testimony for the Record

Dear Ms. Pruitt:

This firm is counsel for the Van Ness South Tenants' Association, ("VNSTA"), a non-profit community organization representing approximately 1,000 tenants residing in 625 units at 3003 Van Ness Street, N.W. Please accept the enclosed testimony from Mr. Morad Eghbal, Acting President of VNSTA and make it part of the record in the above-referenced matter. At the conclusion of the hearing on July 10, 2001, I specifically requested that the record be left open to submit this testimony.

Thank you for your assistance in this matter.

Very truly yours,

GREENSTEIN DELORME &LUCHS, P.C.

By: Lyle M. Blanchard
Lyle M. Blanchard

BZA
Case No. 16611
Exhibit No. 216

Enclosure 162942

cc: Van Ness South Tenants Association (w/encl.)
Advisory Neighborhood Commission 3F (w/encl.)
Phil T. Feola, Esq. (w/encl.)

Board of Zoning Adjustment
District of Columbia
CASE NO.16611
EXHIBIT NO.216

OFFICIAL TESTIMONY OF MORAD EGHBAL, ACTING PRESIDENT OF VNSTA (VAN NESS SOUTH TENANTS ASSOCIATION) BEFORE THE BZA ON JULY 10, 2001 REGARDING THE PROPOSED BURKE SCHOOL EXPANSION

1. My name is Morad Eghbal, and I am the Acting President of the Van Ness South Tenants Association (VNSTA) at Van Ness South, located at 3003 Van Ness Street, NW, Wahsington, DC 2008, and which association consists of 625 units and enough residents that if this building were in another part of the world it would be regarded as a small village.

2. I have lived at Van Ness South and in the neighborhood since 1980, and my wife and I have two children for whom this is their home, their neighborhood, their familiar environment as it is mine. I have come to know the neighborhood rather well over years and have observed its many changes, admittedly with some degree of concern in recent years.

3. Likewise, I have come to know the Edmond Burke School, its growth over the years, when it added a then-new addition to the existing school building and its growing negative impact on the neighborhood, which extends from Veazey Terrace to the north to Tilden Street to the south, from the Connecticut Avenue and International Drive area to the west, all the way down to Rock Creek Park in the east. That is the impact area of the school, that is the immediate area which stands to be further affected negatively by the proposed plan which Burke School has presented in its latest iteration.

4. I am neither an opponent of a school, nor am I opposed to sensible land use. Burke's proposal is neither sensible, nor is it reasonable, and I endeavor to point out to you just why. My remarks will focus on five themes, and I invite your attention to these themes as you are likely to find them resonating in testimony you have heard or will still hear from those who oppose this proposal. The five themes are (a) traffic; (b) credibility; (c) quality of life issues; (d) neighborhood impact; and (e) any presumption to which the school might be entitled simply by virtue of the fact that it is a school.

5. Over the years I have lived in the Forest Hills neighborhood, I have noticed an alarming and relentless increase of traffic. We at Van Ness South are in a particularly unforgiving spot, because our location is a cul-de-sac, whose ONLY points of ingress and egress is Van Ness Street. As you have seen already, there are two alleys which lead to or from Van Ness Street which are being regularly and frequently used by the public, including members of the Burke community.

6. Last year, when there was an alarm because of what the press pointedly called "a suspicious package" having been left on Van Ness Street, near the UDC campus, the Secret Service and Metropolitan Police Department shut down Connecticut Avenue from

Albemarle Street to Porter Street. This occurred at a time in the morning when I had just left the building to take my youngest daughter to her school, at the time located near Porter and Quebec Streets. I made a left turn from Van Ness Street into the alley leading to Upton Street which is part of the focus of the present proceedings, in order to avoid Connecticut Avenue, only to be thwarted, because northbound traffic on Connecticut Avenue had spilled into the back streets and alleyways in order to negotiate its way past the blocked off areas. It took us nearly one hour to travel a distance which usually would take five minutes by car. I ended up not returning home until well past noon that day.

Urban traffic congestion is so bad, that U.S. NEWS AND WORLD REPORT, a publication not known for any radical views, made the subject matter the featured topic of its May 28, 2001 issue, and devoted the cover of that week's issue to it (see copy attached).

7. I can offer you another brief incident, anecdotal as it might be, which relates to the Burke School more directly. Earlier this year, I was one morning on my way through the alley in question, adjacent to the school's existing building and connecting Van Ness and Upton Streets. On approaching the Upton Street intersection I was nearly crashed from the front by a young lad, ostensibly from Burke School driving his car, and wanting to enter the alley going in the opposite direction toward Van Ness. We both stopped only a hair's width apart and I, pointing to the "Do Not Enter" sign, asked him calmly to back away, so that I could exit the alley. Very rudely he proceeded to harangue me from behind the steering wheel of his car, using words which decency precludes me from repeating here, but involved words containing the letters "m" and "f," and at times describing various parts of the human anatomy, at other times describing acts the agitated young man intended to do to me, if let loose. Obviously, he was in a hurry. To make matters worse, traffic was coming his way eastbound on Upton Street, and he finally saw now way out but to back off sufficiently to let me exit the alley, which he did vociferously and under protest. I was concerned that, if I were to leave my car we would end up in an altercation, which I sought to avoid, even though I felt that the young man deserved a good talking to. He backed off just past a van which was illegally parked to the left of the entrance on Upton Street, the eastbound traffic was finally able to pass, I passed the young man's vehicle, slowly enough to observe his next move in the rear view mirror, but not fast enough to avoid his further verbal insults, concluding, as he did, "[expletive] I am running late for school, [expletive]," then proceeding to enter the alley going the wrong way down a one-way street. All the while the guard was busy talking to someone else, and distracted.

8. The current impact of Burke on the alley is detrimental. An approval of their expansion plans would only worsen the situation well beyond the point of tolerance for the neighborhood, and I do not mean to imply that the present situation is either tolerable, or acceptable to the school's neighbors. Parents and students, who are old enough to drive, zoom down the alleys often in reckless disregard of the posted traffic signs. In my family we refer to the stretch of alley between Veazey and Van Ness Streets as "Indianapolis

500" and the stretch between Van Ness and Upton Street as "Daytona 500."

9. I think you get the picture on the traffic issues, and I do not wish to belabor a point which is (or ought to be) crystal clear. Let me then turn to the point on credibility. Not only does Burke's current proposal go too far, but the tenor of the dialogue might have been less tense and strained, if the school had made substantial efforts to come into and remain in compliance with the prior BZA order. As their own testimony reflects, and as their representatives have testified, they have not and are not in compliance now. Their representatives have made empty promises, stated vacuous aspirations, but have given no concrete basis on which the community can rely and depend. Moreover, if you approve their expansion plan, the addition to the school is built, and the school, once again, is not in compliance, what are the appropriate remedies? Revocation of their occupancy permit, tear down the addition, fine them into oblivion? How do any of these steps, if they can in fact be considered remedies at all, benefit a neighborhood which is residential in character and by all accounts ought to remain residential.

10. This brings me to quality of life issues. Many in our community would like to be able to enjoy their place of residence without the constant and unabated interference from a transient element which is only present for a specific purpose, and really does not care what impact it has, negative or positive, on the neighborhood and the resources it uses. Time and again, I have found young Burke School students either coming away from one or the other business establishment on Connecticut Avenue, often through the very alley way we are discussing today, discarding their wrappers of merchandise carelessly on the neighborhood streets, loitering around the back plaza of the Van Ness South apartments on Veazey Street, smoking cigarettes and leaving their cigarette butts for our maintenance staff to clean up, littering our premises. You might ask, how do you know they are connected to Burke? Fair question; I know, because I have asked them on occasion, and because they are the only youngsters of school age observed behaving this way in this neighborhood, and because I have observed them making their way to the Burke School campus.

11. As you can gather from my remarks here today the present impact of the Burke School on the neighborhood has been an unqualified negative one; regardless of the academic standard they either might offer, or might be aspiring to; regardless, what the school's purported past academic or scholastic accomplishments are. That impact alone, as it has been in the past, would not be quite as severe a hurdle as it is, if the school had shown in the various iterations of its proposal some meaningful way how it seeks to address these neighborhood concerns. Instead it has offered a whole catalogue of impractical suggestions, a veritable list of punitive measures, and a dazzling array of acrobatics to manage the negative impact on the neighborhood; none of which is workable, all of which amounts to no more than empty promises.

12. The alley is used by Burke as the backdoor in and out of the school. It is a nuisance and when it is overloaded, which is more often than not the case these days, the alley becomes a parking lot for kids and buses, and pedestrian traffic wending its way through it. It is the path of least resistance, and were the BZA to authorize an expansion it would only make a terrible situation worse. On the point of any presumption of preference in the school's position, I would suggest to you that there is no presumption of preference. The school is just as obligated to conduct itself as a good neighbor and a good community member, as is everyone else. It has not conducted itself in that manner, however, not just temporarily, but for a very long time, and continued its scofflaw behavior even when it knew that it was not in compliance with the earlier BZA order. If, however, you might disagree and think that the school deserves some preference, it is the school's task to show unequivocally and clearly why it should receive preference, and just how much preference its plans should receive, and how the school proposes to mitigate current, existing negative impact.

13. You might ask, in conclusion, what then is an appropriate remedy here? I would not want to leave you a tar baby, and not offer you a few possible alternatives. I suggest there are two; one, the school could learn to live within its means, and if its academic program is as rigorous and as successful as it would have us believe it is, - or desires to be, - there will be no shortage of applicants and no shortage of financial support for the school to remain viable, allowing the school to stay where it is, to conduct itself consistently as a good neighbor, and to exert some effort toward reclaiming the favor of the community, which favor has all but eroded given the school's present machinations and posture. Secondly, the school could identify a better, more suitable location; if it needs more space, there are a number of neighborhoods in the city, perhaps even east of the Anacostia River or near the Navy Yard, where it could find reasonable real estate at affordable prices, plenty of space and more suitable for its perceived physical plant needs.

It is respectfully, that I request that the BZA deny the application without prejudice, and that it require a minimum of one year passage of time before the applicant re-files, giving the applicant sufficient time through its conduct to show that it is able to deliver on that which it has stated it would like to deliver and would have all parties believe that it can.

Heart Attacks: Rating Your Risk Level

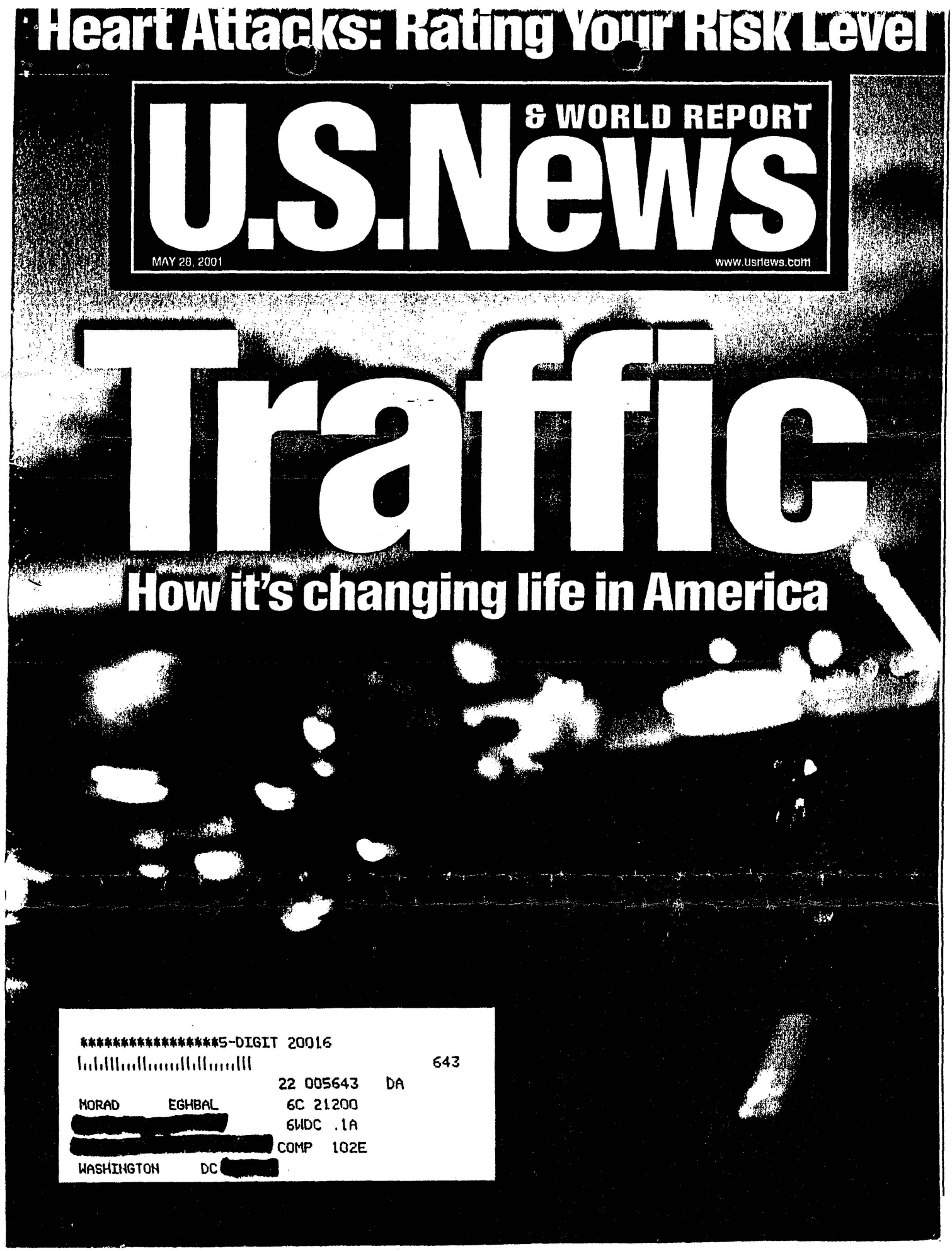
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