RECEIVED
D.C. OFFICE OF ZONING
2001 AUG -1 AM 8:26

FAX TRANSMISSION

West End Citizens Association
c/o Barbara Kahlow
2555 Penn. Ave., N.W. #404
Washington, DC 20037
Phone: 226-3058, Fax: 225-2441

To:	Jerrily Kress, OZ Director	**Date:**	August 1, 2001
Fax #:	727-6072 (O: 727-6311)	**Pages:**	2, including this cover sheet.
From:	Barbara F. Kahlow for Intervenor West End Citizens Association		
Subject:	WECA's Objection to the BZA's 8/3/01 Scheduled Meeting on GWU's 7/27/01 Motion for Stay (BZA Appeal No. 16701, 1957 E Street, N.W.)		

This fax follows up our conference call this afternoon after the Board of Zoning Adjustment's (BZA's) meeting this morning on Intervenor George Washington University's (GWU's) 7/20/01 "Motion for Reconsideration and to Reopen the Record." I understand that, after I left -- after two motions, under Robert's Rules of Order, failed because of 2-2 votes -- the Board decided to require all parties to respond to GWU's Friday 7/27/01 "Motion for Stay of Decision" by close of business Thursday 8/2/01. This fax expresses several objections by Intervenor West End Citizens Association (WECA) to this schedule and strongly urges the Board to reschedule its meeting until next week.

First, GWU never served its 7/27/01 Motion for Stay on the Appellant, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A). On July 30th, ANC-2A advised the Board by letter of this failure by GWU to serve ANC-2A. To my knowledge, ANC-2A has still not been served.

Second, under ANC-2A's bylaws (Sec. 9), it must give "reasonable notice" (which has been interpreted to mean a minimum of three days public notice) for a Special Meeting in which ANC-2A could authorize a response to a Motion for Stay. If service was made tomorrow and if notice were given today, the earliest ANC-2A could legally meet is Friday evening 8/3/01, i.e., after the BZA's scheduled 8/3/01 meeting. Clearly, it would be unfair to the Appellant if the Board met before the Appellant was legally allowed to respond.

Third, the BZA's Rules of Practice and Procedure allow parties seven full days to respond to a motion (11 DCMR §3126.5). Therefore, WECA's 7-day period to respond to GWU's Friday afternoon 7/27/01 motion ends at close of business on Friday, 8/3/01. As Deputy Staff Director of a House Subcommittee, I have business commitments through Thursday night, including

BZA
Case No. 16701
Exhibit No. 64

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.64

hearings of my Subcommittee this afternoon 7/31/01 and Thursday afternoon 8/2/01. As a consequence, I planned to work on the WECA's response, which was due on Friday close of business, on Thursday night and Friday. The Board's dropping one day from the seven full days provided by the rules unfairly disadvantages the WECA.

Fourth, I have an 8 AM post-operation medical appointment on Friday 8/3/01 which cannot be changed, followed by a 9 AM mammogram. The earliest I could attend a meeting would be 10:30 AM. Since I represent Intervenor WECA, my absence would unfairly disadvantage the WECA.

Fifth, GWU's Motion for Stay is incomplete since it did not address the 4-part test required for such motions before the Board or a court. The WECA should not be asked to fully respond to such a motion until the moving party has laid out its case. The burden of proof is on the moving party, not the other parties.

Please alert me tomorrow (226-3058) if this schedule has been changed. If not, please advise me what appeal route exists so that both ANC-2A and the WECA are not unfairly disadvantaged. The bottom line for the Foggy Bottom community is fairness, especially after several irregular and questionable procedural decisions today by the Board, such as looking for another Member to vote after a motion failed.

	Phone	Fax
cc Arthur Parker, Esq., Corporation Counsel	727-0874	727-6546
Marie Sansome, Esq., Corporation Counsel	724-6657	727-6014
Michael Johnson, Zoning Administrator	442-9554	442-4871
Elizabeth Elliott, Chair, ANC-2A	783-5480	783-0375
GWU, c/o Phil Feola, Esq., Shaw Pittman	663-8000	663-8007