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July 9, 2001

Ms. Sheila Cross Reid, Chair
Board of Zoning Adjustment
441 4th Street, NW, 2nd Floor
Washington, DC 20001

Re: Sunrise Assisted Living - Appeal No. 16716
Response to ANC 3G Letter dated July 7, 2001, and Nebraska Avenue Neighborhood Association's Statement dated July 6, 2001, regarding the Motion to Recuse Board of Zoning Adjustment Anne Renshaw

Dear Ms. Reid and Members of the Board:

The purpose of this letter is to respond to the challenge of the Nebraska Neighborhood Association ("Appellant") to Sunrise's Motion to Recuse BZA Member Anne Renshaw from participating in Case No. 16716 (the "Motion")[1]. The Appellant's arguments are entirely without merit and are not supported by the legal standards that must guide the Board's decision on the pending Motion.

In its challenge of the Motion, the Appellant acknowledged that Ms. Renshaw participated in ANC 3G's unanimous vote to oppose Sunrise's application to close the alley adjacent to its property. The Appellant's suggestion that the opposition to the alley closing was not indicative of the ANC's or Ms. Renshaw's opposition to the entire project is simply not supported by the events that followed. Immediately after voting to oppose the alley closing application, the ANC decided to pursue the downzoning of three blocks including the subject site. Further, the Appellant and the ANC took numerous steps to attempt to stop the issuance of the building permit for the project including sending a letter to the Administrator of the Building and Land Regulation Administration demanding that the permit not be issued. The suggestion that the timing of downzoning request was purely coincidental and bore no relation to the Sunrise project is illogical in light of the sequence of events and the ANC's unrelenting opposition to the project.

[1] Since by letter dated April 9, 2001, ANC 3G joined with the Appellant in this Appeal, the comments of the Nebraska Neighborhood Association presumably represent the views of ANC 3G. Further action by the ANC on the Motion is not necessary.

BZA Case No. 16716 Exhibit No. 32

Board of Zoning Adjustment
District of Columbia
CASE NO. 16716
EXHIBIT NO. 32

As cited in our previous Motion to Recuse, there is clear judicial guidance indicating the standard for the Board's review of this matter. (*Morrison v. D.C. Board of Zoning Adjustment*, 422 A.2d 347 (D.C. 1980)). Ms. Renshaw must be recused if: (1) a reasonable person would conclude that a bias exists and (2) the bias is personal rather than judicial in nature. The Appellant stated that since the other ANC members joined in Ms. Renshaw's opposition to the Sunrise project, she is not biased. The Appellant somehow has concluded that Ms. Renshaw would only be biased if she acted alone. Clearly, the Appellant has missed the point. The critical facts are: (1) Ms. Renshaw participated in and voted against Sunrise on matters relating to the project; and (2) Ms. Renshaw, acting as an ANC Commissioner, gleaned substantial information about the project from outside of the BZA hearing room. These facts are conceded by the Appellant. These facts, standing alone, establish bias.

For the foregoing reasons, we strongly object to the arguments raised in the Appellant's challenge and note that the Appellant has conceded the very facts that establish bias. Ms. Renshaw must be precluded from participating in this appeal.

Very truly yours,

Maureen E. Dwyer

Allison C. Prince

Paul A. Tummonds

cc: (Via Hand Delivery)
Paige Anne Chiapella
ANC 3G (all members)

Certificate of Service

I hereby certify that a copy of the foregoing Letter to Sheila Cross Reid dated July 9, 2001, was delivered by hand on this 9th day of July, 2001, to the following:

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