August 7, 2001

Ms. Jerrily R. Kress, FAIA, Director
Board of Zoning Adjustment
441 4th Street, NW
Suite 210-S
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2001 AUG -7 PM 2:46

RE: Clarification of True Deadline Date
For Motion to Respond to the Final Order of
Application No. 16726

Ms. Kress:

I am writing in reference to Board of Zoning Adjustment (BZA) Application No. 16726, requesting an extension so that I may respond to the "Final Date of Order: July 25, 2001" notice that you rendered on July 25, 2001 and supposedly mailed on that same day.

Per our telephone conversation of July 31, 2001, however, I did not receive this document until July 31, 2001, and as a matter of fact, this notice did not leave your office until July 30, 2001, as the Pitney Bowes stamp meter mark clearly indicates. (Please see the attached copy of your envelope bearing the true date it left your office.)

The notice I received on July 31, 2001 is a time-sensitive document, and whatever reason delayed its leaving your office for five crucial days is of no concern to the responding parties. The parties that wish to respond to your correspondence should not and must not be penalized as a result of your office's delay.

By law, we are afforded thirteen (13) days to respond to such a notice. That would make the true deadline date, August 11, 2001. Accordingly, I expect you to honor the deadline date of August 11, 2001.

At this time I am formally responding to the final order you signed on July 25, 2001. Please see my attached Motion for Reconsideration or Rehearing of the BZA Application No. 16726 dated August 7, 2001.

In order to ensure that you receive this notice and the Motion they are being hand-delivered to you on August 7, 2001.

If you have any questions, please contact me at (202) 232-3619.

Thank you,

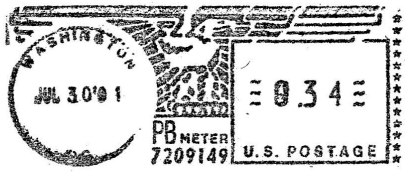
Beverly A. Bakeir

BZA
Case No. 16726
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO.16726
EXHIBIT NO.40

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF ZONING
441 4TH STREET, N.W., SUITE 210
WASHINGTON, D.C. 20001

OFFICIAL BUSINESS
PENALTY FOR MISUSE



16726

Beverly Baker
2010 13th Street, N.W.
Washington, DC 20009

20009-4433 54

August 7, 2001

Ms. Jerrily R. Kress, FAIA, Director
Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210-S
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2001 AUG -7 PM 2:47

Reference: **Motion for a Rehearing or Reconsideration of**
The approval of the BZA Application No. 16726 of
Washington Metropolitan Area Transit Authority.

Ms. Kress:

On June 5, 2001, the District of Columbia Board of Zoning Adjustment (BZA) held a public hearing on Application No. 16726, of the Washington Metropolitan Area Transit Authority (WMATA) (See attached notice of this hearing dated April 12, 2001.) In the June 5, 2001 notice it states that, "At the public hearing, all interested persons will be given an opportunity to express their views." We did (The homeowners) express our views and concerns to the BZA. There was one particular issue of concern which was raised to the BZA: The hours of construction. The homeowners attended the June 5, 2001 hearing believing that the BZA would be fair and impartial. In most part, our views and concerns fell on deaf ears.

My purpose for attending the hearing was to obtain assurance that the project that is being developed by WMATA and Donatelli & Klein, Inc., would both begin and end at reasonable hours. This concern was raised by three homeowners in the affected area: First by Garnet Woodham, then by myself (Beverly A. Bakeir), and finally by Anne Woodham. We were particularly eager to hear that the BZA would act to regulate the hours when construction could take place. Some of us have school-aged children and tenants. I have a thirteen-year-old son, and I fear his performance at school might be affected by the noise generated by early morning and late evening construction taking place a few feet from his bedroom window. In addition, some of us fear we may our tenants if construction takes place during irregular hours.

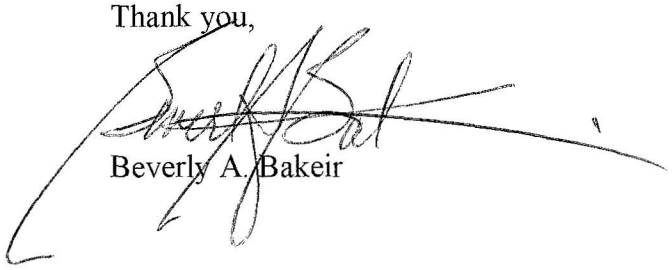
Did the BZA resolve this very legitimate concern? Not hardly. Several of the BZA members reacted with an attitude that can only be labeled indifference, and one member, John G. Parsons, was blatantly rude in his response to one of the attesting parties. Mr. Parsons, as well as a few other board members, showed neither interest in the concern of the affected homeowners nor any clear understanding of how construction occurring in the early morning and late evening will inconvenience us. One of the board members was quoted as saying; "This is not the proper forum for these topics." Sadly, it will be the homeowners who will be forced to live with the affects of this construction for the next two years and – not the members of the BZA who ignored our plea to mandate a reasonable start and completion time.

The attitude of the board members was rendered doubly frustrating to us by the fact that our homes are literally situated just a few steps away from the site where the construction will take place.

For these reasons, I am formally requesting a **Motion for a Rehearing or Reconsideration** of the approval that Application No. 16726 received from the Board of Zoning Adjustment on June 5, 2001.

I look forward to receiving a response from you. If you require additional information please contact me at (202) 232-3619.

Thank you,



Beverly A. Bakeir

I, Beverly A. Bakeir, hereby certify that on August 7, 2001, I mailed a copy of the **Motion for a Rehearing or Reconsideration** of the BZA's approval of Application No. 16726 to the following individuals:

Lawrence T. Guyot, Jr., Commissioner
Single Member District 1B04
507 "U" Street, NW
Washington, DC 20001

Norman M. Glasgow, Jr., Esq.
Holland & Knight, LLP,
2099 Pennsylvania Avenue, NW, Suite 100
Washington, DC 20006

Deborah R. Thomas, Commissioner
Single Member District 1B11
1440 W Street, NW, #B1
Washington, DC 20009

Jim Graham, Councilmember
Ward One
441 4th Street, NW, Room 718
Washington, DC 20001

Ellen McCarthy, Deputy Director
Development Review Division
Office of Planning (4th Floor)
801 North Capitol Street, NE
Washington, DC 20002

Michael D. Johnson, Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, NW, 6th Floor
Washington, DC 20001

Elise Hill
Washington Metro Area Transit Auth.
600 5th Street, NW
Washington, DC 20001

Ann & Garnet Woodham
12208 Red Church Court
Potomac, Maryland 20852

Glenn J. Melcher, Chairperson
Advisory Neighborhood Comm. 1B
Reeves Center
P.O. Box 73710
Washington, DC 20056