GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16766 of The 1421 Trust d/b/a/ Nastos Construction, pursuant to 11 DCMR § 3104.1 for a special exception to allow the construction of a telecommunications facility (antennas other than commercial broadcast antennas and equipment shelter) under section 212 in a C-M-1 District at premises 1421 Kenilworth Avenue, N.E. (Square 5164, Lot 12).

HEARING DATE: October 23, 2001
DECISION DATE: October 23, 2001 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7D, and to the owners of property within 200 feet of the site. The application was also referred to the Office of Planning for review and report.

The site of this application is located within the jurisdiction of ANC 7D. ANC 7D, which is automatically a party to this application did not participate in the case. The Office of Planning submitted a supplemental report in support of the application subject to the condition that the proposed monopole be limited to 100 feet in height.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception from the strict application of the requirements of 11 DCMR §§ 3104.1 and 212. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR 3104.1 for a special exception under Section

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212, which will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. It is therefore **ORDERED** that this application be **GRANTED.**

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: **3-0-2** (Geoffrey H. Griffis, David W. Levy and Carol J. Mitten to Approve, Anne M. Renshaw and the third mayoral appointee not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director

Final Date of Order: OCT 24 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16766

As Director of the Office of Zoning, I hereby certify and attest that on OCT 24 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY: Jerrily Kress

JERRILY R. KRESS, FAIA
Director