16791

ANC 6B
Capitol Hill / Southeast

Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue SE
Washington, DC 20003

2003 DEC 10 P 3:08
GOVT OF D.C.

December 10, 2003

Board of Zoning Adjustment
Office of Zoning
Government of the District of Columbia
441 4th Street NW
Washington, DC 20004

Re: Southeast Citizens for
Smart Development Appeal
of Boys Town

Dear Board Members:

At its regularly scheduled and properly noticed meeting of December 9, 2003 ANC 6B voted 9-0-0 (6 members constituting a quorum) to authorize the filing of an appeal with the Southeast Citizens for Smart Development regarding the decision by DCRA on September 18, 2003 to grant "a reasonable accommodation", thereby leading to the issuance of certificates of occupancy, for the use of Boys Town's single community-based residential facility located at 1308, 1310, 1312 and 1314 Potomac Ave., SE.

Our resolution on this matter, which was adopted unanimously at our December 9th meeting, is attached.

Very Truly Yours,

Julie S. Olson

Julie Olson
Chairperson, ANC 6B

cc: Honorable Anthony Williams, Mayor
Honorable Sharon Ambrose, Councilmember, Ward 6
David Clark, DCRA
Southeast Citizens for Smart Development

BZA
Case No. 16791
Exhibit No. 81

Board of Zoning Adjustment
District of Columbia
CASE NO.16791
EXHIBIT NO.81

ANC 6B

Capitol Hill / Southeast

Advisory Neighborhood Commission 6B
Resolution on Southeast Citizens for Smart Development Appeal of Mr. David Clark's Decision to Approve Certificates of Occupancy to Boys Town on September 18, 2003

Whereas on September 18, 2003, Department of Consumer and Regulatory Affairs (DCRA) Director David Clark approved Boys Town's request for a "reasonable accommodation" which DCRA had previously denied on November 22, 2002;

Whereas Mr. Clark's decision was made just two days after the oral argument was heard on Boys Town's appeal of the Board of Zoning Adjustment's (BZA) decision in the D.C. Court of Appeals which was brought by the Southeast Citizens for Smart Development, Inc. (SCSD) and ANC 6B, and which required Boys Town to seek a special exception in order for Boys Town to proceed with its 24 bed community-based residential facility located at 14th Street and Pennsylvania Avenue SE;

Whereas Mr. Clark's decision permits DCRA to issue certificates of occupancy allowing Boys Town to operate its proposed treatment facility "as a matter of right" after some minor structural changes are made;

Whereas Mr. Clark's decision in effect overrules the BZA decision in Appeal No. 16791 dated June 21, 2001, in which the BZA concluded that the Boys Town facility requires a special exception;

Whereas the D.C. Court of Appeals has not yet issued its decision on Boys Town's appeal of the BZA decision;

Whereas Mr. Clark made his decision to grant a "reasonable accommodation" in secret, without notice or consultation with any citizen, community group, or ANC 6B;

Whereas Mr. Clark claimed that his decision was made on technical grounds—based solely on the assertions made by Boys Town;

Whereas Mr. Clark did not provide notice of his formulation of his final policy decision nor did he provide a rationale for this governmental decision as required under D.C. Code Section 1-309.10(d)(3), to ANC 6B;

Whereas Mr. Clark made no reference to citizen concerns and impact on the neighborhood or the children themselves, legal issues, zoning issues, the Comprehensive Plan, or community and economic development issues in his written decision;

Whereas on August 14, 2001, Boys Town filed a lawsuit in Federal District Court against the D.C. government, Southeast Citizens for Smart development, Inc. (SCSD), several individual citizens, and the Ward 6 Councilmember, in an effort to get around having to comply with the zoning rules and regulations and alleging that requiring Boys Town to obtain a special exception violated the Federal Fair Housing Act;

Whereas Boys Town's federal lawsuit was dismissed except against the D.C. government.

ANC 6B Finds that Mr. Clark's unilateral action:

1. Undermined the Capitol Hill community's efforts to require Boys Town to follow the law, make the permit approval process transparent, and bring sensible, community-oriented development to the area around the Potomac Avenue Metro station;

2. Did not permit the legal process initiated by Boys Town to conclude;

3. Rewarded Boys Town for its mean-spirited and contentious actions, such as suing our elected officials and community leaders—including, but not limited to, the Vice-Chair of this ANC;

4. Ignored the Capitol Hill community, which told Boys Town and the city that it had serious concerns about the proposed development and about Boys Town's tactics;

5. Subverted D.C. law and regulations that require that ANCs be notified of significant governmental actions;

6. Undercut established D.C. institutions, including the Board of Zoning Adjustment, Advisory Neighborhood Commission 6B, and neighborhood associations and groups;

7. Gutted the legal process and regulations that help guard against over-concentration of treatment facilities that can affect residential neighborhoods;

8. Ignored the Comprehensive Plan, which provides specific guidelines and objectives for the development of the property around the Potomac Avenue Metro stop, and;

9. Now proposes that all residents of facilities such as Boys Town automatically meet the legal standard for "handicapped."

Be it therefore resolved that:

1. ANC 6B condemn Mr. Clark's action and ask for his resignation or dismissal from the D.C. government;

2. ANC 6B join as a party with the Southeast Citizens for Smart Development and others that may seek to challenge Mr. Clark's determination before the Board of Zoning Adjustment;

3. ANC 6B call upon the Mayor (at 1350 Pennsylvania Avenue NW, Washington, DC 20004, 727-2980) to overrule Mr. Clark's decision, investigate DCRA's decision-making process, and come to Capitol Hill and explain his administration's actions;

4. ANC 6B call upon Councilmember Sharon Ambrose (and other members of the City Council) (at 1350 Pennsylvania Avenue NW, Washington, DC 20004, 724-8072) to rally the Council to pass a resolution condemning Mr. Clark's action and to hold an oversight hearing on Mr. Clark's action.

Adopted December 9, 2003 by a vote of 9-0-0

Attested:



Julie Olson, Chair
Advisory Neighborhood Commission 6B