BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Re:	Application of JFC Builders of DC, 1358 Girard Street, NW Lot 56 in Square 2860	BZA Application No. 16803 Public Hearing: ANC 1B Zoned R-4

Statement of the Applicant

I.

Nature of Relief Sought

This is an application pursuant to Section 3103.2 of the Zoning Regulations for a variance from the lot area requirements of Section 401.3 to permit establishment of a three-unit apartment/condominium in the R-4 zone at premises known as 1358 Girard Street, NW (the Subject Property).

The application further requests a variance from the off-street parking requirements; however, the applicant believes that a variance from the off-street parking requirements of Section 2101.1 was cited in error. As per Section 2101.1 - The Schedule of Requirements for Parking Spaces, additional parking is not required when a building is converted from two-family to three-family usage.

Use	Zone	Requirement
Two-Family Flat	R-4	1 for each 2 dwelling units
Apartment House or Multiple Dwelling	R-4	1 for each 3 dwelling units

Section 2100.4 states, in pertinent part: "...when the use of a building or structure is *changed to another use* which requires more parking spaces [emphasis added] than required for the use existing immediately prior to the change or, if the building or structure is vacant, the use which existed immediately prior to the vacancy, parking spaces shall be provided for the additional requirement in the amount necessary to conform to Section 2101."

II.

Jurisdiction

The Board has authority to grant the relief requested pursuant to Section 3103.2 of the Zoning Regulations.

BZA
Case No. 16803
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16803
EXHIBIT NO.23

III.

Background

A. Project History and Basis for Request.

The applicant purchased the Subject Property earlier this year with the intent to renovate, modernize, and bring the existing three-unit apartment building up to current code. Upon completion, the owner proposed to convert the building to a condominium and offer the units for sale.

Building permit #B435603 was obtained on March 16, 2001 (Exhibit A), authorizing the renovation. The applicant proceeded with construction. In early September, when the work was about 60% to 70% complete, the applicant was informed that the condominium conversion process could not be completed because the agency that issued the permit for a three-unit apartment building was unable to find an occupancy record for the property that authorized a three-unit apartment building.

After unsuccessful efforts to resolve the discrepancy at the Permit Center, an application was filed with the BZA. Renovation of the basement unit, already near completion, was curtailed (Exhibits B – F show the progress of renovation when curtailed).

A number of neighboring residents and property owners had indicated that, for at least fifteen years, the building has been used and occupied as a three-unit apartment building, not a Flat as reported by the Occupancy Branch. (Exhibits G - I) When purchased, the building had three gas meters and three electric meters. Both Pepco and the Washington Gas Company report that the building has received utility services to three separate meters since at least 1981 (Exhibits K & L). Electric and gas service are not released to a property until City inspectors have certified that installed systems are appropriate for the existing or proposed use. The applicant believes that the appropriate certificate of occupancy must have existed at one time.

The applicant is seeking zoning relief to facilitate obtaining appropriate certification, which will allow continuation of the construction as approved.

B. Authority of the Board of Zoning Adjustment

The applicant believes that authority of the Board is invoked by the "...extraordinary or exceptional situation or condition of [the] specific piece of property..." resulting from errors made either in the maintenance of permanent occupancy records or in the processing of the building permit or both. Conflicting information and obvious errors in the information provided by city officials has resulted in an undue hardship upon the owner of the Subject Property.

The occupancy records submitted by the permit center indicate that the first certificate for use of the premises was issued in 1959, and that the last authorized use was established in 1967. Both certificates indicate two-family usage, yet:

- A building permit was recently issued to the applicant for renovation of an existing three-unit building. (Exhibit A)
- Two major utility companies provided records indicating that the building has contained three units since at least 1981. (Exhibits K & L)
- Two neighbors and property owners have provided written testimony that the building was used and occupied as a three-unit apartment building. (Exhibits G & H)
- A Building Code expert inspected the building after the fire and before commencement of the renovation and provided written testimony that the structure was configured as a three-unit apartment building. (Exhibit J)

It is clear that the property has been used and occupied as a three-unit apartment building for many years. It is evidenced by the existence of three utility meters for each service that there had been regulatory review on more than one occasion during the twenty years that the applicant has been able to chronicle actual use. More importantly, it is clear that the city erred by either not reporting the appropriate certificate of occupancy; or, by issuing a building permit for a three-unit building based on a certificate of occupancy that only allowed two units. Either way, the applicant has suffered undue hardship in the loss of time and money (Exhibit M). He proceeded in good faith reliance upon information provided by the regulatory agency.

C. <u>Impact on the Neighborhood</u>.

Approval of a three-unit apartment building at the Subject Property will not adversely impact the present character and future development of the neighborhood. Renovation of the vacant burned out building removes blight from the community. The proposal does not include any increase in bulk. There will not be any exterior modifications to the building that might set it apart from neighboring design.

The Subject Property is located within the R-4 zoning district. The R-4 district is designed to contain "row dwellings, conversions, and apartments" (Sec. 105.1(a)(4)). The building has existed as an apartment house for many years. As an existing apartment it is consistent with the R-4 zoning. The proposal does not alter the existing use.

The R-4 zone does not allow new multi-family development, but conversion of an existing building is allowed. Conversion to three or more units is conditioned upon the land area. The effect of this condition is to provide a control over the density of future development without penalizing existing uses. The proposal does not increase the population potential of the long-standing use.

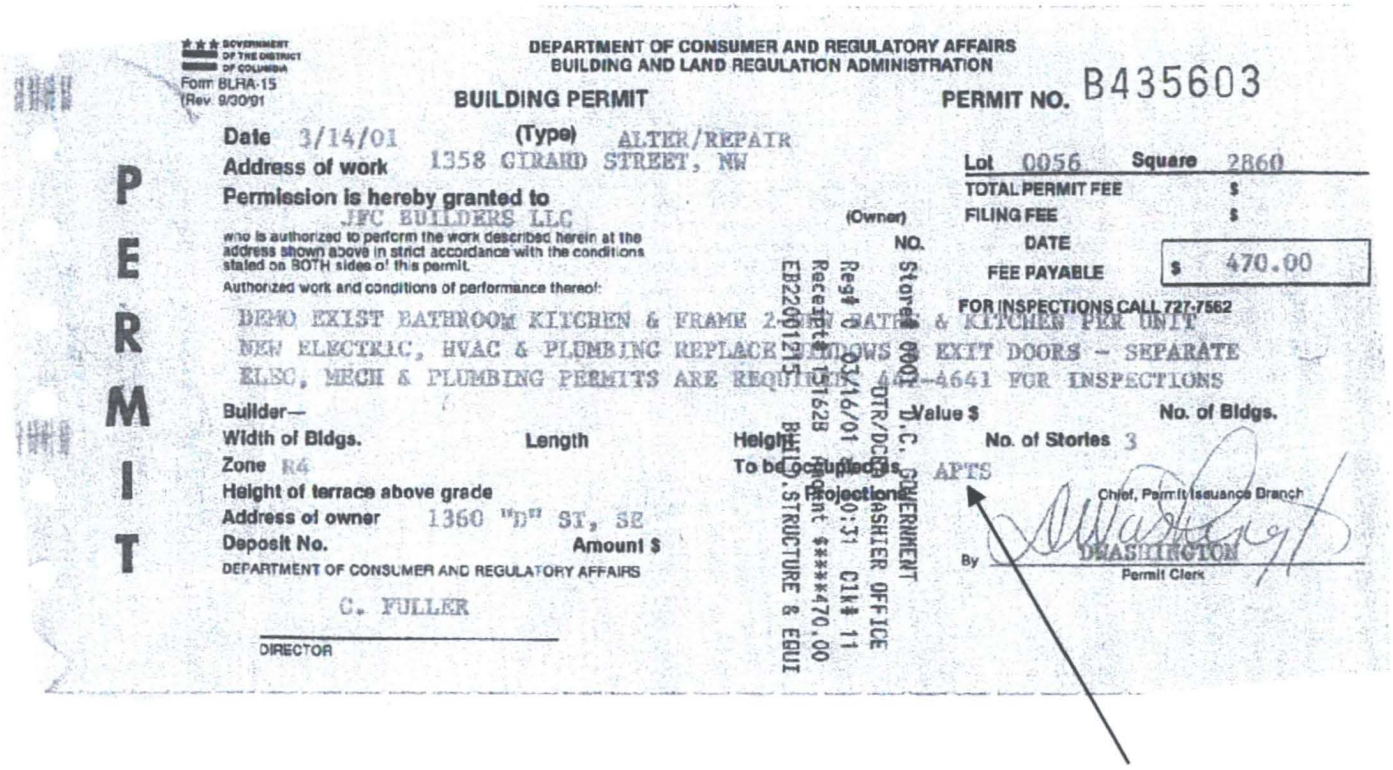
B. Description of Subject Property

IV.

Points in Support of Application

Exhibit A	Building Permit #B435603 issued 3/14/01
Exhibits B-F	Pictures of basement at time work was suspended
Exhibit G	Letter from owner of 1356 Girard Street
Exhibit H	Letter from owner of 1360 Girard Street
Exhibit I	Letter from owner of 1326 Girard Street
Exhibit J	Letter from former Chief Construction Inspector
Exhibit K	Pepco records showing installation of three meters in 1981
Exhibit L	Washington Gas records showing installation of three meters in 1981
Exhibit M	Project financial projection statement

Exhibit A



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B435603

PERMIT

Date 3/14/01 (Type) ALTER/REPAIR
Address of work 1358 GIRARD STREET, NW
Lot 0056 Square 2860
TOTAL PERMIT FEE $
FILING FEE $
DATE
FEE PAYABLE $ 470.00
FOR INSPECTIONS CALL 727-7562

Permission is hereby granted to
JFC BUILDERS LLC
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.
Authorized work and conditions of performance thereof:
DEMO EXIST BATHROOM KITCHEN & FRAME 2 NEW BATHS & KITCHEN PER UNIT
NEW ELECTRIC, HVAC & PLUMBING REPLACE WINDOWS & EXIT DOORS - SEPARATE
ELEC, MECH & PLUMBING PERMITS ARE REQUIRED 442-4641 FOR INSPECTIONS

(Owner)
NO.
Store# 0001 D.C. GOVERNMENT
Reg# 0 05/16/01 10:31 Clk# 11
Receipt# 151628 Amount $****470.00
EB220012151 DTR/DCRA CASHIER OFFICE
B#1 STRUCTURE & EQUI

Builder—
Width of Bldgs. Length Height
Zone R4
Height of terrace above grade
Address of owner 1360 "D" ST, SE
Deposit No. Amount $
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
C. FULLER
DIRECTOR

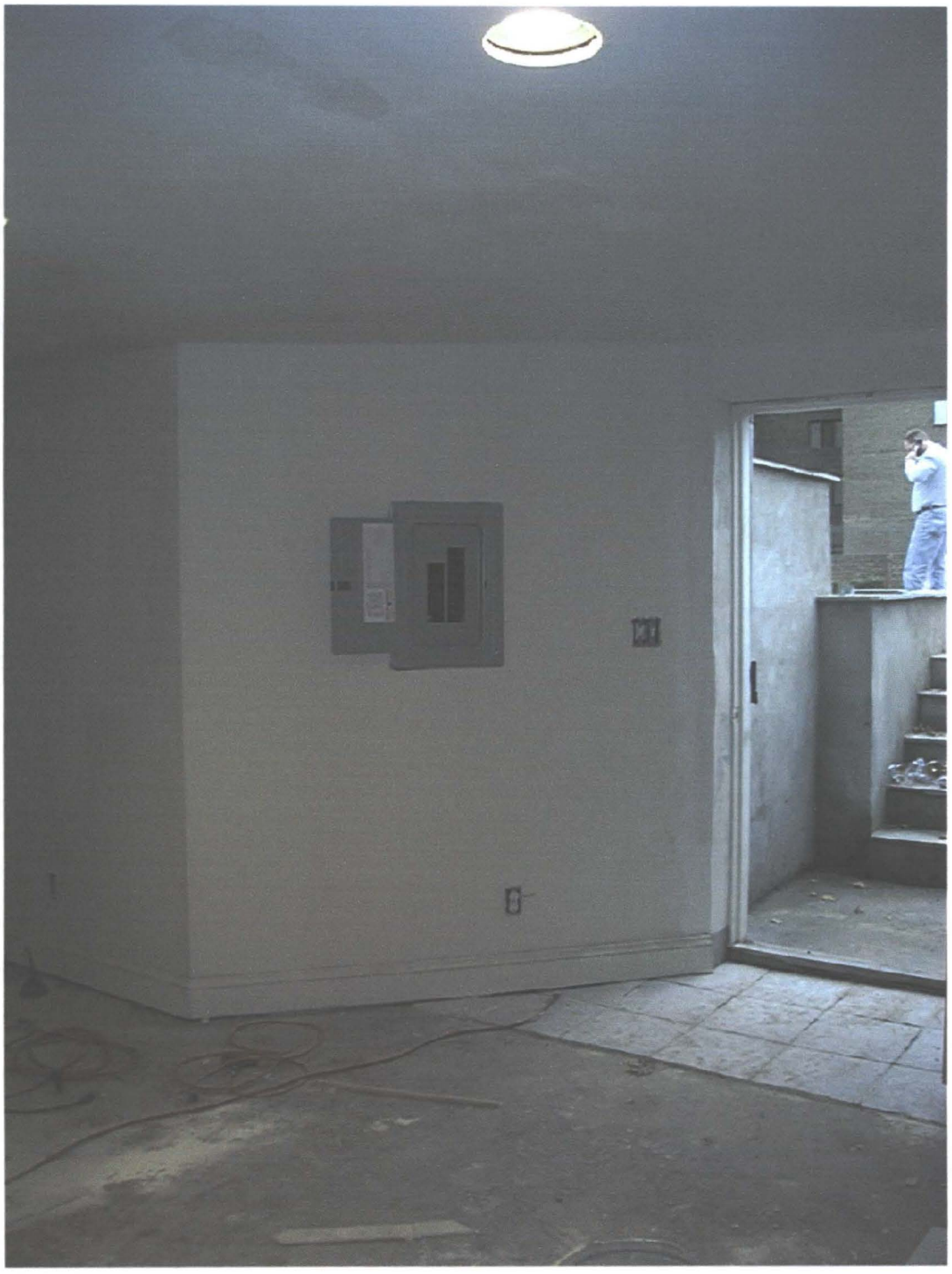
Value $ No. of Bldgs.
No. of Stories 3
To be occupied as APTS
Projections

Chief, Permit Issuance Branch
By DEASHINGTON
Permit Clerk

APTS

Building Permit

Exhibit B



From Inside basement unit living room toward front door

Exhibit C



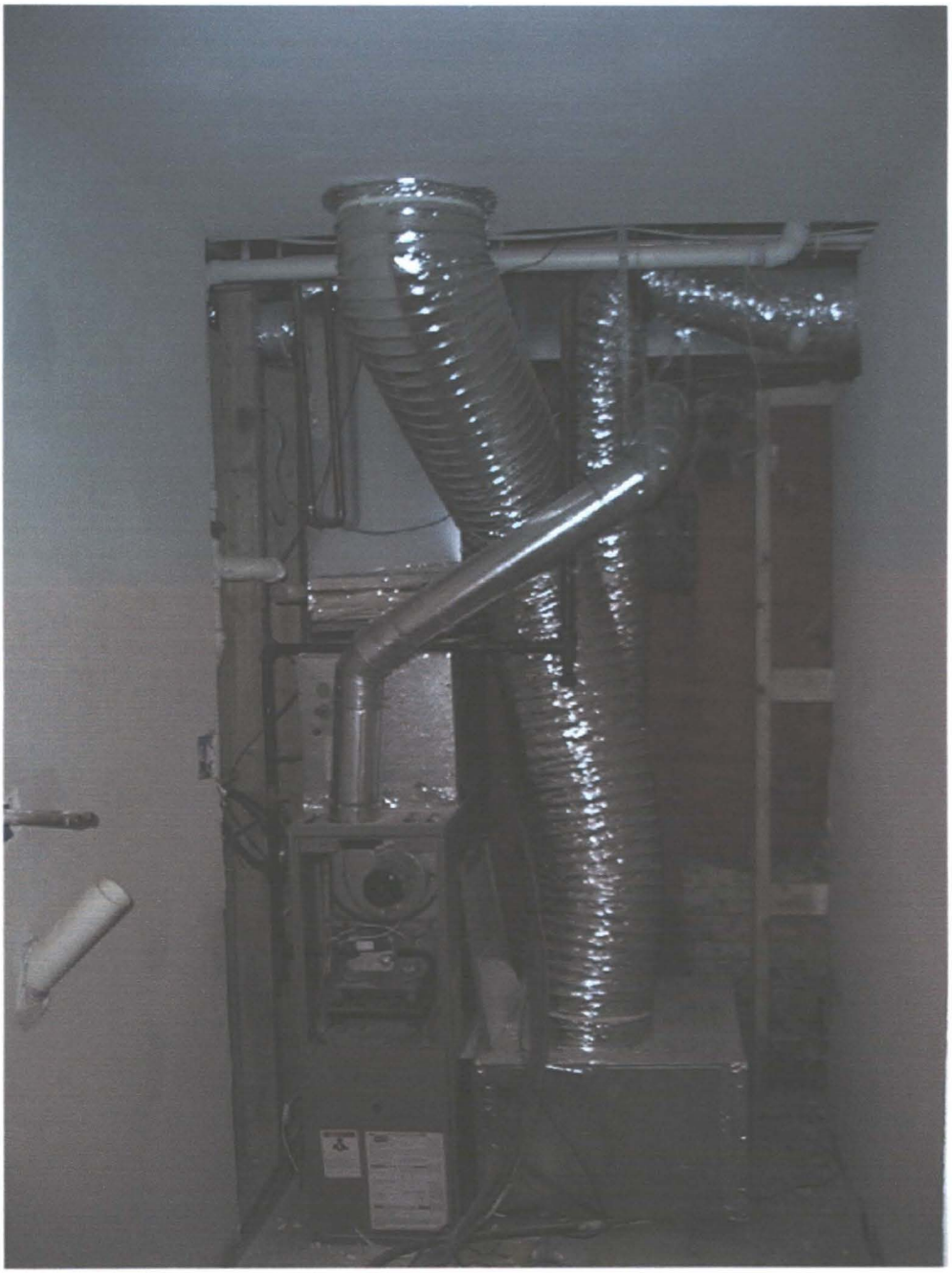
Bathroom in bedroom of basement unit

Exhibit D



Bathroom in hallway of basement unit

Exhibit E



HVAC unit for basement apartment

Exhibit F



From front door of basement unit toward kitchen

Exhibit G

October 11, 2001

Re: 1358 Girard Street Zoning Matter

To whom it may concern:

I am the current owner of 1356 Girard Street N.W. and have been for the past 15 years. On behalf of JFC builders and there property located next door to my home, 1358 Girard St. we welcome the new home renovation of 3 condominiums. The property for the past 14 years has been a transitional home for many renters that have not been all that desirable for the neighborhood. The building has always had three apartments, one on each floor of which was rented out up until the time the building had a fire and later sat and became vacant. The building has been completely renovated and we feel the idea of having people owning there home next to us will take more pride and care for the entire neighborhood as opposed to a renter.

Yours truly,

MJ Rawlings

To Be Stroke from the Record, Per the Board's instructions of Feb. 19, 2002. BAB.

Exhibit H

Board of Zoning Administration
222 4th Street
Washington. DC 3333333

October 22, 2001

Re: 1358 Girard Street NW

To Whom It May Concern:

I currently live, and have for the past 12 years in 1360 Girard Street NW, directly next door to the above referenced project. For years the previous owner has been renting out two units and living in the third unit himself. During this period there has been many tenants coming and going who just did not care for the property and neighborhood the way many of us on the block would care as homeowners.

The current owner has taken the time to go over his plans of converting the building into three condominiums for homeownership. We very much welcome the condominiums as opposed to apartments for the basic reason people who have homeownership take much more pride and care to there own property and there surrounding neighborhood. The building for years has been an eye sore for the neighborhood. Two years ago the building had a fire that burnt out majority of the building and the owner basically abandonded the building. The new owner Mr. Casey has since then purchased the building and has completely renovated the building into three beautiful new condominiums. The building now since the renovation has been brought back to a condition the whole neighborhood can appreciate.

As an immediate neighbor to the project I very much welcome the conversion of the property into three condominiums and look forward to further homeownership on the block to care for the property and surrounding neighborhood.

Sincerely,

Leon D. Rawlings
Leon D. Rawlings
1360 Girard St NW

To Be from Stroke the Record. Per the Board's instructions of February 19, 2002 BZA

Exhibit I

Board of Zoning Administration
441 4th Street
Washington, DC 20001

November 29, 2001

Re: 1358 Girard Street NW

To Whom It May Concern:

I currently own, and have for the past 6 years 1326 Girard Street NW.

The current owner has taken the time to go over his plans of converting the building into three condominiums for homeownership. We very much welcome the condominiums as opposed to apartments for the basic reason people who have homeownership take much more pride and care to their own property and there surrounding neighborhood. The building for years has been an eye sore for the neighborhood. The new owner Mr. Casey has since then purchased the building and has completely renovated the building into three beautiful new condominiums. The building now since the renovation has been brought back to a condition the whole neighborhood can appreciate.

As an immediate neighbor to the project I very much welcome the conversion of the property into three condominiums and look forward to further homeownership on the block to care for the property and surrounding neighborhood.

Sincerely,

1326 Girard St. NW

To Be Stroke from The Record, Per The Board's instruction s of February 19, 2002 BZA.

Exhibit J

Board of Zoning Adjustment
441 4th Street, NW
Room 210
Washington, DC 20001

Re: BZA Case #16803

To the Board:

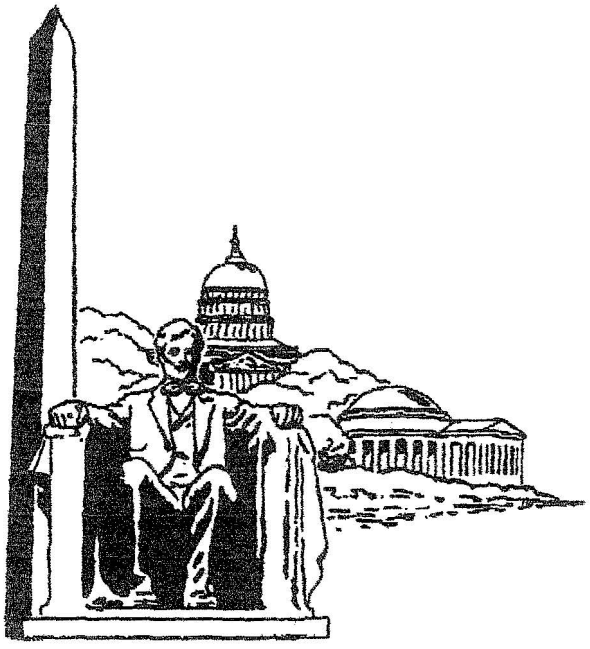
Mr. John Casey, the property owner of 1358 Girard Street, NW, has asked me to testify, before the Board of Zoning Adjustment, regarding the above referenced project. I have recently retired as Chief of the Construction Inspection Branch of the Department of Consumer and Regulatory Affairs, and have been consulting with the property owner to assure that construction is performed according to the District of Columbia Building Code (12DCMR). The scope of my involvement is from the very beginning of construction through completion.

My first visit to the job site was at the beginning of the demolition stage where I encountered a three level building in which each level was configured as a complete apartment unit totaling three. The front of the building had three gas meters with separate service for each unit. Separate electrical service was also provided to each unit, evidenced by the existence of three separate electric meters.

It was my view then as it is now that the building was and is a three-unit apartment building because Pepco and Washington Gas do not install meters or provide utility services unless the project is first approved by the city.

James A. Shelton
Retired Chief Const. Insp.
James A. Shelton
11/28/01

EXHIBIT K



POTOMAC ELECTRIC POWER COMPANY
CUSTOMER DESIGN - DC
701 NINTH STREET, NW
ROOM 6005
WASHINGTON, DC 20068-0001

TELECOPIER MESSAGE COVER SHEET

DATE: 12-03-01

NUMBER OF PAGES: COVER + 4

TO: Charlie

FAX NUMBER:

FAX NUMBER:

FAX NUMBER:

FAX NUMBER:

FAX NUMBER:

FROM:

OFFICE NUMBER:

SPECIAL INSTRUCTIONS:

S-2913

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BILL T-D: 0.00 INT UNP/DEP APL: 0.00 MRP: 0 RECORD TYPE: M
PRIORITY: 0 PARALLEL: 0

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N	0403	488	0.00	0.00	0.00	0
N	0502	517	0.00	0.00	0.00	0
N	0601	547	0.00	0.00	0.00	0
N	0702	578	0.00	0.00	0.00	0
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TB:

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MC:

APT # 1

HIS3 KEY AN 1020-0310-2-5-01 PAGE 2

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LAST CUSTOMER ACTIVITY OCCURRED ON 09-07-01

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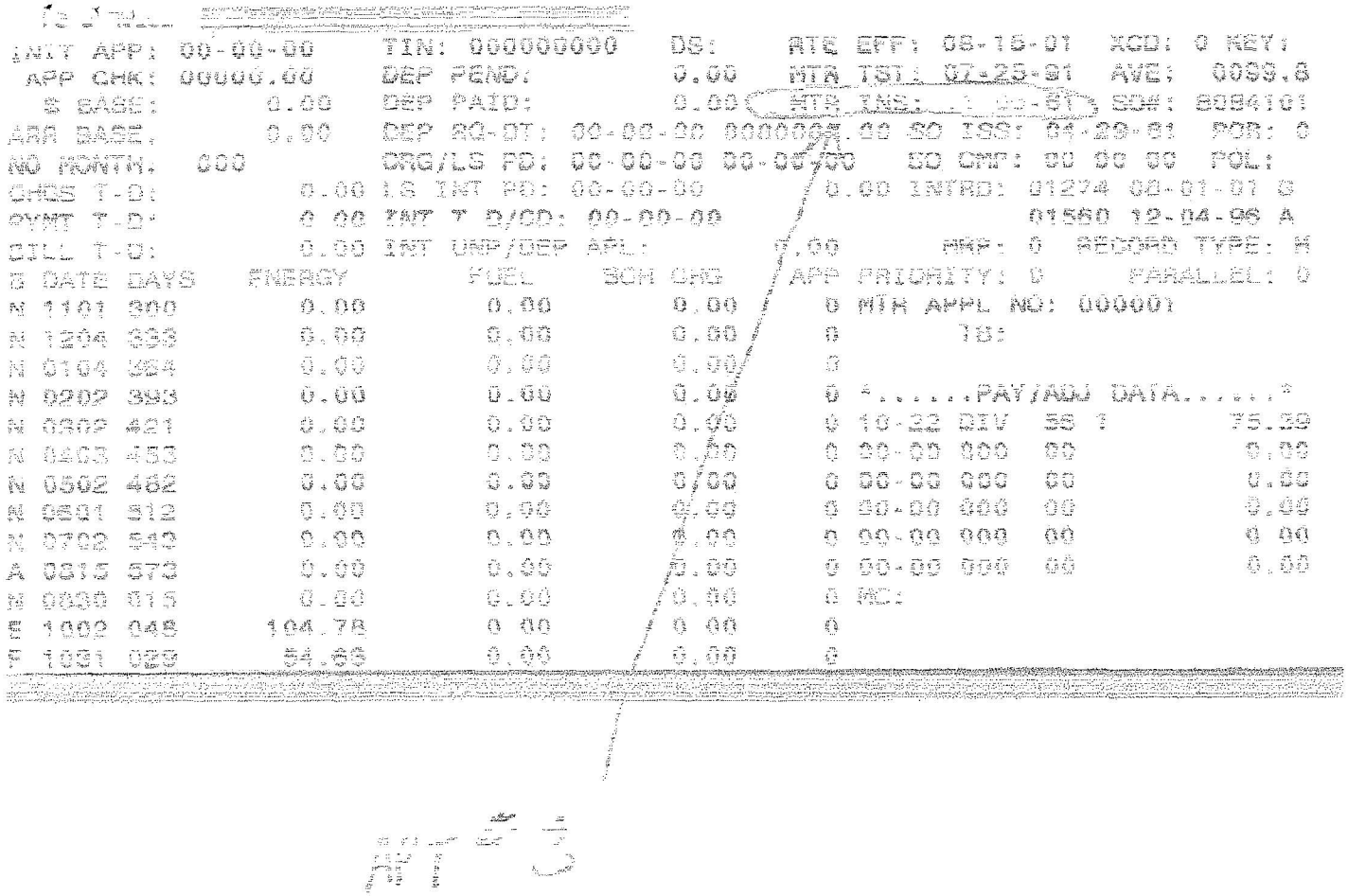

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N 0601 512 0.00 0.00 0.00 0 50-00 000 00 0.00
N 0702 543 0.00 0.00 0.00 0 90-00 000 00 0.00
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E 1031 029 54.65 0.00 0.00 0

FIG 5

Exhibit L

Washington Gas

FAX!!! FAX!!! FAX!!! FAX!!! FAX!!!

THIS IS PAGE ONE OF 02 PAGES

TO: Ted Katonan

FAX NUMBER: (202) 546-4554

TELEPHONE: _____

FROM: Wally

FAX NUMBER: _____

TELEPHONE: _____

DATE: 12/04/01

TIME: 9:30

SPECIAL INSTRUCTIONS:



ACCOUNT HISTORY PAGE 1 SVC HST

1358 GIRARD ST NW #A ACCOUNT NO CD SC RATE DEF/MDSE STATUS
WASH DC 20009 0466 968906 15B 01 08 0 2BSET

SUM BILL:

#METERS: 1 BUDGET BILLING: NO
MAIL- LTS ON: CCF: OFF: CCF:
ADDR: GOVT AGENCY:

DATE	TX	NET AMT	TAX AMT	LATE CH	M	INDEX	CCF	THERMS	CCF/DD	DD
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1017	5	NOT BILLED - OFF ACCOUNT								
0919	5	NOT BILLED - OFF ACCOUNT								
0821	5	NOT BILLED - OFF ACCOUNT								

ENTER OPTION: C PF3-MAIN MENU PF1-SHADOW PF8-NEXT PAGE PF10-HELP PF12-PRINT

6801 Industrial Road
Springfield, Virginia 22151

CUSTOMER PROFILE

	ACCOUNT NO	CD	SC	RATE	DEF/MDSE	SVC HST STATUS
1358 GIRARD ST NW #B	0466 969003	15B	01	08 0		2BSET
WASH DC 20009		SUM BILL:				

#4 EEC

MAIL-
ADDR:
HOME PHONE:
WORK PHONE: 703 856-8609 EXT:
SOC SEC#: GOVT AGY:
EMPLOYER:
SPOUSE:
OP/RNTL AGT:
AGENT PHONE:
ORIG DATE: ON/OFF:
CRED HIST:
CRED STAT:
DEPOSIT ESTIMATE: ?????
COLLECTION AGCY:
TAX AREA: 1 STATUS:
#UNITS: 0

DEPOSIT INFORMATION

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DEP#:				
DATE:				
$AMT:				
STAT:				
DATE:				
$INT:				

	#5	#6	#7	#8
DEP#:				
DATE:				
$AMT:				
STAT:				
DATE:				
$INT:				

DATE	AMT	STATUS

ENTER OPTION: A PF3-MAIN MENU PF5-ANCP PF10-HELP PF12-PRINT

Washington Gas

6801 Industrial Road
Springfield, Virginia 22151

WASH G
DEC-04-2001 09:25

CUSTOMER PROFILE

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ADDR:
HOME PHONE:
WORK PHONE: 703 856-8609 EXT:
SOC SEC#: GOVT AGY:
EMPLOYER:
SPOUSE:
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CRED STAT:
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COLLECTION AGCY:
TAX AREA: 1 STATUS:
#UNITS: 0

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$AMT:				
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	#5	#6	#7	#8
DEP#:				
DATE:				
$AMT:				
STAT:				
DATE:				
$INT:				

DATE	AMT	STATUS

ENTER OPTION: A PF3-MAIN MENU PF5-ANCP PF10-HELP PF12-PRINT

Washington Gas

6801 Industrial Road
Springfield, Virginia 22151

TOTAL P.03

EXHIBIT M

Total Acquisition	$178,000		
Construction monies	$180,000		
Soft Cost	$57,000		
Subtotal	$415,000		
Sales			
Unit A		$249,000	
Unit B		$219,000	
Unit C		$149,000	
Subtotal Sales		$617,000	
Sales expense 6%@617,000		$37,000	
Settlement costs 1.5%@617,000		$9,255	
Subtotal		$570,745	
Net Sales	$570,745		
Total Cost	$415,000		
Net Profit	$155,745		