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EDWARD BENNETT WILLIAMS (1920-1988)
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December 10, 2002

VIA HAND DELIVERY
Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

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2002 DEC 10 PM 4:53

Re: Board of Zoning Adjustment Application 16836
The Washington Home

Dear Mr. Griffis:

I have reviewed the letter Mr. Keys hand-delivered to you on December 3, 2002 and subsequently mailed to me requesting that the Board not be permitted to review four documents that were submitted on November 26, 2002. Mr. Keys argues that under § 3121.5 of the Rules of Practice and Procedure the record was closed except for items requested or authorized by the Board. Mr. Keys does not say so expressly, but he is apparently contending that the submitted materials were not authorized to be filed by the Board.

It appears that Mr. Keys is incorrect. As you will recall, CCHE was pressed for time at the October 15th hearing, but pledged to move its case along expeditiously and not use all the time to which it might have argued entitlement. As Chair, during the course of that discussion you commented that you were concerned with redundancy and that "[a]ny testimony that is given by individuals can be said one time, and then written submissions can be put into the record. We will not need people testifying to the same issue several times over." Oct. 15 Tr. 129. Moreover, as Chair you made clear that the testimony of the people whose testimony was abbreviated because of the time constraints of the hearing could be submitted in writing. See Oct 15 Tr. 355 (if testimony does not get in, Board will keep the record open), 416 (same). Each of the four documents Mr. Keys would like to keep the BZA from reviewing meets these criteria and the relevant rules.

BZA
Case No. 16836
Exhibit No. 118

Board of Zoning Adjustment
District of Columbia
CASE NO.16836
EXHIBIT NO.118

The letter from Ms. Sharon Flank and the written testimony of Mr. Mark Bravin clearly meet this requirement since the CCHE could not put them on in the amount of time allowed and their testimony was thus restricted to three minutes as persons in opposition. See Oct. 15 Tr. at 386 (Flank) & 390 (Bravin). Further, ViceChair Renshaw specifically asked Mr. Bravin: "Do you have any more that you could enter into the record?" Mr. Bravin responded: "I don't have anything prepared, but I would be happy to complete my thoughts in writing if that would be helpful." Ms Renshaw replied: "I think so. And I would suggest that any of the panelists do the very same thing." In response to Mr. Bravin's request for a reasonable amount of time to that, the Chair responded: "Yes. We will establish everything that is going to be submitted. Oct. 15 Tr. at 392-393. Subsequently, Ms. Bailey of the Office of Zoning recited the further submissions that would be authorized before the close of the record in this case. "The submissions I have, Mr. Chairman, are the applicant can provide written documentation to rebut the expert witnesses that were presented by Mr. Graham today, proposed conditions, written testimony of persons in opposition, and the findings of fact." Oct. 15 Tr. at 414. There was general agreement from the Chair and the parties.

As to the petition signed by 91 neighbors, the Board questioned Mr. Kogan about the significance of a previously submitted neighborhood petition during the hearing and suggested that it might not accurately capture the zoning status and feelings of the neighbors. Oct. 15 Tr. at 250-52. The recently submitted petition is intended to demonstrate to the Board that the neighborhood is fully informed and aware of the status of the matter and continues to oppose the construction of an enormous new parking lot smack dab in the middle of our residential neighborhood. Certainly the Board would prefer to hear these sentiments in the form of a petition rather than trotting 91 neighbors through a hearing. A reasonable interpretation of the Board's authorization for "written testimony of persons in opposition" would embrace the filing of the petitions as part of the record in this case. Moreover, it hardly needs to be said that the right to petition the government is protected by the First Amendment.

Finally, the letter from Councilman Mendelson is again an example of a person whose views can be heard more efficiently by review of the submitted letter, rather than occupying the time of the Board. Once again, a reasonable interpretation of the Board's authorization for "written testimony of persons in opposition" would embrace the filing of Councilman Mendelson's letter. Moreover, as a City Council Member who was involved in the 1985 discussions with TWH, the BZA may accept his letter as having special weight. It is understandable that Mr. Keys would prefer the Board not to read such a cogent letter setting forth the

history of the matter and the implications of TWH's attempt to ignore that history, but cogency is not a good reason to ask the Board not to review it.

Very truly yours,

Jonathan P. Graham