BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal of ROBERT LEHRMAN	)	
	)	BZA Appeal No. 16849
From the October 10, 2001 decision of the Zoning Administrator regarding 2221 30th Street, N.W.	)	

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OWNER'S MOTION TO DISMISS

Mr. and Mrs. Melvyn J. Estrin, as beneficiaries of the Estrin House Trust, the owner of the premises ("Owner") at 2221 30th Street, N.W. (the "Property"), respectfully request that the Board dismiss this appeal for lack of jurisdiction and further request that the Board set a preliminary hearing on this motion.

As discussed in more detail below, Appellant Robert Lehrman is not an "aggrieved" person as required under Section 3112.2 of the Zoning Regulations and therefore is not properly deemed an appellant. Moreover, even if he had standing to file this appeal, Mr. Lehrman's appeal is untimely under Section 3112.2 because he waited for over three months after the administrative decision to file his appeal. Additionally, the claim is also barred by the equitable doctrine of laches, since the Appellant unreasonably delayed in bringing forth the appeal to the prejudice of the Owner. Finally, as discussed below, there is no relief that the Board may grant in response to the appeal, and therefore the appeal is moot.

BZA
Case No. 16849
Exhibit No. 18

Board of Zoning Adjustment
District of Columbia
CASE NO.16849
EXHIBIT NO.18

The Board should dismiss this case at the threshold rather than burden the Board and the Owner with an untimely claim from an appellant who is not an aggrieved party and who is seeking relief that is not obtainable.

I. Statement of the Facts

Mr. Estrin received a building permit dated March 7, 2001, from the Building and Land Regulation Administration so that he could renovate and expand the residential premises on the site. (See Exhibit 1, Building Permit No. B439404). He began construction in or around June or July of 2001.

Unrelated to this construction work, an approximately 30-inch tulip poplar was removed from the property on or about July 19, 2001, because it was unsafe. Mrs. Vernon Jordan, an adjoining neighbor to the Owner, reported that the tree had been leaning in an unsafe manner over her yard. (See Exhibit 2, Letter dated September 18, 2001). After the tree had been damaged by a summer storm and after a certified tree care professional determined that the tree was indeed in an unsafe condition, the Owner had the tree removed in July 2001 (See Exhibit 3, Affidavit of Melvyn J. Estrin, dated March 15, 2002). At or around this same time, a second tree on the Property was damaged when removal of a wall of the former structure caused a slight scrape on this second tree revealing an infestation of silverfish. A certified tree expert was retained soon thereafter to remove the infestation and maintain and rehabilitate the tree, and this second tree has since been maintained in a healthy condition. (See Exhibit 4, Letter of Lee Peyton of Lee's Trees, dated November 28, 2001).

On or around July 26, 2001, Appellant Mr. Lehrman (through his counsel) sent a letter to then-Zoning Administrator Michael Johnson requesting a stop work order be issued for the construction under the March 2001 building permit. Mr. Lehrman argued that the removal of the 30-inch tulip poplar at the site and the damage to the second tree were in violation of the Tree and Slope Protection Overlay provisions of the Zoning Regulations (See Exhibit 5, Letter dated July 26, 2001 from Andrea Ferster, Esquire to Michael Johnson). Mr. Lehrman lives at 2900 Benton Place, on the opposite end of the square from the site of the trees on the Owner's Property, a distance of approximately 300 feet. (See Exhibit 6, aerial photograph and plats) Neither the Property nor any trees on the Property are visible from Mr. Lehrman's property.

In a letter dated October 10, 2001, the Zoning Administrator advised Mr. Lehrman that the removal of the tulip poplar was proper due to the unsafe condition of the tree. While the Zoning Administrator noted that there was a question about whether the Tree and Slope Protection regulations even applied, in response to Mr. Lehrman's July 26, 2001 letter, he concluded that the Owner had not violated any provisions of the TSP regulations. This October 10, 2001 determination of the former Zoning Administrator disposing of Mr. Lehrman's expressed concerns about the trees on the Property is the decision that Mr. Lehrman has purported to appeal in this case. (See Exhibit 7, Letter from Michael Johnson dated October 10, 2001) The appeal was filed on January 17, 2002 -- 99 days after the date of Mr. Johnson's ruling.

II. Argument

1. The Applicant Does Not Have Standing to Bring the Subject Appeal Because He is Not an Aggrieved Person within the Meaning of §3112.2 of the Zoning Regulations

Section 3112.2 of the Zoning Regulations allows an aggrieved person to file a timely appeal with the Board. The Zoning Regulations do not explicitly define the criteria that should be used to determine whether a person is "aggrieved." However, in interpreting this requirement, the courts have consistently held that a person may only be considered to be "aggrieved" if that person demonstrates that he or she will be specially and adversely affected by the zoning-decision. In Goto v. District of Columbia Board of Zoning Adjustment, 423 A.2d 917, 923 (D.C. 1980), the Court stated that "[g]enerally, persons wishing to contest zoning determinations must demonstrate some damage—damage greater than that suffered by the general public—to satisfy the 'person aggrieved' requirement." See also Rathkopf, The Law of Planning and Zoning, §43.02, at 43-7; 4 Anderson's American Law of Zoning §27.18, at 542-51 (4th ed. 1997). To be "aggrieved," a person must demonstrate (1) a specific personal and legal interest in the subject matter of the decision as distinguished from the general interest of a member of the community as a whole, and (2) that the specific personal and legal interest has been specially and injuriously affected by the decision. See Rathkopf §43.04 at 43-20.[1] Cf. President &

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[1] Similar tests for determining party status have been adopted by the Zoning Commission for both the Zoning Commission and the Board of Zoning Adjustment. See Section 3022.3(6) and 3106.3 of the Zoning Regulations.

Directors of Georgetown College v. Diavatis, 470 A.2d 1248 (D.C.1983)(statute which allows neighboring owner to sue to enjoin zoning violation does not entitle neighbor to relief without proof that the zoning violation has caused "special damage" to neighbor).

Here, Mr. Lehrman cannot demonstrate that he has an injury that is different from and greater than that of a member of the general public, nor that he has been specially affected by the action of the Zoning Administrator. Mr. Lehrman is not an adjoining landowner; the Jordans' property lies between the properties of the Owner and Mr. Lehrman. The trees about which Mr. Lehrman complained are not visible from the Lehrman property. Mr. Lehrman can only see the tree from public space, the same vantage point available to any member of the general public. (See Exhibit 3). Indeed, Mr. Lehrman's appeal identifies his "aggrievement" in terms of his standing as a member of the public. In short, there is no special injury to Mr. Lehrman and the appeal can and should be dismissed on this basis alone.

2. The Appeal Was Not Timely Filed

Under Section 3112.2, an appeal must be timely filed and the Board's jurisdiction turns on the timeliness of the filing. In Waste Management of Maryland, Inc., v. District of Columbia Board of Zoning Adjustment, 775 A.2d 1117, 1121 (D.C. 2001), the Court of Appeals re-affirmed that the timeliness requirement

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Maryland uses essentially the same test for who is "aggrieved" by an agency decision. See Maryland-National Capital Park and Planning Commission v. Smith, 333 Md. 3, 633 A.2d 855, 859-60 (1993)(commission was not "aggrieved" for purposes of appeal).

is jurisdictional and that if the appeal is not timely filed, the Board lacks power to consider it. The Court laid down a bright-line test for timeliness:

> Experience teaches that in the ordinary scheme of things, two months is ample time in which to decide whether to seek appellate review and act accordingly. At least in the absence of exceptional circumstances substantially impairing the ability of an aggrieved party to appeal—circumstances outside the party's control—we conceive of two months between notice of a decision and appeal therefrom as the limit of timeliness." [2]

775 A.2d at 1122.

Here, Mr. Lehrman waited more than three months from the time of the Zoning Administrator's determination to file an appeal with the Board of Zoning Adjustment, an additional month beyond what the Court of Appeals defined in July 2001 as the limit of timeliness. Appellant learned of the Zoning Administrator's decision on or around October 10, 2001. He has been represented by the same counsel since at least July 2001, when his counsel, Andrea Ferster, first sent a letter to Michael Johnson complaining of the damage to the two trees on the Owner's property. Given that the purpose of requiring timely filing of appeals is to allow the appellant sufficient time to evaluate options and the efficacy of proceeding further, the reasonable appeal period in this case was in fact well short of the *per se* two month period suggested by the Court of Appeals in the Waste Management case.

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[2] The Zoning Commission is scheduled to hear Zoning Commission Case No. 02-01 on April 11, 2002, a text amendment case that proposes to establish a deadline of 60 days for the timely filing of appeals to the Board of Zoning Adjustment.

The appeal period was not tolled while Mr. Lehrman made additional complaints to the Building and Land Regulation Administration ("BLRA"). Pursuant to Mayoral Executive Order, the Zoning Administrator alone has the authority to make determinations with regard to alleged zoning violations and does not make provision for appeal to the Building Land Regulation Administrator. See page 185 of Reorganization Plan No. 1 of 1983, amending Commissioner's Order No. 69-96 dated March 7, 1969, as amended by Mayor's Order 78-42, dated February 17, 1978 and Reorganization Order No. 1 of 1982 dated July 6, 1982 (copy attached as Exhibit 8). Mr. Lehrman's effort to create more difficulty for Mr. Estrin by opening up a series of complaints before the BLRA did not extend the time for appeal from Mr. Johnson's decision. Cf. Waste Management, 775 A.2d at 1123 ("The fact that Waste Management chose to concentrate on avenues that reasonably may have appeared more promising than an appeal does not excuse its delay in noting an appeal.")

There are certainly no "exceptional circumstances . . . outside [appellant's] control" to warrant extending the two month deadline to three months. As evidenced by his letter dated July 26, 2001 to Michael Johnson requesting a Stop Work Order, Mr. Lehrman had been aware since mid-July of the removal of the tulip poplar and the damage to the second tree on the property. All of the issues later raised (unsuccessfully) before the BLRA Administrator had already been raised with the Zoning Administrator before his October 10 decision. This appeal is untimely and should be dismissed.

3. The Claim is Barred by the Doctrine of Laches

It has long been held that the doctrine of laches will bar a claim that is unreasonably delayed to the prejudice of a party. See Goto, 423 A.2d at 924. The Goto Court explained that the defense of laches presents a question distinct from that of timeliness:

> In deciding that jurisdictional question [of timeliness], we look only to the period from the zoning official's decision to the filing of the appeal. [citations omitted]. In contrast, to determine the validity of a laches defense, we look to the entire course of events. See, e.g., American University Park Citizens Association v. Burka, D.C.App., 400 A.2d 737, 740-45.

The doctrine of laches clearly bars Appellant's claim. By his own admission as indicated in letters to both Mr. Johnson and Mr. Estrin (Exhibits 5 and 9), Appellant was well aware of the activities with regard to the two trees in mid-July 2001, yet did not file an appeal with the Board until *six* months later. In that time, the Owner proceeded with construction and incurred substantial costs in connection with that construction in reliance on the issuance of construction permits from the District of Columbia. See Exhibit 3. The Owner also has expended a significant amount of time and money in responding to Appellant's charges and preparation for Appellant's appeal to the Board. It would be unfairly prejudicial to allow the appeal to move forward given the significant expenses the Owner has incurred based on the Appellant's decision to wait more than six months to file an appeal.

4. The Appeal is Moot

Even if the Appellant were authorized to bring the subject appeal and even if the appeal had been timely filed or was not barred by the doctrine of laches, the appeal is moot because there is no relief that the Board may grant. The unsafe tree which used to hang over the Jordans' property and which was not in the zone of construction, was cut down last July; the second tree which was damaged is now being protected. The Board obviously cannot do anything regarding these particular trees.

Moreover, there is no relief available under Section 1514.1 of the TSP Regulations which provides:

> Where removal or cutting o[f] trees has occurred that would be prohibited by this section if a building permit were contemporaneously applied for, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless a special exception is granted by the Board or Zoning Adjustment pursuant to §1515.

The Board is not being asked to revoke the building permit and, in any event, would not have the authority to revoke the existing building permit under the TSP provisions even if revocation had been requested. There is no other "penalty" stated for violation of the TSP regulations, even if appellant stated a plausible claim that the Owner had violated the TSP regulations. Mr. Lehrman is inviting the Board to conduct a hearing where all the issues are moot.

III. Conclusion

In this case there is no aggrieved party, no timely appeal, a claim barred by laches and no available relief. Any one of these grounds would warrant dismissal of the appeal. Taken together, these factors demonstrate that the appeal is frivolous and an abuse of the Board's process. The Owner respectfully requests therefore that the Board dismiss this case.

Respectfully submitted,

Whayne S. Quin

Lisa L. Jackson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion to Dismiss was served on March 20, 2002, by first-class mail upon the following:

Cornish F. Hitchcock
Andrea C. Ferster
1100 17th Street, N.W., 10th Floor
Washington, D.C. 20036

ANC 3C
2737 Devonshire Place, NW
Washington, D.C. 20008

Toye Bello
Acting Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE
Washington, DC 20002

Alan Bergstein
Office of Corporation Counsel
441 4th Street, N.W.
6th Floor, Room 6N96
Washington, D.C. 20001

Lisa L. Jackson

WAS1 #1065435 v7

Exhibit 1

ANN DIBBLE JORDAN
2940 BENTON PLACE, N.W.
WASHINGTON, D.C. 20008

TELEPHONE
(202) 667-1791

FAX
(202) 667-1794

September 18, 2001

MR. MICHAEL JOHNSON
Zoning Administration
441 North Capital Street NE
Washington, D.C, 20002

RE: Tree Cutting

I am writing in regard to the cutting of the tree on the property adjacent to my house on Benton Place. The tree appeared to be dying as it had lost most of its branches and was leaning more and more toward my house to about eight feet away. After an unusually hard rain, the tree seemed to be more compromised and in danger of falling. The danger posed by the tree was pointed out to me by several service people who used this entrance to service the house. I became greatly concerned about the safety of people using this entrance and the impact on the house.

I asked the owner, Mr. Estrin to consider removing the tree as it seemed so precarious and expressed my concern about the safety issues. He agreed to have the situation evaluated and it was decided that the tree should be removed.

I hope that this information will be helpful to you in your consideration of this matter.

Sincerely yours,

Ann D Jordan

ANN D. JORDAN

Exhibit 2

D.C. GOVERNMENT
OTR/DCRA CASHIERS OFFICE
941 N. CAPITOL STREET NE
WASHINGTON, DC 20002
202-727-1000

Store # 0001 Receipt # 149504
Reg. # 0 03/07/01 at 14:56
Cash In Clk# 5 Sale Clk# 5

EB2001215 BUILD,STRUCTURE & EQUIP
0 1 @ $ 3,043.00 $ 3,043.00

Sub-Total $ 3,043.00
Tax $ 0.00
Total Sale $ 3,043.00

Check Amount $ 3,043.00
Change Due $ 0.00

ACCT. # 0550032980200005932003689
CHECK # 003689

THANK YOU AND HAVE A NICE DAY

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. B435446

(Type)

Date 3/7/01 ADD/A/R

2221 30TH STREET NW

Lot 6 Square 2198

TOTAL PERMIT FEE $

FILING FEE $

NO. DATE

FEE PAYABLE $ 3,043.00

When stamped PAID by the D.C. Treasurer, this coupon will become your receipt and when presented to the Permit Clerk will entitle you to your permit.

XXXXEX 442-4641

EXPAND EXISTING 1ST FLOOR BEDROOM WING & ADD 2ND STORY OVER EXISTING 1ST FLOOR ONE STORY AREA. REMODEL INTERIORS & RESKIN EXTERIOR MASONRY VENEER IN KIND. SEPARATE ELEC., PLUMB., AND MECH. INSTALLATION PERMITS ARE REQUIRED.

THIS IS NOT A PERMIT

TSP/RIA

3

RESIDENTIAL

6508 KENHILL RD BETHESDA, MD

Deposit No. Amount $

Credit Permit 1215 Bldg/ Struct. & Equip.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER 32301

DIRECTOR

Exhibit 3

AFFIDAVIT OF MELVYN J. ESTRIN

I, Melvyn J. Estrin, upon being duly sworn on oath, declare the following under penalty of perjury:

1. That I am an adult over the age of 18 years of age with the capacity to make this Affidavit as the owner of the premises at 2221 30th Street, N.W.

2. That, in and around early Summer 2001, I received a request from the adjoining property owner, Mrs. Vernon Jordan, to remove a tulip poplar tree that had been leaning toward and over Ms. Jordan's property for several years, the condition of which had been worsened by recent rains.

4. That, following Mrs. Jordan's request, I consulted with a certified tree professional who opined that the tree was not safe and should be removed.

5. That, in or around July 2001, the tree was removed.

6. That, in or around November 2001, I hired a certified tree professional to take steps to repair and maintain a second tulip poplar tree located on the site when a slight scrape to the tree in the course of the removal of a wall of the former structure lead to the discovery of an infestation of silverfish in that second tree.

7. That, under the tree professional's care, the infected portion of the tree was removed and the tree has been restored to a healthy condition.

8. That the tree that was removed from the premises, and the second tree that has been rehabilitated, have not ever been visible from the premises at 2900

Benton Place, N.W., which are owned and occupied by the appellant in this case, Robert Lehrman.

Melvyn J. Estrin
2221 30th Street, N.W.

STATE OF Maryland
COUNTY OF Montgomery

Subscribed and sworn before me this 18 day of March, 2002, by Melvyn J. Estrin, who is personally known to me or has produced _____ as Identification.

(SEAL)

Jeannine M. Schaldo
JEANNINE M. SCHILTZ
Notary Public-State of Maryland My Commission Expires October 1, 2002
Commission Number: _____

WAS1 #1066696 v1

Exhibit 4



LEE'S TREE SERVICE

November 28, 2001

Mr. Melvyn Estrin
2221 30th Street, N.W.
Washington, D.C.

Dear Mr. Estrin:

I have been given a letter from Mr. Paul L. Wolfe, II, President of Integrated Plant Care, Inc. in which Mr. Wolfe renders an opinion that a tree located near the rear of the above referenced property has been fatally damaged within the last year by heavy machinery. I have been personally responsible for attending to the tree in question and can refute the assertions contained in Mr. Wolfe's letter as inaccurate and clearly based on supposition.

The tree in question has grown up within 6 feet of the existing 2 and one half story home that was built in 1958 (43 years ago). This tree developed its root system and canopy over the last 43 years. The tree as we all know grows toward the light and air. The natural growth pattern of trees and plants being "heliotropic" dictated its growth toward the most light and air.

The removal of the wall of the house caused a slight scrape on the house side of the tree. When we examined the scrape on the tree, we found that that side was infected with "silver fish". These insects only thrive on rotten tissue found underneath the tree bark. We further removed the infected bark to the healthy line of growth. We also deep fertilized the root system of this tree so that the winter root growth will absorb the needed nutrients in order to help the tree heal over its once infected bark system. This tree has had a protective fence around it for the last 5 months that I know of. Attached you will find a copy of the tree book page on Poplas from the Shemin Nursery's Manual explaining that these trees have deep root systems.

We believe that this tree has a better chance of survival than some of the poorly maintained trees on Benton Place and in the existing neighborhood.

If you have any questions, please do not hesitate to contact me.

Sincerely,

16105 Morrow Road, Poolesville, Maryland 20837 • (301) 208-8235 • Fax (301) 990-7217

Pictorial Library

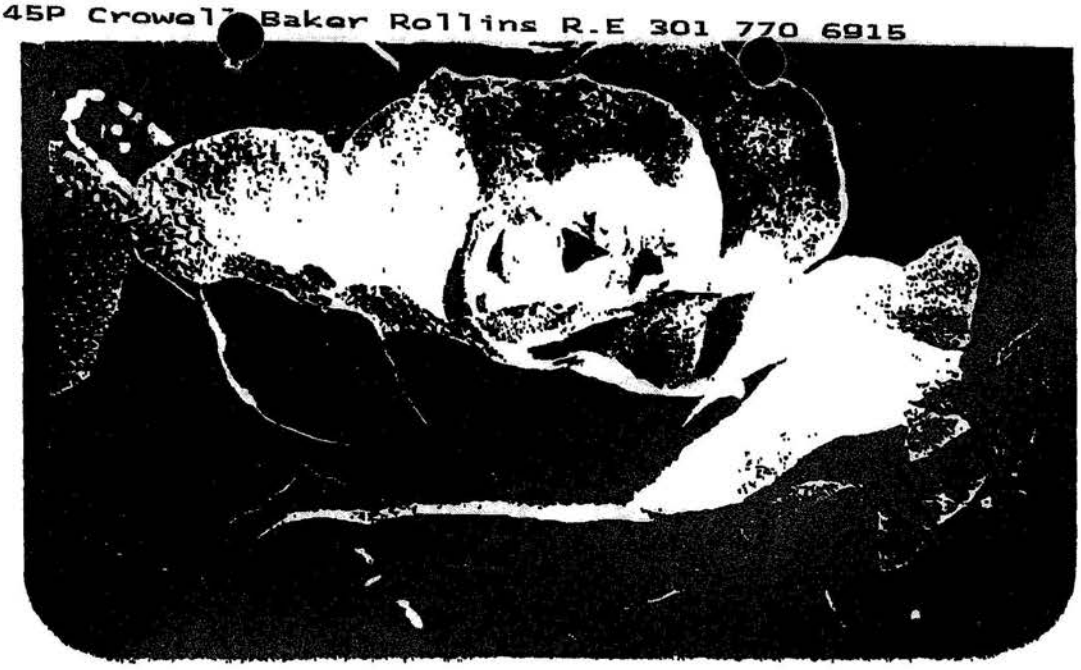
OF LANDSCAPE PLANTS

Volume One
Northern Hardiness Zones 1-5

by

M. Jane Coleman Helmer, Ph.D.

merchants publishing company
kalamazoo, michigan



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TULIP TREE or TULIP POPLAR *Liriodendron tulipifera*

Zones 5 6 7 8 9 10

Large, erect deciduous tree. Very fast-growing. Height 25-30' (7.5-9m) in 10-12 years, matures to 70-90' (21-27m); spreads 35-40' (10.5-12m). Flowers in 10-20 years.

Flowers grow tulip-shaped and yellow with orange markings.

Fruit of 2-3" (5-7.6cm) light brown seed capsules persist into winter.

Leaves large and irregular, smooth edged. Light green color turning deeper in summer, glossy.

Fall color of clear golden yellow, flecked brown.

Soil: deep, moist, well-drained. Deep root system.

Light: full sun.

Tolerates coastal climate when sheltered from wind.

Pruning: prune young trees in winter.

Uses: shade tree, accent or specimen.

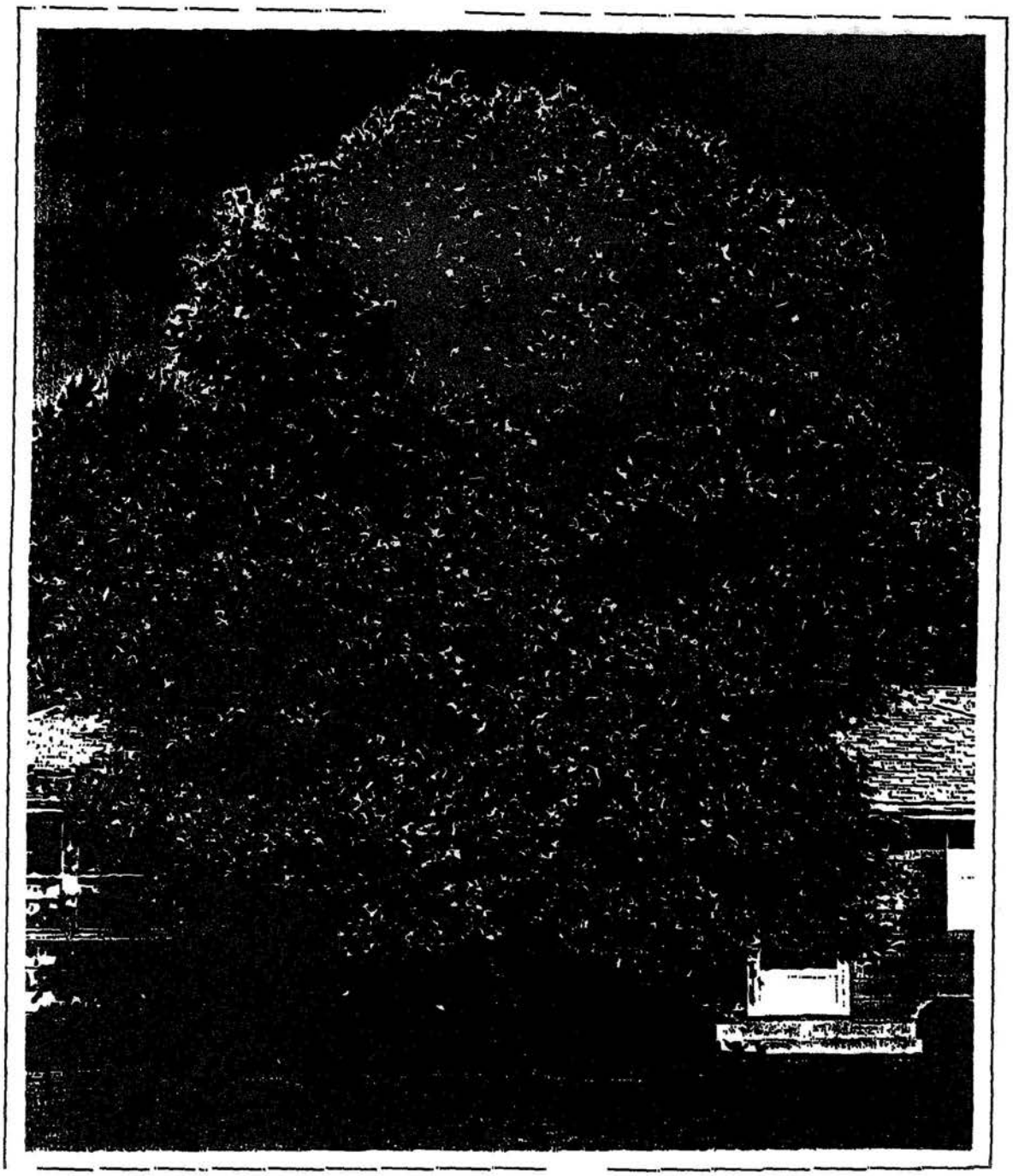


Exhibit 5

LAW OFFICES OF
ANDREA C. FERSTER
1100 SEVENTEENTH STREET, N.W., 10 TH FLOOR
WASHINGTON, D.C. 20036

Andrea C. Ferster
(202) 974-5142

Cornish F. Hitchcock
of counsel
(202) 974-5111

(202) 331-9680 (Fax)

July 26, 2001

Michael Johnson, Zoning Administrator
Building and Land Administration
D.C. Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.W., 2nd Fl.
Washington, D.C. 20002

Re: Building Permit # B435446, 2221 30th Street, N.W.

Dear Mr. Johnson:

I am writing on behalf of Mr. Robert Lehrman to request that a stop-work order be issued with respect to the above-reference building permit, pursuant to 12 DCMR § 117.1. This permit was issued to Mr. Melvin Estrin on March 7, 2001, to undertake extensive alterations and additions to the residential property located at 2221 30th Street, N.W, which is located on Square 2198, Lot 6. Square 2198 is within the boundaries of the Woodland Normanstone Overlay District (WNOD), a tree and slope protection overlay district adopted by Zoning Commission Order No. 713 (Feb. 10, 1992). Mr. Lehrman owns property on the same street as the above referenced site.

The immediate entry of a stop work is necessary because work is being performed in connection with the above-referenced building permit that is contrary to the requirements of the tree removal limitations applicable to the WNOD, 11 DCMR § 1514. Specifically, on or about July 19 or 20, 2001, a mature tulip poplar tree with a diameter of 34 inches and a circumference of more than nine feet located immediately adjacent to the existing structure on the property was apparently damaged during construction. The tree was subsequently felled by construction workers, apparently after receiving a complaint from a neighbor expressing concern about the safety of the adjoining property. An additional mature tulip poplar with a ten foot circumference now shows a fresh gash measuring six to eight inches, which damages also appears to have been inflicted as a result of on-site construction activities. Photographs showing the location and the measurement of the felled tree are attached hereto.

Damage of the tree cannot be characterized as inadvertent or accidental. Mr. Estrin was specifically provided by my client with a copy of the zoning regulations governing the Woodland/Normanstone tree and slope protection overlay district well in advance of the commencement of construction activities, and advised of the necessity of taking "proactive steps in advance, both in your design plans and in your construction site conditions to protect the trees and

their fragile root systems." *See* Letter to Mr. Mel Estrin from Mr. Robert Lehrman (May 28, 1999) (attached). Yet Mr. Estrin apparently failed to prepare a site plan identifying the root zones of the mature trees on the site, establish buffer areas ensuring that construction would not intrude upon the fragile root systems of these trees, or take appropriate and necessary steps prior to commencing construction activities to ensure that construction activities did not damage these trees.

The WNOD was enacted for the purpose of preserving the natural topography and retention of mature trees in the area to the maximum extent feasible by placing strict tree removal limitations on property within the district. The zoning regulations provide that, within such tree and slope protection districts, "[n]o tree that has a circumference of seventy-five (75) inches or more at a height of four and one-half feet above ground shall be removed or cut down." 11 DCMR § 1514.1(c). These restrictions also prohibit "fatally damaging trees . . . having a circumference of twelve includes (12 in.) or greater at a height of four and on-half (4 ½ ft.) above ground." *Id.* § 1514.1(a). Any deviation from these restrictions must be approved by the Board of Zoning Adjustment (BZA) after a public hearing, and subject to specified protective requirements. *Id. §* 1515.1. The only exception to the BZA review requirements applies where an arborist or other tree professional certifies that the tree is dead, unhealthy, or that create an unsafe condition. *Id. §* 1514.1(b)

Here, it is clear that damage to the tree occurred as a direct result of the construction activities on the property, damage that could have been avoided had Mr. Estrin employed standard, generally accepted methods for root zone protection prior to commencing construction activities. Indeed, it is not remotely credible that Mr. Estrin was unaware that the construction of a new addition to the existing structure would damage protected trees, particularly the subsequently felled tulip poplar, which was located immediately adjacent to the site of major excavation activities. Mr. Estrin's failure to request a special exception from the BZA prior to undertaking excavation and construction activities that he both knew and should have known would damage these trees amounts to a willful violation of the tree removal restrictions contained in the zoning regulations.

Nor can Mr. Estrin take advantage of the regulatory of exception applicable to the removal of a dead or unhealthy tree or a tree that creates an unsafe condition." *Id. §* 1514.1(b). This exception was intended to permit the removal of diseased trees or trees damaged by severe weather or other actions beyond the control of the property owner. This exception was never intended to allow property owners to intentionally or recklessly damage trees during construction activities, and then claim the right to remove damaged trees without any review by the BZA or subject to any of the protections conditions that would otherwise be applicable. In any event, there is no evidence that Mr. Estrin even consulted with a tree professional or arborist prior to removing the tree, or that such a professional certified prior to the removal of the tree that removal was necessary because the tree is dead or unhealthy, or creates an unsafe condition, as required by 11 DCMR *§* 1514.1(b).

A stop work order is the appropriate remedy, given the circumstances outlined above. The zoning regulations provide that "[w]here removal or cutting of trees has occurred that would be

prohibited by this section if a building permit were contemporaneously applied for, no building permit shall be issued for a period of seven years from such removal or cutting unless a special exception is granted by the Board of Zoning Adjustment pursuant to Section 1515." *Id.* § 1514.1(b). The plain import of this regulation is to discourage property owners from destroying protected trees on their property in anticipation of planned construction on the site, and to ensure that in the event such destruction occurs, the mandated BZA review of proposed tree removals not be circumvented. Instead, this review must take place prior to the issuance of any new building permit. In the same vein, Mr. Estrin cannot be allowed to continue work on the site pursuant to the above-referenced building permit after taking actions that he either knew or should have known would damage trees on the site, and then removing a tree without the required reviews. Accordingly, a stop work order should be immediately issued directing Mr. Estrin to halt all work under the permit until the BZA has had an opportunity to review the matter and to impose any conditions necessary to further the objectives of the tree and slope overlay district, including conditions necessary to protect the remaining trees on the site.

Please advise me promptly concerning your response to the concerns raised herein. Should you be unwilling to rescind the above referenced building permit, Mr. Lehrman intends to appeal the issuance of the building permit to the Board of Zoning Adjustment.

If you have any questions, please feel free to contact me, at (202) 974-5142.

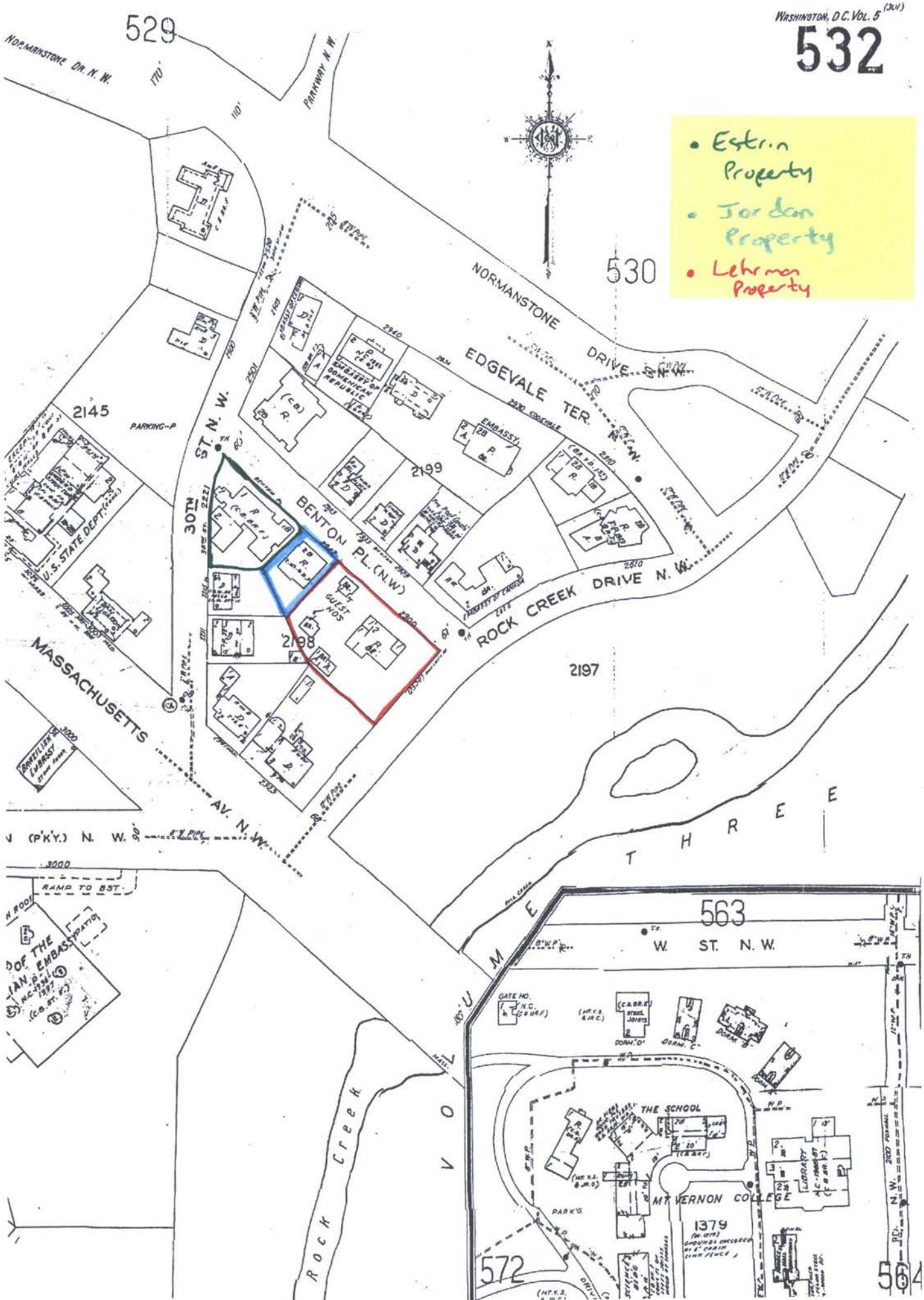
Sincerely,

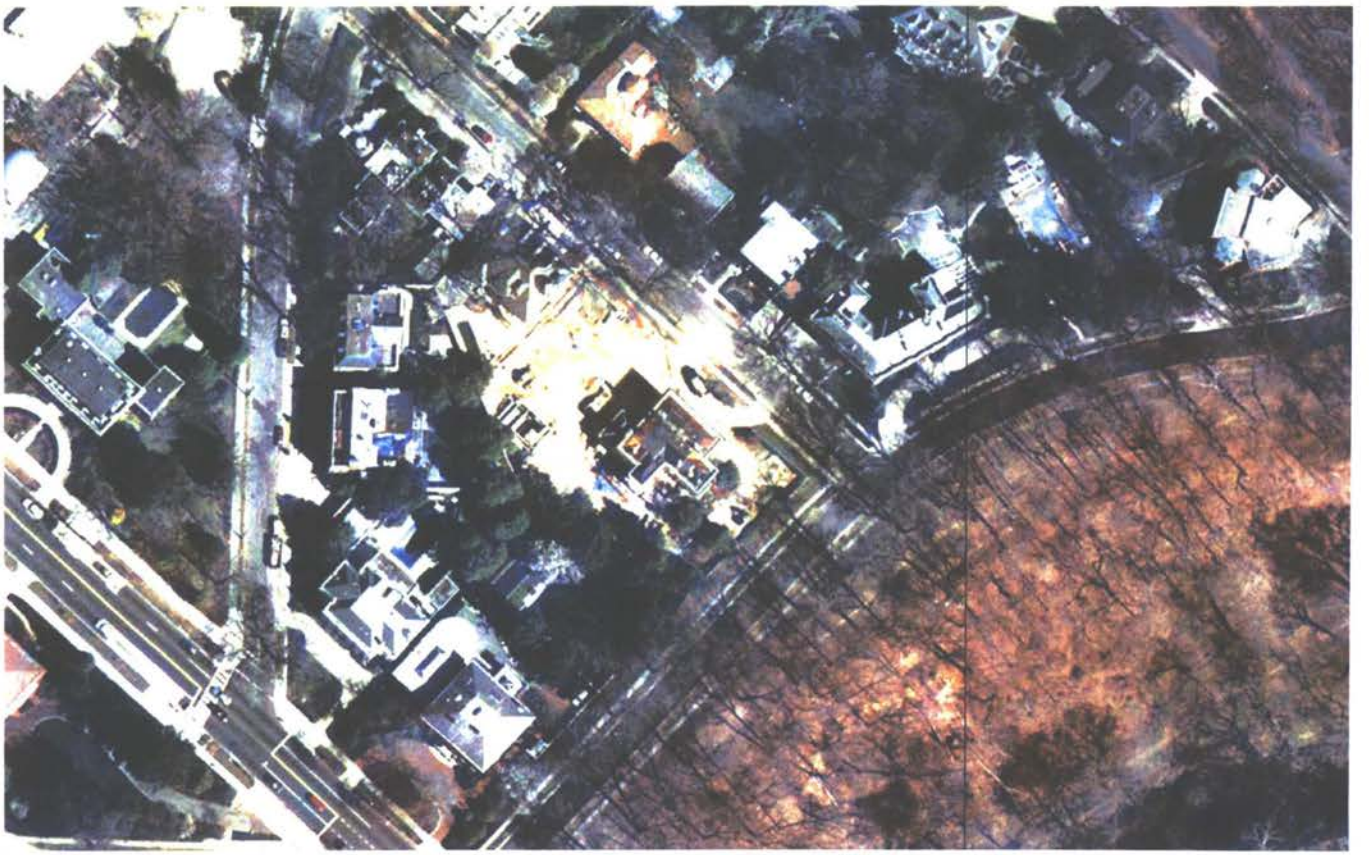


Andrea C. Ferster

Enc.
cc: Hon. Kathy Patterson, Member, D.C. Council
David Clarke, Director, DCRA
Theodore Gordon, Chief Operating Officer, D.C. Department of Health
Nancy Macwood, Chair, ANC 3 C
Laurence J. Aurbach, Woodland Normanstone Neighborhood Ass'n
Robert Lehrman

Exhibit 6


WASHINGTON, D.C. VOL. 5 (3rd)
532
529
530
NORMANSTONE DR. N. W.
PARKWAY N. W.
NORMANSTONE DRIVE
EDGEVALE TER.
2145
PARKING-P
30TH ST. N. W.
BENTON PL. (N.W.)
2199
2198
2197
ROCK CREEK DRIVE N. W.
U.S. STATE DEPT.
MASSACHUSETTS AV. N. W.
RAMP TO BST.
563
W. ST. N. W.
THE SCHOOL
MT VERNON COLLEGE
1379
572
564
ROCK CREEK VALLEY
THREE
• Estrin Property
• Jordan Property
• Lehrman Property



Aerial View of Square 2198, circa 1995.

NORTH

Exhibit 7

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

October 10, 2001

Mr. Melvyn Estrin
Estrin International
7200 Wisconsin Avenue, Suite 600
Bethesda, MD 20814

Re: 30th Street & Benton Place, N.W. (Tree Removal Determination)

Dear Mr. Estrin:

As you are aware, questions have been raised about the removal of a tree along the southeastern property line of your property, which is under construction at the corner of 30th Street, N.W. and Benton Place, N.W. The complaints that have been received assert, among other things, that the removal of the tree outside the existing sidewalk and bordering the property of Mr. & Mrs. Jordan at 2940 Benton Place, N.W., was in violation of the Tree and Slope Protection Overlay District set forth in Chapter 15 of the Zoning Regulations.

I have reviewed correspondence submitted on behalf of Mr. Robert Lehrman, a nearby neighbor, correspondence from Mrs. Ann D. Jordan, the adjacent neighbor to the southeast (2940 Benton Place, N.W.), as well as correspondence from you, including the certification from your tree expert, Lee's Tree Service, that certifies that the tree represented an unsafe condition, and thus required immediate removal. Apparently, this was due to recent rains.

Additionally, I visited the site and observed the construction area as well as the area south of the existing sidewalk on the property where the tree previously existed, adjacent to the Jordan property. Finally, I have carefully examined the Zoning Regulations and the provisions of Chapter 15.

Accordingly, while there may be a question as to whether the Tree and Slope Protection Overlay Zone is even applicable to an area outside the zone of construction, I find, based upon the information that I received and the investigation conducted, that there was an unsafe condition which warranted the removal of the tree under Section 1514.1(b) of the Zoning Regulations. Further, based upon my review, site inspection and understanding of the issues raised, I conclude that there is no violation of the Zoning Regulations and no further enforcement action is required regarding this matter. Should you have additional questions, please

Respectfully,

Michael D. Johnson
Zoning Administrator
District of Columbia

cc: Mr. Toye Bello, Chief, Zoning Review Branch
Mr. Robert Lehrman
Mrs. Ann D. Jordan

MDJ/mdj
Estrin opinion (removal of tree)

Exhibit 8

DISTRICT OF COLUMBIA CODE

ANNOTATED

1973 EDITION

CONTAINING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE, RELATING TO OR IN FORCE IN THE DISTRICT OF COLUMBIA (EXCEPT SUCH LAWS AS ARE OF APPLICATION IN THE DISTRICT OF COLUMBIA BY REASON OF BEING GENERAL AND PERMANENT LAWS OF THE UNITED STATES), IN FORCE ON JANUARY 2, 1973

NOTES TO DECISIONS THROUGH DECEMBER 1972

VOLUME ONE

TITLE 1—ADMINISTRATION
TO
TITLE 17—REVIEW

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

C. That the Corporation Counsel and such of his assistants as he may designate in writing are hereby authorized to execute in the name of the District of Columbia any release in connection with the settlement of any claim of the District of Columbia in the following cases:

1. Where the full amount of the claim as it appears on the books of the Accounting Office has been paid; or

2. Where the full amount set forth in the original demand for payment has been paid; or

3. Where the full amount of any settlement or compromise as approved by the Commissioners has been paid; or

4. Where damaged property of the District of Columbia has been satisfactorily repaired at the expense of the party responsible for such damage.

D. That the Corporation Counsel is hereby authorized to waive any claim and release any lien arising under the provisions of Section 18 of the Public Assistance Act of 1962 (Section 3-217, D.C. Code, 1967 ed. [now 1973 ed.]) when, in his judgment, such waiver or release is appropriate.

CHANGE OF NAME

"Public Utilities Commission", wherever it appears in this order, was changed to "Public Service Commission of the District of Columbia" by Act Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21. See § 2-2418.

[The name of the Municipal Court, wherever it appears in this order, was changed to "District of Columbia Court of General Sessions" by Act July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; and subsequently changed to "Superior Court of the District of Columbia" by Act July 29, 1970, Pub. L. 91-358, § 155(a), 84 Stat. 570.]

[The name of the Municipal Court of Appeals was changed to "District of Columbia Court of Appeals" by Act July 8, 1963, 77 Stat. 78, Pub. L. 88-60, § 6; and subsequently again changed to "District of Columbia Court of Appeals" by Act July 29, 1970, Pub. L. 91-358, § 155(b), 84 Stat. 570.]

REORGANIZATION ORDER NO. 51.—OFFICE OF THE CORONER

Reorganization Ord. No. 51, L.S. 4241-B, June 29, 1953, as amended July 17, 1953, and Mar. 5, 1965, was rescinded by section 3 of Commissioner's Order No. 71-16, dated Jan. 26, 1971, which also transferred all positions, personnel, property, records and unexpended balances of appropriations, allocations, and other funds available or to be made available, related to the functions assigned to the Office of the Coroner, to the Office of the Chief Medical Examiner. Commissioner's Order No. 71-16 is set out as a note under section 11-2301.

REORGANIZATION ORDER NO. 52.—DISTRICT OF COLUMBIA POUND

Reorganization Ord. No. 52, June 30, 1953, as amended Apr. 3, 1958, combined with Reorganization Order 57, amended and redesignated as Organization Order No. 141, dated Feb. 11, 1964, and effective Feb. 11, 1964.

REORGANIZATION ORDER NO. 53.—DEPARTMENT OF HIGHWAYS AND TRAFFIC

Reorg. Ord No. 53, June 30, 1953, which established a Department of Highways and Traffic, was redesignated Organization Ord. No. 122.

REORGANIZATION ORDER NO. 54.—DEPARTMENT OF VEHICLES AND TRAFFIC

Reorg. Ord. No. 54, June 30, 1953, which established a Department of Vehicles and Traffic, was repealed May 17, 1955, by Organization Orders No. 105, 106, 107, and 108.

REORGANIZATION ORDER NO. 55.—DEPARTMENT OF LICENSES AND INSPECTIONS

[Functions as stated in Reorg. Ord. No. 55 were transferred to the Director of the Department of Eoconomic Development by Commissioner's Order (Organization Action) No. 69-96, dated Mar. 7, 1969, as amended.]

Reorganization Ord. No. 55, L.S. 4263-B, June 30, 1953, as amended Aug. 13, 1953, Dec. 17, 1953, June 30, 1954, Oct. 26, 1954, Aug. 11, 1955, Jan. 31, 1956, July 10, 1956, Oct. 2, 1956, Oct. 16, 1956, June 13, 1957, Nov. 27, 1957, July 22, 1958, June 1, 1960, Feb. 21, 1961, Nov. 7, 1961, Dec. 4, 1962, May 12, 1964, June 17, 1965, Mar. 16, 1967, and Feb. 28, 1969, ordered that:

PART I

Department of Licenses and Inspections.—There is established under the direction and control of a Commissioner, a Department of Licenses and Inspections headed by a Director. The Director shall have full authority over such Department and all functions and personnel assigned thereto, including the power to redelegate to other officials and employees of the Department such of the powers herein delegated as, in his judgment, are warranted in the interests of efficiency and good administration. However, the power to grant variances from the requirements of the housing code shall be limited to the Director and Deputy Director or, in their absence, the Acting Director of the Department. All authority vested in the Director shall be exercised in accordance with applicable laws, rules, and regulations.

PART II

Purpose.—The Department of Licenses and Inspections is established for the purpose of: administering the laws enacted by Congress and the regulations for the control of construction, zoning and occupancy use, erection, maintenance and repair, inspection and removal of all buildings and their appurtenances, and electrical and mechanical equipment within the District of Columbia, excepting public buildings or premises under the control of the Federal Government; enforcing the Consumer Affairs Regulations (effective July 1, 1969); administering the D.C. Standard Weights and Measures Law [D.C. Code, § 10-101 et seq]; supervising and controlling the municipal markets and collecting annual revenue for rents and space and for wharfage at the Municipal Fish Wharf [D.C. Code, § 10-135]; administering the License Act of 1932, as amended [D.C. Code, § 47-2301 et seq.], and regulations promulgated thereunder requiring licenses of certain businesses and callings in the District of Columbia; administering the acts requiring licenses for Cooperative Associations, Credit Unions, Pawnbrokers, and Loan Brokers; administering such portions of the Acts as require licenses for: Cigarette Vending Machine Operators and Retail and Wholesale Cigarette dealers [D.C. Code, § 47-2804]; administering the portions of the Act of July 5, 1945 which require the payment of a dog tax and the issuance of a dog tag [D.C. Code, § 47-2001 et seq.]; administering the provisions relating to the licensing of peddlers and the granting of permits for the use of public space contained in the act of August 6, 1956, known as the "Presidential Inaugural Ceremonies Act [D.C. Code, §§ 1-1202, 1-1204];" administering and interpreting all laws and regulations governing housing in the District of Columbia; and proposing to the Commissioner appropriate provisions for codes and regulations relating to such housing: provided, however, that the Department of Public Health shall fully collaborate in the development and presentation to the Commissioner of such proposed provisions to the extent that they affect the public health of the community and its individual members.

PART III

Organization and functions.—There are established in the Department of Licenses and Inspections the following organizational components, responsible for the performance of the functions outlined below consistent with the purpose specified above:

A. *Office of the Director.*

1. Develops and proposes to the Board of Commissioners major policies and procedures, regulations and revisions thereto, on licensing, permit and certificate issuance, inspection, and related regulatory activities within the purview of the Department's functions, including the issuance of collateral notices in the enforcement of orders for compliance with applicable codes, regulations and statutes administered by the Department.

2. Administers and interprets all housing regulations of the District of Columbia. The Director shall in writing effect a specific delineation of responsibilities between himself and the Deputy Director, particularly in connection with development, interpretation, and enforcement of standards and regulations relating to housing.

3. Plans the programs and prescribes the policies of the Department, and plans, directs, coordinates, and supervises its activities.

4. Advises and assists the Commissioner to whom the Department is assigned on all matters falling within the purview of the Department.

5. Develops, presents, and justifies departmental budget estimates.

6. Prescribes the forms to be used for licenses, permits and certificates issued by the Department and approves the adoption and installation of such systems and equipment as are required for the Department.

7. Conducts engineering studies and research for the purpose of establishing technical standards in the public interest, covering licensing, inspections, and other regulatory activities of this Department.

8. Upon referral by the License and Permit Division, reviews other Departments' recommendations (except for those of the Department of Public Health) relating to the issuance or renewal of licenses, permits, and certificates issued by the Department of Licenses and Inspections, and where such recommendations, in the light of the facts alleged by the recommending Department, appear to be inconsistent with the language and intent of the applicable laws and regulations, modifies or reverses them.

9. In cases where a recommending department head determines that violations of regulations are causing conditions that are imminently dangerous to health, safety or welfare, he summarily suspends the license, permit, or certificate, which suspension continues and precludes any renewal until the condition is corrected. In all other cases, after due notice which specifies violations and reasons for proposed action, and after expiration of 7 days from date of service, to allow for appeal to the Board of Appeals and Review, and if no appeal is noted, suspends or revokes licenses, permits or certificates.

10. Administers the housing code of the District of Columbia, and is authorized to grant such variances from the terms of the Housing Code as may be permitted by the provisions thereof. In his discretion, may refer cases under consideration for the granting of a variance, without final decision, to Board of Appeals and Review for latter's action. Periodically, but not less often than once each month, prepares and submits to the Board of Commissioners, with an information copy to the Board of Appeals and Review, a summary listing of all variances granted by the Department's officials under the Housing Code during the period and the reasons therefor.

11. Notifies owners of any real property in the District of Columbia to abate any nuisance or to correct any condition which exists on or has arisen from such property in violation of law or of any regulation made by authority of law, the abatement or correction of such nuisance or condition said owners are by law or by said regulation chargeable. If the owner of said property cannot be found within the District of Columbia, notifies the Secretary of the Board of Commissioners who shall cause a notice to be published to such owner in the manner required by law or regulation. After the service of notice, if the owner of said property shall fail or refuse to abate such nuisance or to correct such condition, or shall fail to show cause sufficient in the judgment of the Director of Licenses and Inspections why he should not be required to abate or to correct such nuisance or condition, said Director shall notify either the Director of Buildings and Grounds or the Director of Sanitary Engineering, as the character of the nuisance or condition requires, who shall cause the nuisance to be abated or the condition to be corrected subject to assessment as provided by law.

12. Notifies the Director of Public Health and the Assessor, in writing, of each abatement of nuisance or correction of illegal condition case initiated.

13. Upon notification from the Director of Buildings and Grounds or the Director of Sanitary Engineering, as appropriate, that a nuisance has been abated or an illegal condition has been corrected, arranges for reimbursement to the Department concerned for the cost of such abatement or correction and furnishes the Assessor a statement of the exact cost, including the cost of publishing notices, if any, of each case completed.

14. Upon notification from the Chief of Police that an owner of real property in the District of Columbia has neglected or refused to abate any nuisance or to correct any condition which exists on or has arisen from such property in violation of law or of any regulation made by authority of law, initiates such action as is necessary, in accordance with the provisions contained in Parts III A 11, 12 and 13 herein, to cause such nuisance or illegal condition to be abated or to be corrected.

15. The authority vested herein to initiate action in connection with the abatement of a nuisance or the correction of an illegal condition shall be limited to such cases as directly pertain to the functions assigned to the Department of Licenses and Inspections.

16. After receipt of a recommendation from the License and Permit Division, upon due notice, and after expiration of a reasonable period for a request for a hearing, and if no hearing has been requested within such period of time, or based upon a review of the record of such hearing if one has been held, denies, revokes or suspends Pawnbrokers' Licenses and prepares and serves on the applicant or licensee written decisions and findings with respect thereto.

B. *Office of Administration.*

1. In collaboration with operating divisions, performs non-technical studies necessary to determine, for the Director, problem areas in pertinent existing codes and regulations. With assistance of operating divisions and research engineer in office of Director, coordinates with other Departments, as appropriate, Department planning and programming for preparing and revising applicable codes and regulations, and makes recommendations thereon to the Director. After approval by the Zoning Commission, is responsible for the printing, distribution and sale of Zoning Regulations. Prepares for the Director regulations and appropriate revisions thereto, incorporating in them pertinent approved technical revisions of research engineer, operating Divisions and other Departments, as appropriate, covering licensing, permit and certificate issuance, inspection, and related regulatory activities. Provides administrative service for research engineer in office of the Director.

2. Prepares procedural manuals for the Department to govern licensing, permit issuance, and inspection, and plans and conducts the training of the Department's personnel.

3. Plans, directs, coordinates, and administers a comprehensive program for the Department's accounting, procurement, administrative services, personnel, and management improvement activities.

4. Prepares, for the Director, programs and plans of operation, including budget requests and justifications, and periodic and annual reports.

5. Collaborates and maintains liaison with the staff offices of the Department of General Administration and with the offices of the Department of Licenses and Inspections on administrative programs.

6. Plans, develops, and installs standard department-wide reporting systems which will furnish detailed data on employee performance, personnel requirements, Department operations, and activity costs.

7. Subject to approval of Department Director, develops and installs systems, procedures, forms, records, and other related matters for the Department.

8. Maintains the Department's Central Files. Such files contain records pertaining to Permit and Certificate issuance and inspection reports of completed work. Is responsible for developing procedures and systems to include other categories of Departmental records not presently serviced by the Central File system.

C. *Housing Division.*

1. In collaboration with the Department of Public Health, develops and submits to office of the Director of the Department, through the Office of Administration, for review and presentation to the Board of Commissioners, proposed standards and regulations, and revisions to and interpretations of standards and regulations, relating to the housing code of the District of Columbia.

2. Administers and executes the District Government's program for improving housing under the housing regulations, and conducts all initial inspections of housing

under the housing regulations of the District of Columbia, with the exception of those performed by the Fire Department.

3. When the premises inspected are in compliance with the housing regulations, so notifies the License and Permit Division which will in turn so inform the owner of the premises. When deficiencies are noted, prepares notice citing specific shortcomings and remedial work required; routes such notice to Inspection Division, which may, in its discretion, further inspect the premises insofar as mechanical, electrical, and structural deficiencies are involved and further specify deficiencies and remedial work to be performed, prior to transmittal of the deficiency notice to License and Permit Division. In cases of extreme insanitation, refers facts immediately to Board for Condemnation of Insanitary Buildings for appropriate action by such Board.

4. Responsible for noting structural defects and referring them to the Inspection Division, and for seeing that houses are free of insects, pests, rodents, and vermin. When, in the course of inspections under the housing regulations or in response to complaints, evidence of infestation by insects, pests, rodents, or vermin is encountered, requests the Department of Public Health to undertake or supervise proper fumigation or extermination.

5. Supervises ways and methods to assure adherence to proper standards of hygiene for human habitation and related matters in residential premises; heating, lighting, ventilation, aerial pollution, noises and public health nuisances related to housing and dwelling premises; crowding and sanitation of living quarters; and health hazards associated with living units.

6. Receives and responds to all complaints regarding housing and takes necessary action.

D. *Inspection Division.*

1. Examines and approves plans for new construction, structural alteration, or repair, and conducts inspections to assure that the actual construction, alteration, or repair is in conformance with the applicable legal and regulatory requirements.

2. Reviews deficiency notices transmitted by Housing Division, conducts further inspections as may be necessary in connection with mechanical, electrical and structural deficiencies and, as may be necessary, adds to citations of specific deficiencies and remedial work required.

3. Where permits are requested to perform work necessary to remedy failures to comply with the housing regulations, examines plans to ascertain whether they are sufficient to remedy such deficiencies. Upon completion of work required to remedy deficiencies under the housing regulations, inspects to ascertain whether deficiencies have indeed been remedied.

4. Conducts inspections to assure that all buildings, structures, their equipment and appurtenances, and all excavations, are in compliance with applicable regulations; takes action to secure correction of deficiencies, either through repair or alteration, through the condemnation of unsafe structures (subject to the limitations imposed in subparagraphs 5, 6, and 7 which follow), elimination of the unsafe conditions.

5. Where, after examination, it is determined that the public safety requires immediate action to correct an unsafe structure or excavation, directs the performance of work to correct the unsafe structure or excavation either through: shoring up, taking down, or otherwise securing the structure or excavation, including the providing of any fence or boarding necessary to protect passers-by.

6. Where, after examination, it is determined that an unsafe structure or excavation exists, and is in need of correction, but the public safety does not require immediate action, takes the necessary action to notify the owner, agent, or other person having an interest in said structure or excavation to cause the same to be made safe and secure.

7. If the owner, agent, or other party interested in said unsafe structure or excavation shall refuse or neglect to comply with the requirements of said notice, the case will be reviewed by the Department Director, and if he approves the action of the Inspection Division the case will be referred to the Unsafe Structures and Excavations Board, which shall make a careful survey of the premises, and make a report of such survey as required by law. If the report of the Unsafe Structures and Excavations Board shall declare the structure or excavation to be unsafe, the Division performs the operating functions essential to correcting the unsafe condition.

8. Conducts inspections concerning the installation and operating condition of elevators, and of plumbing, electrical, smoke and boiler, and refrigeration equipment; takes action to secure correction of any deficiencies disclosed.

9. Conducts inspections necessary to provide adequate safeguards to the public safety and health; evaluates the effectiveness of the existing regulations pertaining to minimizing the contaminants polluting the air and proposes changes in regulations deemed necessary to achieve the overall air pollution control objectives.

10. Receives, reviews, and recommends approval or denial of requests for licenses or permits referred to the Division for action.

11. Enforces the standard weights and measures law for the District of Columbia, and regulations promulgated thereunder.

12. Supervises and operates the Municipal Markets, including responsibility for plant protection, exercise of the police power described in Title 10, § 10–126, D.C. Code (1951 ed. [now 1973 ed.]) custodial services, repair, collections, and miscellaneous administration.

13. Advises and assists the Department Director on matters pertaining to the inspection activities of the Division.

E. *License and Permit Division.*

1. Processes and issues licenses, permits, and certificates for: the operation of businesses (including those as retail sellers or sales finance companies as specified in the Consumer Affairs Regulations (effective July 1, 1969)); building and certain other types of construction and alteration or repair; building use; and other miscellaneous matters requiring a license, permit, or certificate.

2. Provides advice and assistance to the public as to the requirements for license, permit, and certificate issuance, the preparation of applications, and the explanation of regulations governing such matters.

3. Serves as the central point from which the public requests licenses, permits, and certificates; receives, reviews, sorts, routes, and controls all such applications during their processing.

4. Normally notifies applicants of approval or disapproval of their applications for licenses, permits, and certificates issued by the Department. Upon receipt of recommendations of approval from the Housing Division, the Inspection Division, Zoning Division, the Fire Department, the Department of Public Health, and other departments, as appropriate, issues licenses, permits, certificates, or other notices of compliance with applicable regulations. Upon receipts of recommendations of disapproval from the Divisions of the Department of Licenses and Inspections and other departments, examines data received and requests supplemental data if necessary for complete clarity. Prepares consolidated list of deficiencies and remedial actions required, and furnishes copy to applicant with advice that applicant, if he desires to discuss the matter or secure further information, may meet for such purpose with D.C. Government officials concerned; if applicant desires such meeting, refers him to the officials involved or arranges meeting with such officials, as appropriate. Upon receipt of notice from agencies involved in such meetings as to whether they desire to revise their findings or recommendations as a result of the meeting, advises applicant of such determinations and, in non-approval cases, notifies applicant in writing that if deficiencies are not remedied as required, license, permit, certificate, or other form of approval will be denied; except that where recommendations made by any of the recommending agencies (except the Department of Public Health in connection with inspections for which that Department is responsible), in the light of the facts alleged by the recommending agency, may appear to be inconsistent with the language and intent of the applicable laws and regulations, refers such recommendations together with all pertinent details to the Office of the Director for review and determination. In inspectional

matters for which the Department of Public Health is responsible, as outlined in Reorganization Order No. 57, as amended, the action taken shall be the same as that recommended by the Department of Public Health. All determinations relative to these matters may be appealed to the Board of Appeals and Review, and a statement to this effect shall be incorporated in all notices of unfavorable action sent to members of the public.

In cases in which renewal or transfer of licenses requires exercise of discretion and in which licenses were in effect for the year immediately preceding, may issue or transfer such licenses forthwith.

In case of renewal actions which are purely ministerial in nature, renews the permit or certificate without referral to other units of the Department or outside the Department.

When warranted, recommends to the Director the denial, revocation, or suspension of a Pawnbroker's license.

5. Recommends to the Board of Appeals and Review suspension or revocation, for good and sufficient cause, of licenses, permits, and certificates previously issued subject to such review as may be indicated by the Department Director.

6. In those instances in which an appeal is made to the Board of Appeals and Review, except where only a determination by the Department of Public Health is in question, the case will be reviewed by the Department Director or his designee before being submitted to the Board of Appeals and Review. Cases forwarded to the Board of Appeals and Review shall be fully documented so that the Board may be appraised of what has transpired prior to the appeals action, as well as the basis for the denial or proposed suspension or revocation of the license, permit, or certificate. Based upon the decision of the Board of Appeals and Review, performs the operating functions essential to denying, revoking, suspending, or restoring the license, permit, or certificate, as the case may be.

7. Inspects and controls the operations of loan companies, pawnbrokers, motor vehicle dealer sales contracts, and such other appropriate areas of business regulation as the Commissioners may prescribe.

8. Collaborates with the Office of the Collector of Taxes in developing and administering procedures relating to facilities for the collection of fees.

9. Investigates and takes necessary action to obtain compliance with the license, permit, and certificate laws and regulations (such as the Consumer Affairs Regulations (effective July 1, 1969)) enforced by this Department; furnishes expert services to other offices of the Department in non-compliance cases brought to Court; collaborates with the Office of the Corporation Counsel in representing the interests of the Department in legal matters; and provides expert testimony in court as required.

10. Acts as attorney-in-fact for licensed pawnbrokers for the purpose of receiving judicial and other processes and legal notices.

11. In the inspection and control of the operations of licensed pawnbrokers, the Chief of the License and Permit Division is authorized to require by subpena the production of books, papers, and records and the attendance, and examination under oath of all persons whomsoever whose testimony he may require relative to the loans of business of any such licensee, and he shall possess the power vested in the Commissioners by the Act of July 1, 1902 (D.C. Code, 1951 ed. [now 1973 ed.], § 1-237) to administer oaths, and he and his designated representatives are authorized to have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under a pawnbroker's license.

12. Certifies on the District of Columbia motor vehicle operator's permit issued to an applicant for a parking lot attendant's license, in the space on such permit set aside for "restrictions", the number of the license issued such applicant and its expiration date.

13. Assists retail businesses or sales finance companies in devising their installment contract and other forms to comply with the Consumer Affairs Regulations (effective July 1, 1969).

F. *Zoning Division.*—The Zoning Division shall be headed by a Zoning Administrator who shall be responsible for administratively interpreting and enforcing the Zoning regulations.. All authorities and powers delegated to the Zoning Administrator are delegated through the Director of Licenses and Inspections; however, appeals from zoning decisions by the Zoning Administrator which are properly appealable under the Act of June 20, 1938 to the Board of Zoning Adjustment shall be made direct to said Board of Zoning Adjustment.

The Zoning Division shall be responsible for the performance of the following specific functions:

1. Administers and enforces the Zoning Regulations of the District of Columbia.

2. Administratively interprets the Zoning Regulations and makes administrative decisions thereon. Reviews and approves subdivision proposals for compliance with the Zoning Regulations.

3. Reviews applications for building permits and for certificates of occupancy, and supervises inspections of premises, buildings and other structures in connection therewith to determine if existing or proposed structures and uses comply with the provisions of the Zoning Regulations. Approves or rejects all such applications on the basis of the Zoning Regulations.

4. Develops and furnishes the Office of the Zoning Commission, the National Capital Planning Commission, and other agencies, research and planning data accruing within the Department of Licenses and Inspections for zoning, land use, and other operational needs.

5. Upon the basis of experience in the administration and enforcement of the Zoning Regulations or upon observance of defects in them, may propose changes in the regulations and maps.

6. Prepares and maintains a register of all nonconforming uses. Inspects periodically nonconforming uses and conducts a control operation to bring about elimination of such uses under existing laws and regulations.

7. Inspects intermittently all properties in the District of Columbia to determine compliance with the Zoning Regulations and compliance with conditions imposed by the Board of Zoning Adjustment.

8. Conducts periodic instrument surveys of commercial and industrial properties to determine compliance with the standards of external effects set forth in the Zoning Regulations.

9. Establishes and maintains a zoning information office for use by the public on all matters relating to the Zoning Regulations and Maps and their administration and enforcement.

10. Upon request by the Zoning Commission or the Board of Zoning Adjustment, appears before the requesting body to present to such body facts and administrative interpretation and, on specific request, may make recommendations to assist those bodies in reaching decisions.

11. Maintains permanent and current records relative to the administration, interpretation, and enforcement of the Zoning Regulations.

12. In the enforcement of the Zoning Regulations presents facts and recommendations to the Corporation Counsel for possible prosecution in the courts, provides expert testimony as required and collaborates with the Corporation Counsel in all legal matters where the Corporation Counsel is either enforcing the zoning laws or regulations, or defending a lawsuit arising under the zoning laws or regulations, and maintains a complete record of such actions and their final disposition.

G. *Office of Consumer Affairs.*

1. Conducts studies, investigations and research with respect to retail transactions involving consumer goods and services and retail installment contracts or instruments of security arising from retail installment transactions including collection of the debt or enforcement of the security interest arising from such contracts or instruments.

2. Conducts educational programs, collects and disseminates information with respect to retail transactions in the District of Columbia as described in Paragraph 1 above.

3. Advises with other District Government agencies, when appropriate to assure enforcement of all laws and

regulations designed to provide adequate protection to consumers.

4. Advises, consults and cooperates with other governments in the Washington metropolitan area either directly or through the Council of Governments, and with other interested persons and groups, including business, civic, and citizen organizations regarding consumer affairs, as described in Paragraph 1 above.

5. Promotes and encourages "self-policing" by business, professional and trade groups. Encourages voluntary cooperation in compliance with all District of Columbia regulations involving retail transactions.

6. Evaluates effectiveness of existing regulatory measures of the District and Federal Governments in providing adequate protection to consumers, and recommends laws or regulations when deemed appropriate to assure adequate protection and recommends modifications in existing laws and regulations where less stringent measures would appear to be adequate.

PART IV

Transfers.—A. There are hereby transferred to the Department of Licenses and Inspections all functions and positions of the following named organizations and their subordinate agencies, including all duties, powers, and authorities in connection therewith of all officers and employees assigned thereto:

Department of Inspections:
- Engineering Section.
- Building Inspection Section.
- Electrical Inspection Section.
- Elevator Inspection Section.
- Fire Safety Inspection Section.
- Plumbing Inspection Section.
- Smoke and Boiler Inspection Section.
- Administrative Section.

Department of Weights, Measures, and Markets.

License Bureau.

Central Permit Bureau.

License Committee.

B. *Positions.*—The following positions are hereby transferred from the Department of Public Health to the Department of Licenses and Inspections:

21-15-2	Assistant Director	GS-12
71	Public Health Engineer	GS-11
4	Assistant Chief Sanitary Inspector	GS-8
8	Sanitary Inspection Supervisor	GS-7
11	Sanitary Inspection Supervisor	GS-7
12	Sanitary Inspection Supervisor	GS-7
13	Sanitary Inspector and Instructor	GS-6
16	Sanitary Inspector and Instructor	GS-6
17	Sanitary Inspector and Instructor	GS-6
18	Sanitary Inspector and Instructor	GS-6
69	Condemnation Aide	GS-6
70	Condemnation Aide	GS-6
23	Sanitary Inspector	GS-5
28	Sanitary Inspector	GS-5
30	Sanitary Inspector	GS-5
34	Sanitary Inspector	GS-5
35	Sanitary Inspector	GS-5
36	Sanitary Inspector	GS-5
37	Sanitary Inspector	GS-5
38	Sanitary Inspector	GS-5
41	Sanitary Inspector	GS-5
43	Sanitary Inspector	GS-5
45	Sanitary Inspector	GS-5
66	Sanitary Inspector	GS-5
67	Sanitary Inspector	GS-5
72	Secretary	GS-5
5	Secretary	GS-4
7	Clerk-typist	GS-3

C. Except for committee members, serving as such in addition to their regular duties, who are not full-time employees of any of the organizations transferred herein, all personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, relating to the functions and positions transferred in Sections A and B of Part IV above, are hereby transferred to the Department of Licenses and Inspections.

PART V

Transfer From New Department.—The Director of the Department of Licenses and Inspections, working in close cooperation with officials of the Departments concerned, shall:

A. Develop a program and procedures to abolish as separate entities the Fire Safety and Egress Section, eliminating those functions which duplicate activities of other segments of the Department and other Departments.

1. Such a proposed program shall take cognizance of the fact that the Department of Licenses and Inspections continues as the enforcement and interpreting authority in all matters pertaining to the construction, alteration, repair, installations, zoning and occupancy use and appurtenances of buildings and structures, as set forth in D. C. Building, Plumbing, Electrical Codes, Elevator, Sign, Zoning, Refrigeration and Air Conditioning, Gas Fitting, Boiler Inspection, rules and regulations governing installation of fuel burning equipment, and the D. C. housing regulations, while the Fire Prevention Division has the primary responsibility for conducting egress and fire prevention inspections.

2. The program shall provide for the transfer, reassignment, or separations of personnel previously assigned to the Fire Safety and Egress Section, and for the disposition of all positions and funds available to the Fire Safety and Egress Section.

PART VI

Adjusting Fees for Licenses, Permits, Certificates, and Transcripts.—A. The Director of the Department of Licenses and Inspections is hereby assigned the responsibility for recommending to the Board of Commissioners the fees to be charged for all licenses, permits, certificates, and transcripts of records issued by that Department, which the Commissioners are authorized to establish, and for recommending to the Zoning Commission the fees for occupancy permits.

B. The Director of the Department of Licenses and Inspections is also assigned the responsibility for recommending to the Board of Commissioners proposed legislation concerning the fees to be charged for licenses, permits, certificates, and transcripts of records, where legislation is required to accomplish changes in the fees charged.

C. A study shall be undertaken as soon as practicable to determine what such charges shall be and specific recommendations shall be submitted to the Board of Commissioners as soon as the study has been concluded.

D. In arriving at the proposed fee schedules, the charge shall be based upon the costs as outlined in the District of Columbia Code, i. e., in the case of business licenses, the costs "* * * will be commensurate with the cost to the District of Columbia of such inspection, supervision, or regulation * * *" and in the case of permits, certificates, and transcripts of record "* * * said fees to cover the cost and expense of the issuance of said permits and certificates and of the inspection of the work done under said permits. * * *"

E. The directors of all other District Government departments who are concerned with the costs of such processing shall provide the Director of the Department of Licenses and Inspections with pertinent cost data for use in arriving at the total costs to be charged for licenses and permits.

F. The Director, Department of Licenses and Inspections, is assigned the responsibility of biennially making cost studies and revising the costs for all licenses, permits, certificates, and transcripts of records issued by that Department; *Provided*, That such studies shall be completed in time to permit the Board of Commissioners to make revisions in the schedules, such revisions to be effective in the last half of calendar year 1958 and every two years thereafter; and, *Provided further*, That the Director, Department of Licenses and Inspections, may make such cost studies and revise the costs for any one or more of such licenses, permits, certificates, and transcripts of record more frequently at his discretion, when circumstances warrant. The Director, Department of Licenses and Inspections, is further assigned the responsibility for recommending to the Board of Commissioners any necessary changes in the fees for such licenses, permits, certificates, or transcripts of record; such recommendations are to be submitted to the Board of Commissioners in sufficient time to allow adequate notification to the public prior to the effective date of changes in the fees to be charged.

PART VII

Establishing a Work Measurement and Cost Accounting System.—A. In order to simplify and facilitate the adjustment of fees in the future, the Director of the Department

of Licenses and Inspections is hereby assigned the responsibility for developing and installing a work measurement and cost accounting system for the Department which will provide the following:

1. Data as to workload, productivity, costs, and revenues:

2. Cost data to be used to recommend the adjustment of fees for licenses and permits;

3. Data to prepare and justify budget estimates.

4. Data to be used as a basis for preparing the quarterly reports to the Board of Commissioners to inform them as to performance, work status, and operation of the Department.

5. Data from which the Department's personnel needs can be scientifically determined.

B. In developing the system to be installed, the Director of the Department of Licenses and Inspections shall call upon the Budget Office, the Accounting Office, and the Management Office for technical advice and assistance, and the system shall be reviewed by the Director of General Administration before adoption.

C. The study shall also encompass the data which must be maintained by other departments—Department of Public Health, Police Department, Fire Department, Department of Highways, Department of Sanitary Engineering, and any others—for the adjustment of fees for licenses, permits, certificates, and transcripts of records. The Director of the Department of Licenses and Inspections shall contact all such departments and they shall participate in the development of the records which are to be maintained by them. Such records must of necessity, be designed to fit in with the over-all system which is developed.

PART VIII

Unsafe Structures and Excavations.—In accordance with the provisions of § 5–502, D.C. Code, 1951 edition [now 1973 ed.], when the public safety does not, in the judgment of the Director of Licenses and Inspections, demand immediate action to make a structure or excavation safe and secure or to remove such structure or excavation, if the owner, agent, or other party interested in said unsafe structure or excavation, having been notified, shall refuse or neglect to comply with the requirements of said notice within the time specified, then a careful survey of the premises shall be made by three disinterested persons, one to be appointed by the Chairman of the Board of Appeals and Review acting as agent for the Commissioners of the District of Columbia, one by the owner or other person interested, and the third to be chosen by these two, and the report of said survey shall be reduced to writing, and a copy served upon the owner or other interested party.

Disinterested persons serving as members of Unsafe Structures and Excavations Boards of Survey, other than employees of the District of Columbia Government and members appointed by owners or other interested parties, shall each be paid from District of Columbia funds a fee of $50 a day.

PART IX

Recommendations for Improvement.—It is recognized that the licensing and inspection operations of the District of Columbia Government are currently in a state of rapid transition to meet the ever increasing needs of the local community, particularly with respect to habitable premises. Therefore, the Director of the Department of Licenses and Inspections shall prepare and submit to the Board of Commissioners, on or before December 31, 1954, a plan for training and reassignment of personnel, and any recommendations which he may care to make with respect to internal organization of the Department to achieve the objectives of more effective and economical operations, improved utilization of personnel, elimination of overlapping and duplicative inspections, and simplification of procedures. These recommendations shall be coordinated with the Department of General Administration prior to their submittal to the Board of Commissioners. Particular attention should be given to the desirability of reducing the number of inspectors now required to visit and inspect premises.

PART X

Repeal of Previous Orders.—All Commissioners' Orders or parts of Commissioners' Orders in conflict with the provisions of this Order are, to the extent of such conflict, hereby repealed.

PART XI

Effective Date.—The foregoing provisions of this Order, as amended, shall become effective on June 30, 1954.

PART XII

Gas Code and Appliance Technical Committee.—There is hereby established a Gas Code and Appliance Technical Committee, composed of such members as the Board of Commissioners desires to appoint, which shall serve in an advisory capacity to the Director of Licenses and Inspections for the purpose of making recommendations to said Director as to such changes, additions and rearrangements of the Gas Fitting Regulations as said Committee deems necessary in the public interest to bring said regulations into conformity with approved modern practice and for advising said Director in technical matters pertaining to gas fitting.

REORGANIZATION ORDER NO. 55.—DEPARTMENT OF LICENSES AND INSPECTIONS [IMPLEMENTING ORDER]

[Text Omitted]

This order dated January 5, 1954, appointed members to the Unsafe Structures and Excavations Board in accordance with Part III F of Reorganization Order No. 55, as amended Dec. 17, 1953.

REORGANIZATION ORDER NO. 56.—BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

Reorg. Ord. No. 56, L. S. 4264–B, June 30, 1953, as amended June 30, 1954, established a Board for the Condemnation of Insanitary Buildings. Organization Order No. 102, set out after § 5–617, provides that the existing Board for the Condemnation of Insanitary Buildings established under Reorg. Ord. No. 56, dated June 30, 1953, as amended, is abolished and that Reorg. Ord. No. 56 is repeated.

REORGANIZATION ORDER NO. 57.—DEPARTMENT OF PUBLIC HEALTH

Reorganization Ord. No. 57, L. S. 4262–B, June 30, 1953, as amended June 30, 1954, Nov. 30, 1954, Jan. 31, 1956, Aug. 23, 1956, Dec. 13, 1956, Nov. 12, 1957, Dec. 23, 1958, Nov. 10, 1960, Feb. 21, 1961, Nov. 2, 1961, Nov. 7, 1961, and June 20, 1963, combined with Reorganization Order 52, amended and redesignated as Organization Order No. 141, dated and effective Feb. 11, 1964.

REORGANIZATION ORDER NO. 58.—DEPARTMENT OF PUBLIC WELFARE

Reorganization Ord. No. 58, L.S. 4265–B, June 30, 1953, as amended July 31, 1953, Aug. 19, 1954, June 7, 1956, Sept. 25, 1956, June 6, 1957, Nov. 12, 1957, Aug. 9, 1960, Oct. 20, 1960, Feb. 21, 1961, Nov. 29, 1962, and Feb. 26, 1963, redesignated as Organization Order No. 140 and amended as therein set out, Feb. 11, 1964, effective Feb. 11, 1964.

REORGANIZATION ORDER NO. 59.—BOARDS AND COMMISSIONS

[Functions as stated in Reorg. Ord. No. 59 were transferred to the Director of the Department of Economic Development by Commissioner's Order (Organization Action) No. 69–96, dated Mar. 7, 1969, as amended.]

Reorganization Ord. No. 59, L.S. 4266–B, June 30, 1953, as amended July 17, 1953, Sept. 15, 1953, Dec. 10, 1953, June 17, 1954, June 27, 1957, June 24, 1958, July 29, 1958, Aug. 25, 1959, Jan. 26, 1960, Aug. 9, 1960, Mar. 21, 1961, May 25, 1961, Sept. 12, 1961, Feb. 20, 1962, Feb. 12, 1963, Mar. 13, 1963, Apr. 16, 1963, Aug. 5, 1963, Sept. 19, 1963, Oct. 10, 1963, Oct. 17, 1963, Jan. 21, 1964, Nov. 5, 1964, Feb. 21, 1966, Mar. 8, 1966, May 24, 1966, June 14, 1966, Dec. 15, 1966, Jan. 24, 1967, and Dec. 12, 1968, ordered that:

PART I

Department of Occupations and Professions.—

There is established under the direction and control of the Board of Commissioners a Department of Occupations and Professions. The Department shall consist of the

TRANSACTION REPORT

Transmission
Transaction(s) completed

FAXED

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
764	SEP. 29 14:18	2029425999	0° 01' 23"	002	OK	N ECM

regulations designed to provide adequate protection to consumers.

4. Advises, consults and cooperates with other governments in the Washington metropolitan area either directly or through the Council of Governments, and with other interested persons and groups, including business, civic, and citizen organizations regarding consumer affairs, as described in Paragraph 1 above.

5. Promotes and encourages "self-policing" by business, professional and trade groups. Encourages voluntary cooperation in compliance with all District of Columbia regulations involving retail transactions.

6. Evaluates effectiveness of existing regulatory measures of the District and Federal Governments in providing adequate protection to consumers, and recommends laws or regulations when deemed appropriate to assure adequate protection and recommends modifications in existing laws and regulations where less stringent measures would appear to be adequate.

PART IV

Transfers.—A. There are hereby transferred to the Department of Licenses and Inspections all functions and positions of the following named organizations and their subordinate agencies, including all duties, powers, and authorities in connection therewith of all officers and employees assigned thereto:

Department of Inspections:
- Engineering Section.
- Building Inspection Section.
- Electrical Inspection Section.
- Elevator Inspection Section.
- Fire Safety Inspection Section.
- Plumbing Inspection Section.
- Smoke and Boiler Inspection Section.
- Administrative Section.

Department of Weights, Measures, and Markets.
License Bureau.
Central Permit Bureau.
License Committee.

B. *Positions.*—The following positions are hereby transferred from the Department of Public Health to the Department of Licenses and Inspections:

21-18-2	Assistant Director	GS-12
71	Public Health Engineer	GS-11
4	Assistant Chief Sanitary Inspector	GS-9
9	Sanitary Inspection Supervisor	GS-7
11	Sanitary Inspection Supervisor	GS-7
12	Sanitary Inspection Supervisor	GS-7
13	Sanitary Inspector and Instructor	GS-6
16	Sanitary Inspector and Instructor	GS-6
17	Sanitary Inspector and Instructor	GS-6
18	Sanitary Inspector and Instructor	GS-6
69	Condemnation Aide	GS-6
70	Condemnation Aide	GS-6
23	Sanitary Inspector	GS-5
28	Sanitary Inspector	GS-5
30	Sanitary Inspector	GS-5
34	Sanitary Inspector	GS-5
35	Sanitary Inspector	GS-5
36	Sanitary Inspector	GS-5
37	Sanitary Inspector	GS-5
39	Sanitary Inspector	GS-5
41	Sanitary Inspector	GS-5
43	Sanitary Inspector	GS-5
45	Sanitary Inspector	GS-5
46	Sanitary Inspector	GS-5

1. Such a proposed program shall take cognizance of the fact that the Department of Licenses and Inspections continues as the enforcement and interpreting authority in all matters pertaining to the construction, alteration, repair, installations, zoning and occupancy use and appurtenances of buildings and structures, as set forth in D. C. Building, Plumbing, Electrical Codes, Elevator, Sign, Zoning, Refrigeration and Air Conditioning, Gas Fitting, Boiler Inspection, rules and regulations governing installation of fuel burning equipment, and the D. C. housing regulations, while the Fire Prevention Division has the primary responsibility for conducting egress and fire prevention inspections.

2. The program shall provide for the transfer, reassignment, or separations of personnel previously assigned to the Fire Safety and Egress Section, and for the disposition of all positions and funds available to the Fire Safety and Egress Section.

PART VI

Adjusting Fees for Licenses, Permits, Certificates, and Transcripts.—A. The Director of the Department of Licenses and Inspections is hereby assigned the responsibility for recommending to the Board of Commissioners the fees to be charged for all licenses, permits certificates, and transcripts of records issued by that Department, which the Commissioners are authorized to establish, and for recommending to the Zoning Commission the fees for occupancy permits.

B. The Director of the Department of Licenses and Inspections is also assigned the responsibility for recommending to the Board of Commissioners proposed legislation concerning the fees to be charged for licenses, permits, certificates, and transcripts of records, where legislation is required to accomplish changes in the fees charged.

C. A study shall be undertaken as soon as practicable to determine what such charges shall be and specific recommendations shall be submitted to the Board of Commissioners as soon as the study has been concluded.

D. In arriving at the proposed fee schedules, the charge shall be based upon the costs as outlined in the District of Columbia Code, i. e., in the case of business licenses, the costs "* * *" will be commensurate with the cost to the District of Columbia of such inspection, supervision, or regulation * * *" and in the case of permits, certificates, and transcripts of record "* * *" said fees to cover the cost and expense of the issuance of said permits and certificates and of the inspection of the work done under said permits. * * *"

E. The directors of all other District Government departments who are concerned with the costs of such processing shall provide the Director of the Department of Licenses and Inspections with pertinent cost data for use in arriving at the total costs to be charged for licenses and permits.

F. The Director, Department of Licenses and Inspections, is assigned the responsibility of biennially making cost studies and revising the costs for all licenses, permits, certificates, and transcripts of records issued by that Department: *Provided*, That such studies shall be completed in time to permit the Board of Commissioners to

regulatory functions. Exhibit A of the attached proposal details further the benefits to be derived from this reorganization.

This proposed consolidation of the Office of the Surveyor with the Department of Transportation will not alter the authorized functions of the Surveyor nor does it represent any change in present budget or policy priorities established in FY '82.

The reorganization will, however, provide an improved professional and organizational environment, more efficient utilization of resources, and a framework for further management improvements.

REORGANIZATION PLAN NO. 1 OF 1983

(Effective March 31, 1983)

Prepared by the Mayor and transmitted to the Council of the District of Columbia on January 3, 1983, pursuant to the provisions of Section 422 (12) of the District Charter.

DISTRICT OF COLUMBIA DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

I. ESTABLISHMENT

There is hereby established, in the Executive Branch of the Government of the District of Columbia, under the supervision of a Director, a Department of Consumer and Regulatory Affairs. The Director of the existing Department of Licenses, Investigations and Inspections, or if confirmation of said Director by the Council is still pending, the Acting Director of the existing Department of Licenses, Investigations and Inspections, shall be the Director of the Department of Consumer and Regulatory Affairs upon the effective date of this plan (or the Acting Director if the confirmation process is still pending), and shall serve without the necessity of a new Council confirmation process.

II. PURPOSE

The mission of the Department of Consumer and Regulatory Affairs is to protect the health, safety and welfare of the citizens of the District of Columbia by regulation of business activities, land and building use, professional conduct and standards, rental housing and condominiums, health and social service care facilities, and the physical environment of the District of Columbia.

III. FUNCTIONS

A. The functions of the Department of Consumer and Regulatory Affairs shall be:

(1) Regulation of certain professional and occupational practices by individuals designated for licensing in the District, by means of registration, examination, approval of qualification, and complaint investigation.

(2) Maintenance of a fair and equitable insurance market for citizens of the District through financial surveillance of companies, licensing, rate regulation, and complaint investigation.

(3) Protection of the public from illegal, unfair or dangerous commercial practices by means of registration and licensing of businesses and/or individuals and assuring their compliance with all applicable legal requirements.

(4) Assurance that the physical environment and structure of all buildings in the District of Columbia meet all applicable regulations and codes for preservation or the use to which the space or structure is to be put; assurance that public and private land and structures meet adequate health, safety and environmental standards.

(5) Protection of the public through the regulation of rental housing, condominium and cooperative conversions and sales, and assurance of compliance with legislated housing standards and health, safety and sanitation standards for neighborhoods.

(6) Assurance of public and private health and social services standards of safety and care for clients and consumers, by means of registration, licensing and certification of facilities and investigation of complaints.

B. The following functions are hereby transferred to the Director of the Department of Consumer and Regulatory Affairs:

(1) All of the functions related to the Department of Licenses, Investigations and Inspections, as established pursuant to Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Mayor's Order 78-42, dated February 17, 1978, and Reorganization Order No. 1 of 1982, dated July 6, 1982.

(2) All of the functions related to the Office of Consumer Protection, established pursuant to D.C. Code, sec. 28-3902 (1981 Ed.).

(3) All of the functions related to the Rental Accommodations Office, established pursuant to D.C. Code, sec. 45-1514 (1981 Ed.).

(4) All of the functions related to the Department of Insurance, established pursuant to Reorganization Order No. 43, dated June 23, 1953, as amended.

(5) All of the functions related to the Office of Licensing and Certification, as identified in Departmental Organization Order No. 50, dated October 1, 1982, (superseding Departmental Organization Order No. 5, dated February 21, 1980) of the Department of Human Services, established pursuant to Reorganization Plan No. 2 of 1979, dated June 20, 1980.

(6) All of the functions related to the Housing Regulation Division of the Neighborhood Improvement Administration as identified in Departmental Order No. 76-5, dated February 20, 1970, including the functional statement related to the Housing Regulation Division attached thereto,

approved February 20, 1976, as amended by Departmental Order No. 76-5A, dated January 6, 1977, Departmental Order No. 76-5B, dated January 19, 1978, Departmental Order No. 76-5C, dated August 18, 1978, and the functions of the Neighborhood Improvement Administration contained in Departmental Organization Order No. 77-25, dated October 18, 1977, without restriction, notwithstanding the provisions of Part II of said Order, other than the function of approving rehabilitation loans and grants and deferred payment loans, of the Department of Housing and Community Development, established pursuant to Reorganization Plan No. 3 of 1975, dated March 8, 1975.

(7) All of the functions related to condominium and cooperative conversion and sales conducted by the Department of Housing and Community Development including the functions identified in Departmental Order No. 76-5, dated February 20, 1970, and Departmental Order No. 79-5, dated March 9, 1979, of the Department of Housing and Community Development, established pursuant to Reorganization Plan No. 3 of 1975, dated March 8, 1975.

(8) All of the functions of the Office of Policy and Planning related to historic preservation, as identified in the functional statement dated March 24, 1976, attached to Departmental Order No. 76-13, dated April 26, 1976, of the Department of Housing and Community Development, established pursuant to Reorganization Plan No. 3 of 1975, dated March 8, 1975.

(9) All of the functions related to the Bureau of Environmental Health of the Office of Environmental Standards and Quality Assurance, as identified in Departmental Order No. 10-12-10, dated August 25, 1982, of the Department of Environmental Services, established pursuant to Commissioner's Order No. 71-255, dated July 27, 1971.

(10) All of the functions related to the Bureau of Community Hygiene as identified in Departmental Order No. 10-12-09 (Revised), dated July 21, 1976, of the Department of Environmental Services, established pursuant to Commissioner's Order No. 71-255, dated July 27, 1971.

(11) All of the functions related to flooding, erosion and sediment control, as identified in Mayor's Order No. 76-139, dated July 23, 1976, as amended by Mayor's Order No. 76-220, dated November 3, 1976, and Departmental Order No. 10-12-30 (Revised), dated March 3, 1982, of the Department of Environmental Services established pursuant to Commissioner's Order No. 71-255, dated July 27, 1971.

(12) All of the functions related to partnerships and corporations of the Office of the Recorder of Deeds, identified in Paragraphs B, D, E, and G of Part I and, Paragraphs C and D of Part IV of Organization Order No. 101 — Replacement, Commissioners' Order 63-197, dated January 24, 1963, as amended.

IV. TRANSFERS

All positions, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the

duties and functions assigned herein, are hereby transferred to the Department of Consumer and Regulatory Affairs.

V. ORGANIZATION

The Director of the Department of Consumer and Regulatory Affairs is authorized to organize the personnel and property transferred herein within any organizational unit of the Department as the Director deems appropriate.

VI. ABOLISHMENT

The following agencies of the District of Columbia government are hereby abolished:

The Department of Licenses, Investigations and Inspections
The Rental Accommodations Office
The Department of Insurance
The Office of Consumer Protection

VII. EFFECTIVE DATE

This Reorganization Plan No. 1 of 1983 shall become effective in accordance with Section 422 (12) of Public Law 93-198, or on a date thereafter to be designated pursuant to executive order of the Mayor.

Delegation of Authority Under the "Shipstead-Luce Act". — See Mayor's Order 89-92, May 9, 1989.

REORGANIZATION PLAN NO. 2 OF 1983

(Effective March 31, 1983)

CONSOLIDATION OF MOTOR VEHICLE REGISTRATION PROCESS IN THE DEPARTMENT OF TRANSPORTATION

I. PURPOSE

The purpose of the reorganization is to consolidate the motor vehicle registration process, exclusive of cash collections, within the Department of Transportation.

II. FUNCTIONS

1) Those duties and functions of the Recorder of Deeds of the District of Columbia relating to the recordation of liens on motor vehicles and trailers,

REORGANIZATION PLAN NO. 1 OF 1982

(Effective July 3, 1982)

BUILDING AND ZONING REGULATION ADMINISTRATION

I. PURPOSE

The purpose of this reorganization plan is to transfer all functions associated with the administration and enforcement of the District of Columbia building and zoning codes from the Department of Housing and Community Development to the Department of Licenses, Investigations and Inspections.

II. FUNCTIONS

The following functions are hereby transferred to the Director of the Department of Licenses, Investigations and Inspections:

(a) To administer and enforce the statutes, codes and regulations governing the construction, conversion, repair and alteration of buildings in the District of Columbia, including all appurtenances such as walls, fences and signs, and including all equipment installed in or on buildings or structures such as electrical, elevator, plumbing, refrigeration, gas, boiler and pressure vessel equipment;

(b) To administer and enforce the Energy Conservation Code of 1979, D.C. Law 3-39, as it amends the building, plumbing and electrical codes;

(c) To administer and enforce the Architectural Barriers Act of 1980, D.C. Law 3-118, as it amends the building, plumbing, electrical and elevator codes;

(d) To administer and enforce Sections 2, 5, and 6 of D.C. Law 1-64, the D.C. Applications Insurance Implementation Act, relating to permit requirements under the flood insurance program;

(e) To administer and enforce the zoning statutes, codes and regulations governing land use, the height, area and use of buildings, and subdivision of all private land and condominiums;

(f) To provide technical review and comment on applications filed with the Board of Zoning Adjustment; to maintain a register of approved nonconforming uses;

(g) To process applications to lease public space under the provisions of the Public Space Utilization Act, Public Law 90-598;

(h) To inspect buildings and facilities for compliance with building and zoning regulations in response to applications for certificates of occupancy and/or licensing requirements;

(i) To recommend to appropriate officials and agencies any amendments to the zoning regulations which would resolve problems or conflicts in administration;

(j) To recommend, in consultation with the Building Code Advisory Committee established by Commissioner's Order 72-173 and with appropriate officials and agencies, amendments to the building codes; to provide staff support to the Building Code Advisory Committee;

(k) To determine the compliance of new materials, appliances and systems with existing building codes, based on tests by nationally accepted testing laboratories, and issue certificates of approval as appropriate;

(l) To make available to the public information about building and zoning code requirements;

(m) To maintain master files and records of approved building plans and permits.

III. TRANSFERS

All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the duties and functions herein are hereby transferred to the Department of Licenses, Investigations and Inspections.

IV. ORGANIZATION

The Director of the Department of Licenses, Investigations and Inspections is authorized to organize the personnel and property transferred herein within any organizational unit of the Department as the Director deems appropriate.

V. EFFECTIVE DATE

The provisions of this Plan shall become effective pursuant to the requirements of Section 422 (12) of Public Law 93-128, or on a date thereafter to be determined by executive order of the Mayor.

REORGANIZATION PLAN NO. 2 OF 1982

(Effective December 8, 1982)

OFFICE OF THE SURVEYOR

I. ESTABLISHMENT

There is established within the District of Columbia Department of Transportation the Office of the Surveyor, headed by the Surveyor, who shall perform the functions herein transferred or otherwise assigned. The Office of the Surveyor shall operate under the administrative direction of the Director and shall constitute an organizational unit of the Department of Transportation.

ACTIONS OF MAYOR, AND SUBORDINATE AND INDEPENDENT AGENCIES

ORGANIZATION ACTIONS

Mayor's Order 78-42
February 17, 1978

SUBJECT: Commissioner's Order 69-96, Amended: Renaming the Department of Economic Development as the "Department of Licenses, Investigations and Inspections"

ORIGINATING AGENCY: Office of Budget and Management Systems

By virtue of the authority vested in me by Section 422(11) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (P.L. 93-198), it is hereby ORDERED that:

Commissioner's Order 69-96, dated March 7, 1969, is amended by striking the departmental name of "Department of Economic Development" and renaming that department as established therein as the "Department of Licenses, Investigations and Inspections."

This order shall become effective immediately.

WALTER E. WASHINGTON
Mayor

Exhibit 9



July 21, 2001

Mr. & Mrs. Mel Estrin
7200 Wisconsin Avenue
Bethesda, Maryland, 20814

BY REGISTERED MAIL & FAX
Hand delivered to the site at:
30th St. & Benton Place, N.W. D.C.

Dear Mr. & Mrs. Estrin,

This is to inform you that on or around July 19th and 20th your employees cut down a large old growth tree (a 30" tulip poplar with a circumference of over 9 feet) on your building site at the corner of Benton Place & 30th Streets, N.W. Washington, D.C. This is exactly the tree that you and your contractor promised to protect when I met you and at your site last month.

Since I have already provided you written copies of the D.C. residential zoning tree protection overlay (Order # 713 date 2/10/92), you know that **all the old growth trees in this neighborhood are protected and that you can not remove or damage them without written approval after a full review process. You should also know that the law provides that a violation can result in the removal of your building permit.**

When I met with you, you and your contractor assured me that you would abide by the laws and regulations of the District of Columbia and that you would protect these trees. You did not honor that promise and you (or your agents) have deprived the neighborhood of one of its oldest and most beautiful old growth trees, a magnificent 30" tulip poplar. In the process of demolishing the existing structure, you damaged this tree and then proceeded to remove it. The Tree Overlay Ordinance specifically prohibits you from fatally damaging old growth trees. Because there are similar remaining trees on your property, including a huge tulip poplar having a 10 foot circumference that now shows a fresh gash measuring 6" by 8" wide, I am making a report to the D.C. government of your destruction of this true contrary to the District's laws and the zoning code. I will take all measures necessary to prevent you or your agents from causing additional irreparable harm to the neighborhood.

The trees on your property provide beauty, shade, and other important environmental **benefits to the entire neighborhood.** No one in the neighborhood is permitted to remove an old growth tree without appropriate review and written governmental approval. A tree of this age and size cannot be replaced in our lifetime. The law requires that you do NOTHING MORE either to remove, hurt, or in any other way affect the health or presence of other old growth trees on your property.

You should also know that at 8:30 PM tonight, under cover of darkness, one of your contractor's employees began operating a very loud bobcat working to dispose of the evidence of the felled tree logs. When I informed him that he was not allowed to make that amount of noise on a weekend evening, he fled the site and in the process drove in a manner that almost ran me over with his car. I have a witness to this incident and have filed a police report on this matter. I believe you will be responsible for his actions.

I ask that you contact me immediately in response to this letter.

Sincerely,

Robert Lehrman

Robert Lehrman

cc
D.C. Department of Health & Environment
D.C. Department of Building & Zoning
Benton Place Neighbors
Woodland Normanstone Neighborhood Association
Local ANC
Andrea Ferster, Esq.
Owner's Contractor (Posted at Construction Site)

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