4911 ASHBY STREET, NW
WASHINGTON, DC 20007

RECEIVED
D.C. OFFICE OF ZONING
2003 JUN -4 PM 12:06

May 28, 2003

Ms. Jerrily R. Kress
Director, Office of Zoning
441 4th Street, NW
Suite 210
Washington, DC 20001

Dear Ms. Kress:

My purpose in seeking clarification is not to place extra work on you or your busy staff but rather to establish an open and transparent process by which the public can be assured that their filings are taken seriously. I feel the incident reported by Mr. Lovendusky was a blatant violation of the zoning code and further supported by the fact the call was answered by a member of the Metropolitan Police Department who came to the site to inform the construction crew of their violation.

Perhaps there are two matters here:

1. A matter that pertains to zoning and the Building and Land Administration from their perspective. While they made no effort to investigate the complaint or to check to see if a permit was issued for the work, the complaint may not be regarded worthy of their staff time.

2. A matter that pertains to the BZA in Order #16852. A set of conditions were outlined in the final Order and the reporting process was outlined in the course of the hearings.

It is the second matter on which I seek your counsel. If the community is to continue to report as it has done using the new non-compliance form obtained from your office, as their ANC Commissioner, I would appreciate being informed if the process differs from that outlined on the form used by Mr. Lovendusky. If the community is to relate to many different agencies in the process of filing a complaint then a list of those agencies with contact numbers and the process to be followed should accompany the reporting form at the time it is distributed.

I feel the community deserves clear direction from your office and the Compliance Officer, that makes perfectly clear their responsibilities with regard to reporting complaints of non-compliance.

Sincerely,

Alma H. Gates

Alma H. Gates
ANC 3D 05

BZA
Case No. 16852
Exhibit No. 355

Board of Zoning Adjustment
District of Columbia
CASE NO.16852
EXHIBIT NO.355

4911 Ashby Street, NW
Washington, DC 20007

May 28, 2003

Mr. Denzil L. Noble
Administrator
Building and Land Regulation Administration
941 North Capitol Street, NE, Suite 2000
Washington, DC 20002

BZA Reference #16852
BLRA IQ# 179621

Dear Mr. Noble:

Mr. Michael Lovendusky forwarded a copy of your May 21 letter (enclosed) to him regarding a Complaint of Non-Compliance with Condition(s) of a BZA/ZC Order filed by Mr. Lovendusky against St. Patrick's School. I note you did not sign your May 21 letter to him. The complaint of non-compliance was documented by Mr. Lovendusky and included a letter from the contractor to neighbors of the site admitting non-compliance.

Every resident of Ashby Street and surrounding MacArthur Boulevard was awakened by the jolt that occurred at 5:45 am April 9, 2003 when the equipment was unloaded. The Building and Land Regulations Administration is not the first line of authority I would call at that hour nor am I aware of their necessity in this regard. Further, I would never think to call the Emergency Management Agency. However, a call was placed by Mrs. Lovendusky to the Metropolitan Police Department who responded and the call is outlined in Police Complaint #120020192540. You will have to request a copy of this directly if a piece of paper is required for verification.

As further evidence of the veracity of the complaint I enclose additional information:

1. The Police Complaint filed, #120020192540, that outlines the events of Wednesday April 9th surrounding the delivery of construction equipment prior to 7:00 am. A police officer responded to the request for help and a complaint was registered by the police operator. This report should be acceptable in the absence of a zoning division staff member.

2. A follow-up letter written to John Klakamp citing the incident with inquiry about the existence of a permit for the work done by ECS on April 9th..

3. A response from John Klakamp stating that to his knowledge a permit was not obtained

for or posted at the construction site by ECS, the company doing the soil borings. A call to the Permit Office confirmed that a permit is required for soil borings.

4. In conclusion, an unacceptable, inadequate and incomplete investigation was undertaken by the Building and Land Regulation Administration. It is clear that a violation of the zoning regulations occurred on April 9, 2003 when ECS, a contractor hired by an agent of the school, entered the premises at 4925 MacArthur Boulevard at 5:45 am for the purpose of unloading heavy equipment to obtain soil borings. The subsequent work was done without a permit. A complaint was filed with the emergency call center and a police officer dispatched to 4925 MacArthur Boulevard. The complaint form should be recognized in lieu of a zoning division staff member. There are two additional letters offered in support of the complaint.

Nowhere on the complaint form or in BZA Order #16852, issued in the St. Patrick's decision, is it stated that non-compliance must be observed by a zoning division staff member in order for the infraction to be upheld in the adjudication process.

By copy of this letter I request that Jerrily Kress, Director, Office of Zoning, provide each party and public agency listed in BZA Application #16852 with the particular regulations and requirements, and a list of persons, departments and phone numbers, who must be notified in order to file an acceptable and complete Complaint of Non-Compliance with Condition(s) of a BZA/OZ Order. If such requirements exist, they should be clearly printed in the directions on the complaint form.

The favor of a reply is requested.

Sincerely,

Alma H. Gates

Alma H. Gates
ANC 3D 05

Enclosures (3)

cc: Jerrily Kress
Michael Lovendusky

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

Building and Land Regulation Administration
Office of the Administrator

RECEIVED
MAY 21 2003

May 14, 2003

Michael Lovendusky
4927 Mac Arthur Boulevard, NW
Washington, D.C. 20007

Dear Mr. Lovendusky:

This letter is in response to your letter dated April 28, 2003 regarding St. Patrick's School at 4925 MacArthur Boulevard, NW.

St. Patrick's School has expressed their regret regarding this incident to all the neighbors for the contractor's early arrival on April 8, 2003. The Zoning Regulations require that violations of the zoning regulations be personally observed by a zoning division staff member in order for the infraction to be upheld in the adjudication process. If a similar incident recurs, please immediately call the Emergency Management Agency at 727-6161.

Thank you for bringing this matter to our attention.

Sincerely,

for Denzil Noble

Denzil L. Noble
Administrator

cc: Yvonne Rockett
Robert Henry

IQ# 179621

MICHAEL & MELEVA LOVENDUSKY
4927 MacArthur Boulevard NW
Washington DC 20007

28 April 2003

Gregory J. Love, Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street NE
Washington DC 20002

RE: St. Patrick's School @ 4925 MacArthur Blvd NW
Violation of BZA Order # 16852 Condition # 3

Dear Administrator Love,

The Lovendusky family respectfully requests you to cite St. Patrick's Episcopal Day School for violating the BZA Order captioned above. On Wednesday, April 9, at 5:45 AM, St. Patrick's subcontractors arrived in two large diesel trucks to deliver heavy equipment to their new campus at 4925 MacArthur Blvd NW, immediately across Ashby Street from where we live. Mrs. Lovendusky was shocked out bed by the diesel trucks backing up Ashby Street and propelled by the noise out of our house before dawn to demand that the trucks leave. An ugly confrontation ensued and required a complaint to be telephoned to the Metropolitan Police, who arrived to send the trucks away until a civilized hour.

St. Patrick's arranged for its subcontractor, Uniwest Construction, Inc., to mail by letter of April 11 its regrets for the incident. A copy of the Uniwest letter and the St. Patrick's envelope in which it arrived is attached.

Condition # 3 of BZA Order #16852 expressly provides that St. Patrick's "shall schedule all deliveries to [4925 MacArthur] to occur between 9:30 a.m. and 4:00 p.m...". This Condition was clearly violated and requires citation by the Department of Consumer and Regulatory Affairs if the BZA Order is to have any meaning or effect for the residents who are being imposed upon by the special exception granted to St. Patrick's. We respectfully insist that you cite St. Patrick's for its violation. Please advise me of your action in this matter at your earliest opportunity. Thank you.

Sincerely,

Attachments: Letter of John Klakamp/Uniwest (4/11/03) and St. Patrick's Envelope
C: David A. Clark, Director, Department of Consumer & Regulatory Affairs
✓ Toye Bello, DC Office of Zoning Compliance Review Program Specialist

Form 300
(Revised 09/09/02)

Case No. 16852
Complaint No. 3

DISTRICT OF COLUMBIA OFFICE OF ZONING

COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER

Notice: See other side of complaint of non-compliance with condition(s) of a BZA/ZC Order for instructions

IMPORTANT NOTE: This process is not intended as a substitute for the enforcement responsibility of the Department of Consumer and Regulatory Affairs (DCRA). Any person that believes immediate enforcement action is required should contact DCRA.

A complaint is hereby filed with the Office of Zoning for review and assessment of compliance; and if in non-compliance, assistance in working with the non-complying party to achieve compliance and/or referral for mediation; and/or if not resolved, referral to Department of Consumer and Regulatory Affairs (DCRA) for appropriate action pursuant to Titles 11 and 16 DCMR Chapters 32, such as revocation of building permits/Certificate(s) of Occupancy, or citation action - the details of which are as follows:

Address(s) of Affected Premises	Square (s)	Lot (s)	BZA Order No. and Date	ZC Order No. and Date	BZA/ZC Order Expiration Date	Condition No.
4925 MacArthur	1393	0823	16852;3/25/03	n/a	n/a	3

Present use of Property:	Middle School		
Owner of Property:	St Patricks Episcopal School	**Telephone No.:**	202-342-2805
Address of Owner:			
Name, address and telephone number of lessee (if applicable):			

List specifically by condition number each and every alleged violation(s) of non-compliance with condition(s) of a BZA/ZC Order and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation). BZA 16852; Con

Please use a separate piece of 8 ½" x 11" to respond and attach it to the Form 300 (if needed).

See attached three pages

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D.C. OFFICE OF ZONING
2003 APR 28 P 3:55

The making of a false statement on this form, or any attachment thereto, or in response to any questions or request for information made by the Director or by Office of Zoning Staff, is punishable by the criminal penalties set forth in section 404(b) of the District of Columbia White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code 22-2514(b)).

Date:	28 April 2003	**Signature:**	Complainant

Contact Information of Complainant

Name:	Michael Lovendusky				
Address:	4927 MacArthur Blvd NW Washington DC 20007				
Phone No.:	W202-624-2390	**Fax No.:**	202.572.4798	**E-Mail:**	michaellovendusky@ac

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED

UNIWEST CONSTRUCTION, INC.
2900 TELESTAR COURT • SUITE 100 • FALLS CHURCH, VA 22042
703-698-4040 • FAX 703-560-3028

April 11, 2003

Re: St. Patrick's Episcopal Day School – MacArthur Campus
4925 MacArthur Blvd., NW
Washington, DC 20007

Dear Neighbors of 4925 MacArthur:

On behalf of Uniwest Construction, Inc., I would like to express our regret to all of the neighbors for a contractor's early arrival at 4925 on Wednesday, April 8. Since this project's inception, regard and respect for St. Patrick's neighbors has been a focus and an equal priority to that of the project itself. The contractor, ECS, was not working for Uniwest, nor did anyone at Uniwest Construction, Inc. have knowledge that this engineering was taking place. I want to reaffirm our commitment not only to this project but particularly to being a partner with St. Patrick's and with the neighborhood as this project takes place.

Obviously, communication is paramount, as discussed in our last meeting with Mrs. Gates. We will provide a narrative of our schedule and forward this to the neighbors on a continuing basis. This process will be an opportunity for everyone to know what to expect, voice their concerns and to be pro-active with implementing solutions.

While this is a setback, I am certain that with communication and effort we will overcome the possibility of this happening again. We will take every possible precaution to ensure a successful project for all.

If I can be of assistance, I will gladly make myself available.

Thank you,
John Klakamp
Vice President, Tenant Division
Uniwest Construction, Inc.
jklakamp@uniwestgroup.com

4911 Ashby Street, NW
Washington, DC 20007

April 14, 2003

Mr. John Klakamp
Vice President, Tenant Division
Uniwest Construction, Inc.
2900 Telestar Court, Suite 100
Falls Church, VA 22042

Dear Mr. Klakamp:

Thank you for your letter of April 11, 2003, mailed in a St. Patrick's Episcopal Day School envelope, concerning the early arrival of ECS on Wednesday, April 8th. It has raised some questions in my mind regarding the use of subcontractors and who is actually in charge of this overall project.

While I feel your letter of apology was necessary it cannot relieve the concern of the community for the future of the project and what lies ahead across the summer for neighbors as far as disruption is concerned. I too feel a sense of concern. It occurred to me that a permit would have been required for the work As none is posted and I have not received notification that a permit was requested, can you verify that a permit was obtained for the work that was done on April 8th? I think it would be helpful if permit requests are added to your weekly list of information that will be sent to neighbors. I will also receive a list of permit requests from DCRA on a bi-weekly basis.

I look forward to hearing from you Mr. Klakamp and hope that such disruptions will not occur in the future.

Sincerely,

Alma H. Gates
ANC 3D05

UNIWEST Construction, Inc.

2900 Telestar Court • Suite 100 • Falls Church, VA 22042
703-698-4040 • FAX 703-560-2769

April 16, 2003

Mrs. Alma Hardy Gates
Advisory Neighborhood Commissioner
District 3D05 (Palisades-Kent)
4911 Ashby Street, NW
Washington, DC 20007

Dear Alma,

Thank you for your concern and continued cooperation. As discussed in our previous meeting, we share the same concern. The success of this project includes Uniwest being a partner with the neighborhood. I assure you that we take this challenge seriously. We are professional's and work to maintain our reputation as such.

In response to your concerns, Uniwest will be in charge of this project once commencement of construction has occurred. The demolition permit has been obtained and is in Uniwest's possession. It will be posted once we begin work. As to the "soil borings" that were performed on April 8, 2003, although I do not believe that a permit was required I am not certain what the current regulations are pertaining civil engineering processes. I will be glad to incorporate permit requests into the neighborhood distribution list.

As always, feel free to call if I can be of any further assistance.

Sincerely,

John Klakamp
Vice President, Tenant Division
Uniwest Construction, Inc.
jklakamp@uniwestgroup.com