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Peter C. Choharis
2771 Woodley Place, N.W.
Washington, D.C. 20008

December ~~3~~ 24, 2002

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D.C. OFFICE OF ZONING
2002 DEC 24 AM 11:34

Jerrily Kress
Director
Board of Zoning Adjustment
441 4th Street, NW
Suite 210 South
Washington, D.C. 20001

RE: No. 16875 – Application of All Souls Memorial Church

Filing of Enclosed Motion to Submit Additional Information During Re-Opened Record or, in the Alternative, To Schedule a New Hearing

Dear Ms. Kress:

I am a party in the above-captioned case.

Please find enclosed an original and twenty copies of the Enclosed Motion to Submit Additional Information During Re-Opened Record or, in the Alternative, To Schedule a New Hearing in No. 16875, Application of All Soul's Memorial Church. I mailed a copy of the Enclosed Motion via first-class U.S. Mail to Brigitte L. Adams, Counsel for the Applicant All Soul's Church.

Thank you for your assistance.

Sincerely,

Peter C. Choharis

Peter C. Choharis

Enclosures

BZA
Case No. 16875
Exhibit No. 50

Board of Zoning Adjustment
District of Columbia
CASE NO.16875
EXHIBIT NO.50

District of Columbia Board of Zoning Adjustment
Re: Application 16875
Applicant All Souls Memorial Episcopal Church's Application for
Special Exception to Lease Commercially its Parking Lot

PARTY OPPONENT'S MOTION TO
(1) SUBMIT ADDITIONAL EVIDENCE DURING RE-OPENED RECORD OR,
(2) IN THE ALTERNATIVE, TO SCHEDULE A NEW HEARING

"On December 10, 2002, the Board of Zoning (Board) on its [] own motion, pursuant to subsection 3124.2 of the Zoning Regulations, decided to re-open the record in" BZA Application No. 16875 – All Souls Memorial Episcopal Church ("Applicant"), "in order to reconsider its July 2, 2002, decision to grant said application." Dec. 13, 2002 Letter from Jerrily Kress to Brigitte L. Adams, counsel for Applicant ("BZA Letter"). The BZA Letter further indicated that, in "anticipation of the Board's re-considered decision on this application," the Applicant is "requested *to submit any additional information* supporting the burden of proof required for the relief being sought" under Zoning Regulations sections 3104.1 and 213 by December 30, 2002. (emphasis added)

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Party Opponent Peter C. Choharis ("Opponent") hereby moves to submit additional evidence during the re-opened record in order to establish that (1) the Applicant has withdrawn or discredited the very bases of its Application, rendering its Application wholly unsupported by any evidence; (2) the Applicant's written evidence contains false or inaccurate information, and (3) the Applicant's witnesses' testimony contained false, misleading or material omissions of fact.

Now that Applicant is being given an additional opportunity to support its Application, Opponent is simply requesting that he be afforded the same chance to present additional evidence in opposition. Indeed, Applicant can submit "any additional

information supporting the burden of proof" required by the Zoning Regulations. BZA Letter. Opponent seeks the same opportunity to submit "any additional information" in opposition to the Application. Not only does fundamental fairness and due process call for equal treatment of the parties, but Applicant will not be prejudiced by Opponent's additional information since the Board has already re-opened the record. Furthermore, as Opponent's evidence demonstrates, the Applicant itself occasioned the need for this additional evidence by repeatedly submitting false, misleading, or incomplete evidence.

Moreover, Opponent notes that the case file was only provided to him after his opportunity to cross-examine the Applicant's witnesses had ended. *See* Tr. 82. Given the severe limitations on Opponent's ability to cross-examine effectively the Applicant's witnesses, the equities of this motion further requires a chance for Opponent to submit "additional information" that demonstrates that the Application is without basis. Finally, the very integrity of this Board's decision depends on a complete and accurate record. Permitting Opponent to add to the record, just as the Board has allowed the Applicant to do, will ensure that the requirements of due process are met.

In addition to the Declaration and attached exhibits submitted in support of this motion, Opponent will submit further evidence establishing that the bases for the Application are false, that the Applicant obtained WPCA and ANC support by misrepresenting the nature of its plans and without informing the neighbors of its plans, that dozens of neighbors were never informed of the Application (including not being properly served in this case), and that there is overwhelming community opposition to the Application.

Alternatively, Opponent moves to schedule a new hearing so that he may examine Applicant's prior witnesses under oath as well as present Opponent's own witnesses to demonstrate that the Application is without any factual basis.

In support of this motion, Opponent submits the following Points and Authorities and Declaration and Exhibits attached hereto.

POINTS AND AUTHORITIES

1. Applicant's Material Omissions of Fact and Inaccurate and Misleading Statements or Misstatements of Fact

It is fundamental to due process and administrative law that a hearing must be fair and must provide all parties with an opportunity to argue the merits based upon an accurate record. Just as fundamental, an administrative agency must be able to base its decision upon an accurate and complete record. Far from providing this Board with all necessary information, the record – including testimony from multiple witnesses for Applicant – contains false, misleading, or incomplete information that goes to the very basis of the Application.

As explained more fully below, among the ways Applicant corrupted the record were its:

- failure to inform this Board of Applicant's prior, illegal leasing of its Parking Lot, including valet parking – even when directly asked at the May 29, 2002 Hearing ("Hearing")
- repeated false testimony about the very reason for its Application: that the Woodley Park Community Association ("WPCA") asked the Applicant to lease its Parking Lot to businesses and neighbors, when in fact the WPCA did not
- failure to reveal that Applicant told both the WPCA and ANC that it would lease the Parking Lot in the manner it had before, when in fact Applicant had

never leased 17 parking spaces from midnight Sunday through midnight Friday

- failure to reveal that it never informed the neighbors along the streets surrounding the Parking Lot that it intended to seek WPCA and ANC support so that the neighbors could make their views known at those meetings

- failure to correct its Application Statement of Existing and Intended Use – the basis upon which the District of Columbia Office of Planning (and possibly other government agencies) based its support of the Application – which said that "business owners and their employees" asked the Applicant to lease its Parking Lot, when Applicant expressly disavowed that justification for its Application during the Hearing

- failure to inform this Board that it would increase the number of parking spaces in its parking lot from 19 to 21

The effect of Applicant's multiple omissions of material fact and inaccurate statements of fact denied Opponent a fair proceeding and this Board a chance to obtain accurate information. Indeed, the cumulative effect of the corrupted record is undeniable. It left this Board with the grossly mistaken impression of widespread community support for the Application when, in fact, there is widespread opposition. *Compare* Exs. 5-7 attached to Opponent Declaration (more than 70 petition signatures, e-mails, and letters collected in just a few hours from neighbors adamantly opposing application) *with* Tr. 132 (Chairperson Griffis mistakenly believing that "this issue has come with such support and [sic] this point and left you alone hanging out there in your opposition") and Tr. 126 (inaccurate record causing Commissioner Zaidan to believe mistakenly that Opponent's neighbors "have already been notified about [Applicant's proposal to lease parking spaces] properly.").

Permitting Opponent to provide additional information during the re-opened record is the only way for this Board to base its decision on an accurate and complete

record, for the overwhelming neighborhood opposition to the Application to be heard, and for Opponent to receive due process.

Opponent's attached Declaration sets forth in great detail the numerous material omissions of material fact and inaccurate, incomplete, or false statements made by Applicant in its written submissions and by Applicant's witnesses during the Hearing. Rather than duplicate that detail here, the following is a summary.

1.1 Applicant never divulged that it had been leasing its Parking Lot illegally prior to seeking an application for a special exception.

As the Declaration (at pars. 4-12) explains, Applicant had been renting its Parking Lot illegally – including, at one time, for valet parking – until a neighbor complained. Decl. par. 5, 10. Yet, not one of the Applicant's four witnesses divulged this information to the Board. Applicant's 2001 Annual Report, excerpted as Ex. 1, clearly identifies its former illegal practice. *See, e.g.*, p. 8 ("Our efforts to secure a zoning exception that will enable us once again to use our parking lot for commercial purposes is proceeding . . . ."); pp. 14 and 16. Indeed, despite writing page 8 of the 2001 Annual Report, Applicant's witness and Senior Warden Michael McGee (Tr. 28) did not see fit to inform this Board that the Applicant had previously and illegally leased its parking lot. Nor did any of the four witnesses mention the Applicant's prior leasing of the Parking Lot for valet parking and the neighbors' angry complaints about the dangers posed by it, Decl. par. 10, when Chairperson Griffis asked about Nema Shafik's letter asking that the Parking Lot not be used for valet parking. *See* Tr. 34.

Even more troubling, when Opponent asked Rev. John David van Dorn ("Rev. van Dorn") directly, "you haven't rented it [Parking Lot] like this before, have you?," Rev. van Dorn answered, "We've had times in the past cars have – it's been full of

people." Tr. 68. Put charitably, this answer was unresponsive, incomplete, and evasive. Nor did any of the other three witnesses correct the record.[1]

In fact, Applicant went to the WPCA seeking support for its proposal (and not the other way around) at the end of April, 2001, even then, only ***after*** the City threatened the Applicant with daily fines if it did not stop leasing the Parking Lot. See Ex. 3; Decl. par. 6.

Had Applicant revealed this information at the Hearing, especially after being asked directly, Opponent and this Board could have (1) explored the Applicant's true motivation for seeking a special exception and (2) exposed the Applicant's trumped-up reasons for its Application, discussed below. Moreover, Opponent could have explored (3) who had leased parking spaces previously and illegally, (4) whether they were on the "list" of business owners who had expressed an interest in leasing parking spaces (Tr. at 51, 62), (5) whether these business owners were the ones who Applicant claimed on its Application Statement of Existing and Planned Use (Case file No. 3) had asked the Applicant to lease the Parking Lot, (6) whether those who had illegally leased spaces or their relatives or social acquaintances were members of the WPCA and ANC (in fact, Opponent learned that members of both organizations knew at least one illegal parking tenant and wanted to help him), and (7) whether those who had illegally leased spaces

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[1] Applicant again responded incompletely when answering Chairperson Griffis's question, "And then during the week, the Applicant doesn't have functions that would have need for [parking] spaces?" Tr. 51. Ms. Adams testified, "***No***, there is once a month a vestry meeting, but it's our expectation and also because based on the applicants that we're receiving for parking spaces, that those spaces would be available during the evening hours." (emphasis added). In fact, Applicant has numerous scheduled meetings, events, and services on weekdays and evenings, not just a vestry meeting once a month. *See* Decl. par. 15; Ex. 2.

and/or were on the "list" for the parking spaces were the "residents in the neighborhood" that Applicant insisted supports its Application (Tr. 126). Unable to develop the record on these issues and other critical issues, Opponent was deprived of his due process right to cross-examine meaningfully witnesses and to develop his case in opposition. Worse, this Board was deprived of the truth.

1.2 Applicant repeatedly and falsely claimed as the very basis for its Application that the WPCA asked the Applicant to lease its parking lot, when it did not.

Applicant repeatedly and falsely testified during the Hearing that the basis for its Application was WPCA's asking the Applicant to lease its Parking Lot and that the Applicant was applying for a special exception in order to respond to the community's request for more parking. For example, in response to Opponent's question, "Why is the application here?," meaning what is the basis for Applicant's Application, Ms. Adams answered: "The Applicant has been approached by the Woodley Park Community Association which adopted a resolution in April 2001 asking the Applicant to put to use its otherwise vacant parking lot during the week." Tr. 61.

In doing so, Ms Adams repeated the false testimony that she gave during her opening remarks to the Board: Tr. 32 (""the Woodley Park Community Association approached the Applicant and asked that it ease some of the parking congestion in the neighborhood by opening its lot to residents and to some of these business owners and business employees in the area during the week"); Tr. 33 ("So the proposal that the Applicant has made, on the recommendation of the Woodley Park Community Association, is for weekday parking in the lot on a contract basis . . . ."

But in fact, the WPCA did not ask the Applicant to lease its Parking Lot in order to relieve parking congestion. Rather, Applicant was the one who initiated contact with, and sought support from, the WPCA concerning Applicant's plan to lease commercially its parking lot. *See* Decl. at pars. 17-18.

Moreover, despite Ms. Adams testifying falsely three times about the reason and justification for the Application for special exception, none of Applicant's three other witnesses ever corrected the record – just as three other witnesses failed to correct Reverend van Dorn's testimony regarding prior leasing of the Parking Lot. *See* Tr. generally.

On June 19, 2002, Opponent called Ms. Adams and informed her that he believed Applicant's repeated testimony about the WPCA asking the Applicant to lease its Parking Lot was false and that Applicant's failure to reveal that it had previously leased the Parking Lot illegally was a material omission of fact. See Decl. at par. 23.

Far from denying that its prior testimony was false three separate times, Applicant has beaten a hasty retreat. Nearly a month after the Hearing, and only after Opponent confronted Applicant's lawyer with the truth, Applicant contradicted its repeatedly false testimony when it admitted that "The Woodley Park Community Association ("WPCA") was informed" of the Application. Applicant's Statement of Facts and Conclusions of Law at 2.[2] Banished from the Applicant's last filing is any mention of it responding to the WPCA's entreaties to lease the Parking Lot.

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[2] Applicant's Statement of Facts and Conclusions at 2 also claims that "hundreds of neighborhood residents eligible to vote on WPCA matters attended [and that] the WPCA unanimously adopted a Resolution endorsing the plans of the Applicant." The minutes of the WPCA meeting reveal, however, that it was an Executive Committee meeting. *See* Ex. 3 attached to Declaration. At a June 20, 2002 WPCA Executive Committee,

(continued)

Nor has Applicant been forthcoming with this Board about the Applicant's plan to **increase the number of parking spaces from 19 to 21**. For example, in its Management Plan (at 2), Applicant incorrectly states that there are "21 parking spaces" currently. It repeats this in its Statement of Facts and Conclusions of Law at 6. At the Hearing, Applicant said fuzzily, "the parking lot is structurally complete. The striping is in a somewhat different configuration at the moment, but new striping is planned . . . ." Tr. 37. But in fact, there are currently only 19 parking spaces in Applicant's Parking Lot. Applicant is trying to increase the number or spaces by more than 10 percent without informing this Board of the increase in traffic. In fact, there are currently ***only 19*** parking spaces in the Applicant's parking lot. Decl. Par. 14.

Applicant's failure to present an accurate record regarding its plan to increase the number of parking spaces also tainted the record with respect to the District of Columbia Office of Planning's ("OP") written Report and oral testimony. Perhaps again relying upon the Applicant's false representations, the Office of Planning Memorandum (Case file No. 25) at 4 erroneously states that the Applicant planned "to use up to 17 parking spaces on *a 21-space parking lot* . . . ." (emphasis added). Similarly, when testifying at the Hearing, John Ward of the Office of Planning explained the agency's support in part on his mistaken belief that "the 21 parking spaces that we had discussed in there currently and historically exist in the parking lot. I mean, they're not new." Tr. 81.

(continued)
President Ron David informed me and others that only Executive Committee members can vote at an Executive Committee Meeting. The WPCA website indicates that there are only a handful of officers of the WPCA. See Ex. 4.

1.3 Applicant's Application Statement of Existing and Intended Use – the basis upon which the District of Columbia's Office of Planning based its support of the Application – was false, as Applicant admitted on cross-examination.

Applicant's Application for Special Exception Statement of Existing and Intended Use (Case file No. 3) states: "The Applicant has been approached by a number of business owners and their employees who drive in from other neighborhoods to open its available parking spaces for weekday parking for non-Applicant purposes."

The District of Columbia OP relied upon this statement in the Application when the OP justified its support of the Application despite the Parking Lot's failure to meet the requirements of Zoning Regulation Sections 213.2 and 213.3:

> "Neither of the commercial districts is within 200 feet of the Applicant, nor is the parking lot separated from either of the commercial district [sic] only by an alley. However, it is the owners of some of the businesses in the two referenced commercial districts, and their employees, who are seeking to contract parking arrangements with the Applicant, because the Woodley Park neighborhood lacks sufficient parking to accommodate the demand for parking spaces."

Memorandum at 6 (Case file No. 25) *See also id.* at 4 ("Area business owners, on behalf of employees, have approached the Applicant about the possibility of using portions of the Applicant's parking lot for employee parking.")

This basis for the OP's Memorandum – the purported request by local businesses to lease Applicant's parking lot – was repeatedly disavowed by Applicant's witnesses during the Hearing. Applicant repeatedly testified that the WPCA approached the Applicant and asked it to lease parking spaces (Tr. 32, 33, 61).

This testimony also directly contradicts Applicant's Application at 1, which states that "[t]he Applicant has been approached by a number of business owners and their employees . . . to open its available parking spaces for weekday parking." (Case file No.

3). Indeed, Ms. Adams adamantly denied that the business community approached the Applicant and instead insisted that it was "the Woodley Park Community Association, and that is a body of neighbors, your neighbors" that did so. Tr. 61. When further pressed, Ms. Adams explained that her testimony that "[w]e've been approached by business owners and business employees from the commercial area down the street interested in renting or you know, parking in our lot during the week" was not meant to suggest that the business community was included in the Woodley Park Community Association's alleged overture to the Applicant asking it to rent spaces. Tr. 61. Ms. Adams said, "What I mean to say is that we've been approached by some business owners asking that they be able to use our lot . . . ." Tr. 62. To emphasize that business owners were not included when the WPCA allegedly asked the Applicant to lease parking spaces, Rev. van Dorn interjected, "I do know that the Woodley Park Community Association meets in the Church . . . . I know no businesses represented there." Tr. 62. Neither of Applicant's other two witnesses testified otherwise or corrected or modified these statements in any way.

The above demonstrates that there is ***no record evidence*** supporting a special exception under Section 213. This Board's December 10, 2002 Order Re-Opening the Record permits the Applicant to provide "any additional information supporting the burden of proof required . . . under sections 3104.1 and 213." Opponent should also be able to submit evidence demonstrating that Applicant has continued to fail to meet the requirements of these sections.

Furthermore, as noted above, Applicant denied both the Board and Opponent a full and fair opportunity to investigate what business owners and employees had

previously leased parking spaces. As a result, neither could investigate whether they were the same "business owners and their employees" who Applicant claimed in its Application Statement of Existing and Intended Use had asked the Applicant to lease parking spaces. Thus, Opponent was denied the opportunity to uncover whether Applicant was attempting to use those with whom it had conducted prior illegal business dealings to support its Application.

1.4 Applicant obtained support from the WPCA and ANC-3 based upon its inaccurate representation that it would lease its parking lot in the same manner as it had before it sought to lease the parking lot legally

Because Applicant never revealed to the Board or Opponent that it had previously leased parking spaces, Opponent had no opportunity during the Hearing to develop the record about Applicant's prior, illegal "practice of renting out a limited number of parking spaces." Ex. 3, Minutes of WPCA Executive Committee meeting, April 19, 2001; Decl. 26. But as these Minutes reveal, the WPCA's resolution "was passed supporting the Applicant's efforts to obtain the necessary variance that would be *in line with its existing practice of renting out a limited number* of parking spaces . . . ." Ex. 3 at 2 (emphasis added). Similarly, the ANC Resolution 2002-009 (Case file Ex. No. 26) ("ANC Resolution") was based on Applicant's representations to the Commissioners that its proposed leasing of its parking lot would be conducted in the same manner as before. *See* Decl. pars. 27-28.[3]

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[3] Further undermining the ANC's support is the fact that the ANC Resolution expressly relied in part upon "the full support of the Woodley Park Community Association," (Case file No. 26), which was itself premised upon unfulfilled representations.

However, the evidence shows that Applicant never rented 17 parking spaces between midnight, Sunday to midnight, Friday as it now proposes. *See* Decl. par. 13. The record also demonstrates that the Applicant never leased 19 parking spaces out of 21 parking spaces during these times. *See* Decl. Par. 14. Accordingly, the WPCA's and ANC's approval of Applicant's proposal to rent parking spaces was based upon conditions that Applicant's Management Plan did not meet.

1.5 Opponent has suffered prejudice as a result of Applicant's multiple material omissions of fact and multiple inaccurate, misleading or misstatements of fact

Applicant's omission of material fact and incomplete, inaccurate or false statements of fact deprived Opponent of his right to a fair Hearing in a number of respects. Applicant's testimony created a false impression among the Board of broad community support for its Application (see Tr. 131-132) when, in truth, there is widespread opposition among the neighbors. (Exs. 5-7). Opponent has also been forced to spend an enormous amount of time and money preparing a prior Motion to Re-Open the Record with a supporting declaration and exhibits as well as this motion with supporting declaration and exhibits. In addition, the false and inaccurate testimony skewed the Hearing, cut off lines of inquiry, and undermined Opponent's ability to conduct effective cross-examination. Thus, Opponent could not effectively develop his case in opposition.

It is fundamental that, in order for a hearing to have integrity, the testimonial record must be sound. That is why all U.S. federal and state courts may impose severe sanctions for false, misleading or purposely incomplete or inaccurate testimony. An

appropriate sanction for this Board would be to deny Applicant's Application outright. Short of that, providing Opponent the same chance to submit "any additional information" as provided to the Applicant is not only reasonable, but required by justice.

2. Opponent's Evidence Demonstrates that the Applicant Has Withdrawn Its Written Statement and Provided False Oral Testimony Concerning the Basis for its Application, Thereby Rendering The Application Devoid Of Any Evidentiary Support.

As demonstrated above, during the Hearing, Applicant specifically disavowed the reason contained in its written Statement of Application for its application: that business owners approached the Applicant seeking to lease parking spaces. *See* Part 1.3, pp. 10 – 12. The fact that the business community did not ask the Applicant to lease parking spaces is hardly surprising, since the business community has more than a thousand available spaces for lease closer to the business district than the Applicant's Parking Lot and the neighbors overwhelmingly oppose the proposal. *See* Decl. pars. 29-33; Exs. 5-7.

Also as demonstrated above, the Applicant's repeated oral testimony during the Hearing that the WPCA approached the Applicant asking to lease parking spaces was similarly false. Indeed, Applicant later admitted that the WPCA was merely "informed of" the Application. *See* Part 1.2. (Even then, both the WPCA and ANC were misinformed about the Applicant's actual plans.)

Applicant's repudiation of the basis for the Application contained in its written Statement of Application as well as the falsity of the basis for the Application contained in Applicant's oral testimony means that *the Application lacks any basis* whatsoever.

The exposure of Applicant's discredited reasons for its Application explains why more than 70 people have registered their opposition to the Applicant's plan in a very

short period of time. This overwhelming community opposition is a further reason for denying the Application. *See* Decl. at pars. 29-33.

3. Dozens of Neighbors Never Received Notice of this Board's Hearing and None of the Neighbors were informed of the Applicant's Intent to Seek Approval from the WPCA or ANC.

Case file No. 5 (a map showing the homes within a 200 foot radius of the Parking Lot), indicates that a substantial number of neighbors on Woodley Place and Cathedral Avenue were not served with notice of the Board Hearing. Indeed, when Opponent and two neighbors canvassed the neighborhood with the Petition, dozens of people reported that they had never heard of the Applicant's proposal to lease its parking lot. Decl. at pars. 31-32.

Moreover, 65 neighbors signed a Petition stating:

> Absence of notice. None of us received notice that the Applicant was seeking support of its proposal to lease commercially its parking lot from the Woodley Park Community Association or ANC-3. Nor did the Applicant ever seek our views on leasing the parking lot before approaching these organizations

Ex. 5. Three other neighbors sent e-mails either asking that their names be added to the Petition or saying that they never received notice. Ex. 6. Indeed, the ANC Resolution itself does not state that it provided "proper notice," even though an ANC "report" is required to do so by statute. *See* Title 11, Section 3115.1(c) (requiring provision of information indicating "whether the proper notice of [the ANC meeting to consider the application] was given by the ANC.")

Given how many neighbors have been completely blindsided by the Applicant's Application, it is only just to admit Opponent's new evidence so that this Board may understand their adamant opposition.

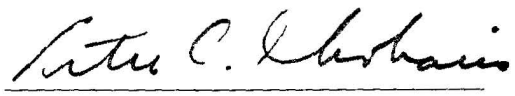
4. If this Board Denies Opponent the Opportunity To Provide "Any Additional Information," This Board Should Schedule A New Hearing to Permit Opponent to Cross-Examine Applicant's Prior Witnesses and Present His Own Witnesses

Alternatively, if this Board does not permit Opponent to submit "any additional information" in opposition to the Application, Opponent asks that this Board schedule a new hearing so that Opponent may examine Applicant's prior witnesses under oath as well as present Opponent's own witnesses. A new hearing will allow Opponent to demonstrate that the Applicant's Application is without any factual foundation; provide Opponent, as well as Applicant, a fair opportunity to present evidence; and permit this Board to base its decision on an accurate record.

Conclusion

For all the foregoing reasons, Opponent respectfully requests that this Board admit Opponent's additional evidence, including the Declaration and attached Exhibits in Support of this Motion, so that this Board may base its decision on an untainted record.

December 24, 2002



Peter C. Choharis
2771 Woodley Place, N.W.
Washington, D.C. 20008
202-371-6078 (w)

Proof of Service

I, Peter C. Choharis, do hereby state that I caused to be sent via first class U.S. Mail, postage pre-paid, a copy of the foregoing (1) Motion to Submit Additional Evidence, Or In the Alternative, To Schedule a New Hearing, (2) Declaration of Peter C. Choharis in Support of Motion, and (3) accompanying Exhibits to:

Ms. Brigitte L. Adams
2800 Wisconsin Avenue, N.W., # 208
Washington, D.C. 20007

On this 24th day of December, 2002.

Peter C. Choharis