Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue, NW
Washington, DC 20008

December 20, 2002 By hand delivery.

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

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RE: **APPEAL No. 16879**
REQUEST FOR RECONSIDERATION AND HEARING (SUNRISE)

Dear Mr. Griffis and Members of the Board:

The Appellants ask you to consider the following information that was not available on the June 18, 2002 hearing date:

A. <u>THE SHAPE OF THE ELEVATOR SHAFT CURRENTLY UNDER CONSTRUCTION IS NOT CONSISTENT WITH PERMIT B442149</u>:

Current construction of a rectangular elevator shaft is inconsistent with the elevator shaft footprint approved in Permit B442149 (Plan Sheets A108 "Roof Plan & A402 (K15) Partial 7th Floor Plan-Elevator Lobby Area, dated 11/29/01). An attached photograph shows a rectangular shape rather than the six-sided elevator enclosure footprint in Permit B442149.

B. THE BOARD ALLOWS <u>CONTRADICTORY INTERPRETATIONS OF THE ROOF STRUCTURE</u> (embellishment vs. roof) between Appeals Nos. 16716 and 16879

The Board interpreted the nature of the roof structure **<u>inconsistently between Appeals Nos. 16716 and 16879</u>**. In Appeal No. 16716, the Board agreed with the Intervener and interpreted the sloped "Mansard" roof as an "embellishment." In Appeal No. 16879, the sloped roof was a roof, the "main roof," rather than an embellishment (see attached Rear Elevation). These interpretations are significant in evaluating compliance with Zoning Regulations.

BZA
Case No. 16879
Exhibit No. 58

Board of Zoning Adjustment
District of Columbia
CASE NO.16879
EXHIBIT NO.58

Undisputed evidence in the record shows the highest point of the sloped roof exceeds the allowed 90 feet.[1]

Zoning Administrator, however, excluded the sloped roof from the height of the building and the attic space beneath it from gross floor area in his calculations presented in Appeal No. 16716. He considered the roof an embellishment (8/4/01 BZA Public Hearing transcript, p. 189). A cornice (called a parapet by the Intervener's expert witness 8/4/01 BZA Public Hearing) supports the roof. The top of this cornice/ (parapet) was used as the building height (Order No. 16716, Oct 12, 2001).

The Zoning Commission then determined that an embellishment could not be used to protect the roof penthouses from setback and other requirements of 11 DCMR §§400.7 and 411 (Case No. 01-26/16716A).

Considering the sloped roof as the "main roof" concealing the penthouse might appear to circumvent roof penthouse requirements but definitely fails to meet the height limitation.

Furthermore, Appellants' evidence in the record indicates that **the elevator penthouse will not fit under the sloped roof** as shown in the revised permit (B442149).

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[1] **Undisputed evidence** in Appeal 16716 record shows that using the sloped roof as "roof" rather than "embellishment" brings the building over the allowed 90 feet. The height of the highest point of the sloped roof is calculated (from copies of official DCRA records) to be over 92 feet.

Building Element or Reference Point	**Height**
Front curb elevation (Street Datum) 302.50 ft.	0
First floor slab elevation--304.18 ft.*	1.68
First & 2nd floors 12 ft each (24 ftl.)	25.68
3rd-7th floors 10'4" ft each (51 ft. 8 in.=51.67 ft.)	77.35
Cornice (also called parapet) scaled from plans: 2 ft.	79.35
"Mansard" roof 12 ft.	91.35
Roof metal rim, scaled from plans: 1 ft.	**92.35**

* Conservative figure: current construction shows the first floor slab may be higher.

We believe that the Intervener has not met its burden of proof required to dismiss Appeal No. 16879. We respectfully request reconsideration and hearing of Appeal No. 16879.

Yours truly,

Page Chiapella

Page Chiapella
President, Nebraska Ave. Neighborhood Association
5126 Nebraska Ave., NW
Washington, DC 20008

Attachments: Photograph of elevator shaft under construction
A202: Rear Elevation embellishment / main roof
Certificate of Service

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing communication was served by first-class mail, postage prepaid, this 20th day of December, 2002 upon the following:

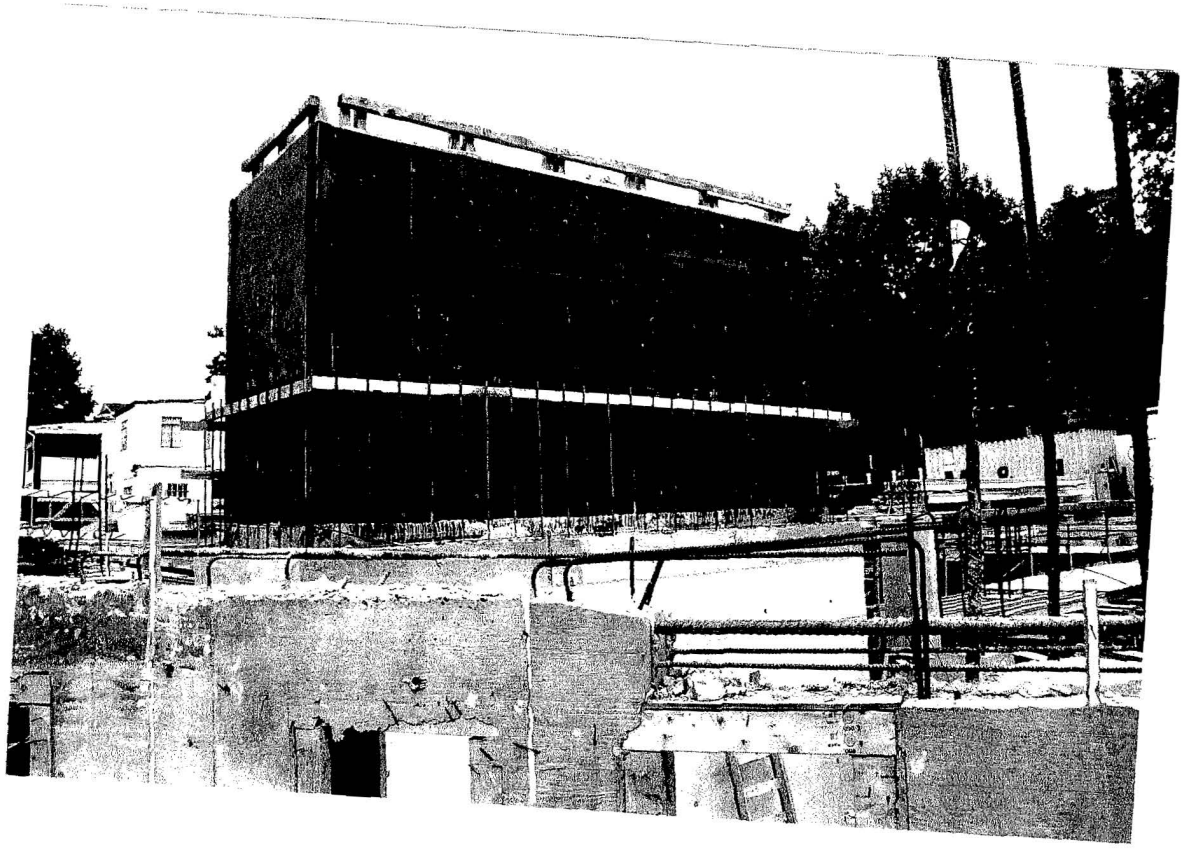
Anne Renshaw
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Advisory Neighborhood Commission 3/4 G
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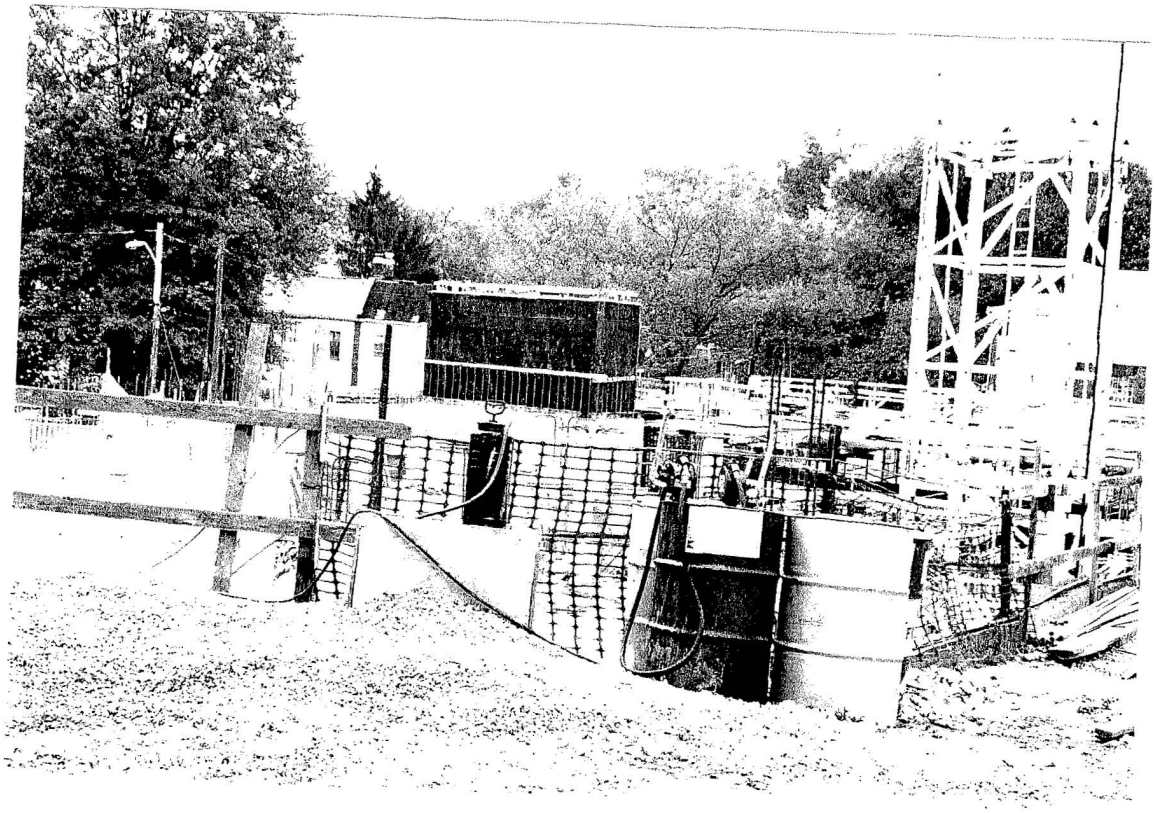
Robert Kelley
Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capital Street, NE
Suite 2000
Washington, D.C. 20002

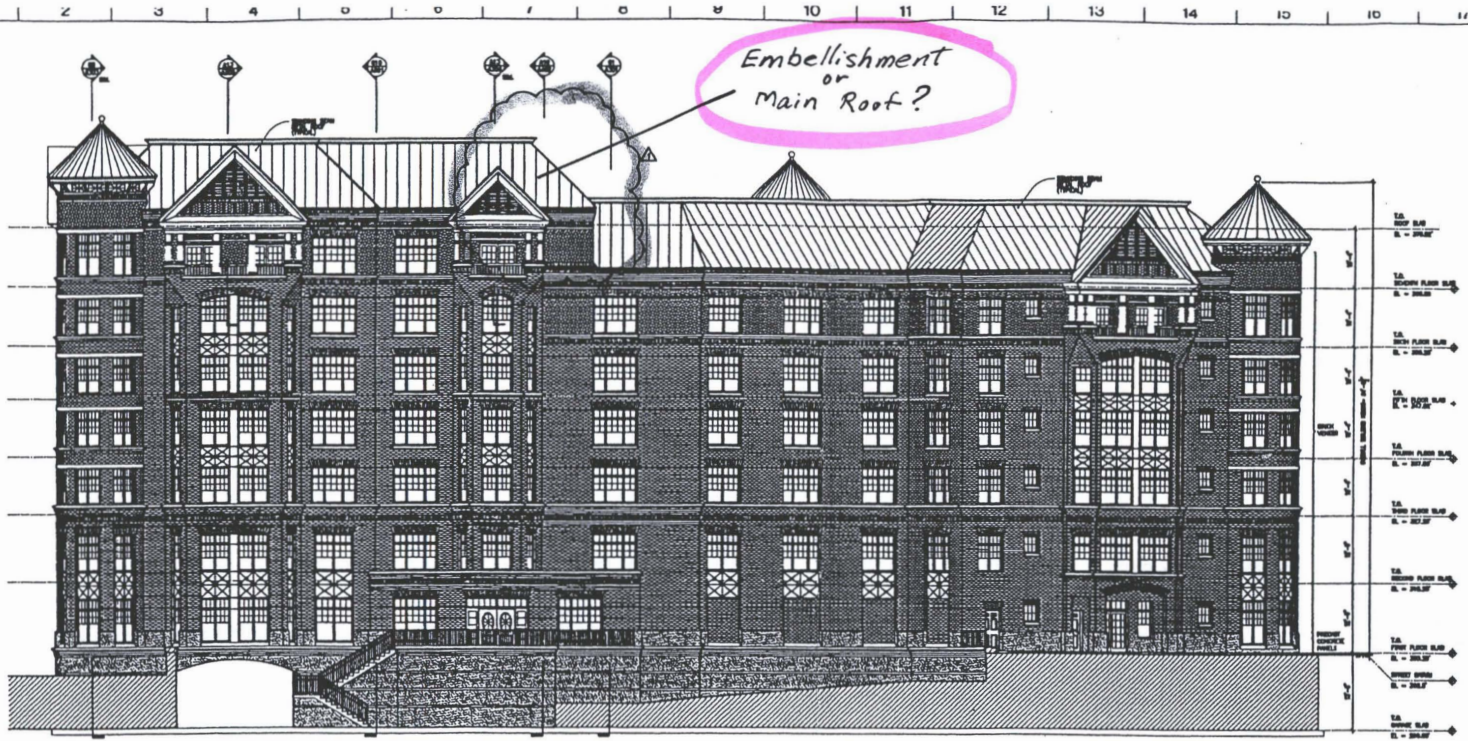
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BEERY, RIO AND ASSOCIATES
ARCHITECTS

ELEVATIONS

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1/8" =1'-0"

A202