Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 6(C)
P.O. Box 77876
Washington, DC 20013-7787

D.C. OFFICE OF ZONING
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FOR MOST URGENT ATTENTION:

Ms Carol Mitten, Chair, Board of Zoning Adjustment
Board of Zoning Adjustment
Washington, DC
May 22, 2003

CC: **His Honor Mayor Anthony A. Williams;** District Councilmembers Phil Mendelson, Sharon Ambrose, Harold Brazil.

APPEAL FOR **URGENT STOP WORK ORDER** ON THE GROUNDS OF DEMONSTRABLE VIOLATIONS OF THE DISTRICT BUILDING CODE: 500 NEW JERSEY AVENUE, NW (BZA Case No. 16930)

Dear Ms Mitten:

I am sending you this letter at the suggestion of Councilmember Phil Mendelson, who discussed the subject hereof at a meeting on Thursday May 8, 2003 with a delegation of my ANC. Attendees included representatives of Councilmember Sharon Ambrose and Councilmember Harold Brazil.

ANC 6C has tried strenuously for several months now to alert District officials to the matters described in this letter, including **evidence of serious illegality and improprieties by city employees, including major violations of the district Building Code.**

On February 24, 2003 my ANC wrote to your office alerting it to the fact that "the BZA's decision on Case No. 16930 is based on false, erroneous and incomplete information".

On April 2, 2003 we wrote urgently to David A. Clark, Director of the District's Department of Consumer & Regulatory Affairs (DCRA). This letter was copied to your office. We did not address it to your office as the primary recipient as we considered it appropriate for Mr. Clark to be the primary recipient, on the assumption that your office still intended to arrange for us to be involved in the permitting and public space compliance process. We were surprised to discover later that this process had gone ahead without our involvement.

The history of this case involves objections to the city's handling of it from a number of different standpoints, including the perceived unsuitability of the building to the area in the view of highly qualified experts, the exclusion of our ANC from the formal review process, the BZA's having approved an order while a preceding order was still in force, and the denial of this latter circumstance by a BZA staffer at a BZA hearing although its truth can be easily verified.

However -- and this is critically important -- the most urgent immediate issue is none of the

BZA
Case No. 16930
Exhibit No. 111

Board of Zoning Adjustment
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CASE NO.16930
EXHIBIT NO.111

aforementioned but the fact that the city has committed serious permitting violations which have come to light in our inspection of the records. These violations of the District Building Code are documented in our letter to Mr. Clark, a copy of which I now forward to your office for the second time, as an attachment herewith.

I repeat that these violations are not trivial but are extremely serious.

If allowed to pass unchecked they will set **dangerous precedents for a new and loose interpretation of the Building Code** that will enable developers to achieve variances from the Building Code that are clearly against the letter, spirit and intent of the Code.

These consequences could make it difficult or not impossible in future for ANCs, , civic associations and other watchdog entities and concerned monitors of development to demand meaningful compliance with the Code in a number of important areas of building, public planning and public space regulation and governance.

In effect, the city's commitment of these violations at the expense of the District's public *amount to a quiet rewriting of important clauses in the Building Code*, in order that a private developer's agenda may be fulfilled and in order that the said developer may be illegally enriched.

The city's handling of this matter not only accommodates a private developer at the public's expense, to the developer's substantial profit, but thereby ***also opens the way for major lawsuits to be pursued against the city.***

When action is eventually taken to curtail this illegally permitted development, **the developer may well seek substantial redress from the city**, both for having permitted it in the first place and for then having allowed the project to progress without alerting the developer to the existence of violations that make it impossible for this project in its present form to be taken to fruition.

The city will be unable to claim ignorance of these violations, in view of our ANC's clear and incontrovertible record of having alerted to the city to them. Thus, quite apart from the prejudice to the public interest that is intrinsic to these violations, the city is also painting itself into a dangerous legal corner by declining to acknowledge or act upon these clearly visible violations. *It is clear that in such an event all relevant city officers will be held accountable.*

Given the record, it is difficult to avoid the impression that there are hopes within the city government that if our ANC is ignored long enough, with luck we will just go away -- or least forget about the case, so that it can be quietly buried in the city's paperwork.

The importance of this case is such that we can do neither. So I now call on you to act on this matter immediately. ***Please regard this letter as a formal petition to you to take urgent note of this matter, to investigate it thoroughly, and to act with appropriate speed to prevent the development from proceeding any further in its present illegal form.***

My ANC's position is that this case has been so badly handled by the city, and that the illegalities surrounding it are so serious, that the only appropriate response by the city is to revoke all permits accorded the developer to date. The developer should be required, in view of the illegalities, to file a new petition in respect of every phase for which permitting has been granted, and such filing should be conducted in the public arena with our ANC and all other concerned parties being enabled to participate formally in good time, to scrutinize all submissions, and to cross-examine the petitioner in depth.

It is in the public interest that this matter be dealt with most urgently, so I formally request that this letter

please be regarded as constituting **an emergency appeal to you on the grounds of serious information having come to light**; alternatively the letter should be regarded as assuming whatever status is necessary for you to act upon it.

It is vital that petty formalities not be invoked to obscure your office's serious responsibility to take note of this communication and to act upon the significant information that it contains.

Yours sincerely,

COMMISSIONER ROBERT L. HALL,
Chair, ANC 6C

E-MAIL ADDRESS TO BE USED FOR RESPONSES TO THIS LETTER:
rhall@firstunitedllc.com

Telephone number: 202 548-0081 x11

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

Phil Mendelson
Councilmember At-Large

Office: (202) 724-8064
Fax: (202) 724-8099

May 19, 2003

Mr. David Clark, Director
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 9500
Washington, DC 20002

Dear Mr. Clark:

We have been contacted by ANC 6C representatives regarding the office building under construction at 500 New Jersey Avenue, NW. Apparently a significant portion of this building is being built on public space, pursuant to a permit application that characterizes the approximately 9,000 square feet of usable floor space as an "architectural embellishment." We would like to know how this permit approval could have occurred.

Further, if it is true that the building floor plate extends beyond the property line then we ask that you suspend the building permit so that the design is reconfigured to fit within the property line.

Finally, we are concerned that ANC objections, voiced loudly throughout the application process, did not receive proper consideration when the permit decision was made. For instance, ANC representatives tell us that notices of building permit issuances and applications are no longer sent regularly to them. How could this have happened?

Thank you for your attention to this matter. We look forward to your response.

Sincerely,

Sharon Ambrose
Councilmember, Ward 6

Phil Mendelson
At-Large Councilmember

PM/ae