ANC 3F

Advisory Neighborhood Commission 3F
NORTH CLEVELAND PARK / FOREST HILLS

3F01 - Phil Kogan
3F02 - Karen L. Perry
3F03 - Robert V. Maudlin
3F04 - David J. Bardin
3F05 - Doug Mitchell
3F06 - Cathy Wiss
3F07 - Todd Strauss

12 November 2002

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Honorable Geoffrey H. Griffis, Chair, and other Members
D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Appeal No. 16947 filed by Kuri Bros., Inc., on September 11, 2002

Dear BZA Members:

Advisory Neighborhood Commission 3F asks the Board to recognize its status as a party.

- ANC 3F is a Party as of right under the governing regulations because the facilities of Appellants, Kuri Brothers, Inc., at issue here are in ANC 3F.
- Alternatively, the Board should find that no other party but ANC 3F adequately represents interests of residents living adjacent to Appellants' facilities.

Appellants' stated reasons for delaying the hearing (which they sought) are unpersuasive.

ANC 3F Is a Party as of Right

Appellant's "Petition for Appeal" invoked §§ 3100 and 3101of the Zoning Regulations (DCMR Title 11). For purposes of this Board's jurisdiction *under these two provisions*, 11 DCMR §3199.1(a) defines "Party" to include:

"(4) The ANC for the area within which the property is located;"

ANC 3F is therefore a Party, because the property in question is located in the area of ANC 3F as spelled out in the Office of Zoning's notice to ANC 3F, shown by the address information in Appellants' Appeal, and confirmed by Appellants' own advertising.

On behalf of this Board, the Office of Zoning correctly notified ANC 3F on September 20, 2002, that this appeal "falls within the boundaries of your" ANC. This appeal concerns Appellants' operations without a lawful certificate of occupancy in violation of the zoning laws of the

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email: anc3f@juno.com *Phone: 202.362.6120 • Fax: 202.686.7237*

BZA
Case No. 16947
Exhibit No. 21

Board of Zoning Adjustment
District of Columbia
CASE NO.16947
EXHIBIT NO.21

District of Columbia. Appellants' Appeal listed the affected premises as:

4221 Connecticut Avenue, N.W. Washington, D.C. 20008	Square 2051	Lot 5	Zoning District C-3-A

and its business address as 4225 Connecticut Avenue, N.W., Washington, D.C. 20008. Both are in ANC 3F.

Operations in question take place underground at 4221 Connecticut Avenue, N.W., and Appellants maintain their related sales office next door at 4225 Connecticut Avenue, N.W. (They also exploit the public alley in between as if it were their property.)

Calling the business "Van Ness Auto Care", Appellants distribute a Flyer signed by "Chris Kuri and the staff at Van Ness Auto Care" at 4225 Connecticut Avenue, N.W., offering "21 Service Bays" located "across from UDC & Next to Van Ness Metro" and inviting "New Customer" to "use our AUTOMOBILE SERVICE CENTER." [*See* Exhibit A, a flyer distributed near Dupont Circle.] Their business card [*see* Exhibit B] giving the same location shows a photograph of underground bays one side and reads as follows on the other:

21 SERVICE BAYS	**FOREIGN & DOMESTIC CAR SPECIALIST** LATEST DIAGNOSTIC • TUNE-UP • BRAKES EXHAUST • ALIGNMENT • TRANSMISSION ELECTRICAL • DETAILING • TOWING SERVICE
VAN NESS AUTO CARE	
4225 Connecticut Avenue, N.W. Washington, D.C. 20008 Across from UDC & Next to Van Ness Metro Tel. (202) 966-5955	ASE certified

Since both 4221 and 4225 Connecticut Avenue, N.W., are, in fact, within ANC 3F, the regulations establish ANC 3F's Party status based on geography alone.

No Other Party Adequately Represents Interests of Residents Adjacent to the Premises

Moreover, no other party could represent the interests represented by ANC 3F because it speaks for concerns of the *neighborhood* – including residential neighbors, as well as the interests of the District of Columbia as a whole. The ANC perspective, therefore, differs from that of the Department of Regulatory and Consumer Affairs (DCRA). The latter's responsibility is consistent administration of the zoning laws and regulations of the District. So, for DCRA, the issue is merely that Appellants operate a Repair Garage in a C-3-A Zoning District – where Repair

Garages may not operate as of right – without having so much as sought a variance or special exception from this Board (much less having secured one). The nature of other, nearby uses in the adjacent R-5-D Zoning District may not be critical to DCRA. But it is critical to ANC 3F because hundreds of people occupy *apartment houses* in the immediate vicinity – as close as a 16-foot alley away. Entry to Appellants' underground facilities is via this alley, facing balconies of 10 apartments and living room and bedroom windows. DCRA cannot adequately represent the interest of those residents – hundreds of whom are renters and other hundreds of whom live in coops or condominiums. So ANC 3F's participation is essential to protect residents from impacts on their quality of life, including noise, chemicals, traffic in and out, and uninspected underground activities.

ANC 3F Timely Filed a Report

On November 4, 2002, ANC 3F timely filed its unanimous report, opposing the Appeal and detailing further circumstances, including ANC 3F's consistent and repeated objections to illegal operations at the premises, endangering public health and safety.

Appellants Have Not Justified a Delay

Appellants' sole stated reason for delaying the hearing is that one of their attorneys planned to "be out of the country on a long-scheduled vacation" on November 12. He, presumably, did not want to reschedule. But Appellants' Appeal lists *two* attorneys: First, "Stanley H. Goldschmidt, Esq." and, second, "Tamir Damari, Esq." Even if vacations justified inconveniencing the orderly processing of this Board's cases, there is no claim that *both* attorneys will be on vacation! (or that *either* of them *must* be on vacation!)

But that is not all. As ANC 3F's report demonstrates, the neighborhood has been waiting 13 years for justice. Appellants and their business associates and predecessors have proven past masters at delay. (Most recently, Kuri Brothers, Inc., after changing attorneys and retaining its present counsel used that as a reason for a delay.) All the while, Appellants continue to operate illegally six days each week (12 hours a day for five week days and 6 hours on Saturdays).

Conclusion

For the foregoing reasons, this Board should recognize ANC 3F's status as a Party and require Appellants to shoulder their burden of going forward on their appeal or be dismissed.

Respectfully submitted,

David J. Bardin
Secretary ANC 3F

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EXHIBIT "A"

VAN NESS AUTO CARE

4225 Connecticut Avenue N.W.
Washington, DC 20008
(202) 966-5955
(Across from UDC & Next to Van Ness Metro.)



21 Service Bays

Auto Repairs
Auto Body

New Customer:

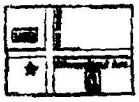
We the management at VAN NESS AUTO CARE invite you to use our AUTOMOBILE SERVICE CENTER. We assure you our services will be satisfactory and our personnel courteous.

Our highly qualified technicians service each car in our 21 bay facility. Our state of the art equipment provides us with the essential tools for servicing your cars needs throughout the years. VAN NESS AUTO CARE services manufacturer's recommendations for extended warranties with quality workmanship that allows for same day service.

We hope you give us the opportunity to earn your trust and become your regular service center.

Sincerely,

Chris Kuri and the staff at Van Ness Auto Care



SERVICE SPECIAL
21 SERVICE BAYS TO SERVE YOU
21% DISCOUNT ON ANY REPAIR
Good on your first visit. One offer per customer. Please present at time of write up.

Hours:
Mon. - Fri. 7 am to 7 pm
Saturdays 8 am to 2 pm
Appointments Call
(202) 966-5955

EXHIBIT "B"

21
SERVICE
BAYS

FOREIGN & DOMESTIC CAR SPECIALIST
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