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June 30, 2003

Via Telecopy:

Mr. Geoffrey H. Griffis
Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street N.W.
Suite 210
Washington, D.C. 20001

Re: BZA Appeal No. 16947

I am writing to respond to the letter of John Patrick Brown, Intervenor's counsel, dated June 26, 2003, a copy of which was just received by the undersigned this afternoon.

Firstly, I note that although Intervenor's counsel transmitted his letter to this Board on June 26, 2003 via telecopier and hand-delivery, he chose not to transmit his letter to the undersigned by the same means, but, instead, chose to transmit this letter to the undersigned via U.S. mail. As a result, the undersigned first received this letter late this afternoon, and, as a result, is left with less than one business day to respond to the specious "arguments" posed in Intervenor's counsel's letter. The undersigned will not endeavor the divine the intentions of Intervenor's counsel's in transmitting his letter to the undersigned by the slowest means possible, although it can reasonably be concluded that Intervenor's counsel did so in order to attempt to deprive the undersigned of any meaningful opportunity to respond to his letter.

Intervenor's counsel's letter states, in pertinent part (on pages 1-2):

> Appellant's Proposed Findings of Fact and Conclusions of Law...is an extensive factual and legal argument going well beyond the Appellant's presentation on the record...At the close of the hearing in this matter, this Board clearly closed the record with the limited exception of allowing the submission of Proposed Findings of Fact and Conclusions of Law by the parties...the Appellant has attempted by the back door, to make its case having chosen not to do so on the record and subject to cross examination and rebuttal...

BZA
Case No. 16947
Exhibit No. 48

Board of Zoning Adjustment
District of Columbia
CASE NO.16947
EXHIBIT NO.48

The foregoing contention is simply ridiculous. Firstly, Intervenor's complaint that "Appellant's Proposed Findings of Fact and Conclusions of Law...is an extensive factual and legal argument" is rather odd (to say the least), since the very purpose for a party to submit "proposed findings of ***fact*** and conclusions of ***law***" is to provide this Board with the ***legal*** and ***factual*** arguments supporting that party's position. Indeed, it is difficult to discern how a party could possibly proffer proposed findings of fact and conclusions of law ***without*** making legal and factual arguments. Similarly, Intervenor, does not, and cannot, cite to anything in support of its tacit contention that "factual and legal argument" is prohibited in Proposed Findings of Fact and Conclusions of Law.[1]

Secondly, Intervenor's contention that Appellant's Proposed Findings of Fact and Conclusions of Law "go[es] well beyond the Appellant's presentation on the record" is an egregious misrepresentation of fact. The undersigned invites this Board to review Appellant's Proposed Findings of Fact and Conclusions of Law "with a fine tooth comb". Such a review will reveal that every citation in Appellant's Proposed Findings of Fact and Conclusions of Law is to either: (i) the hearing transcripts of April 8, 2003 and May 13, 2003; or (ii) exhibits accepted into the record at the April 8, 2003 and May 13, 2003 hearings. In other words, contrary to Intervenor's bold-faced assertion, Appellant has not cited to anything outside the record, an indisputable fact which is aptly underscored by Intervenor's glaring inability to proffer a **single** example of Appellant's supposed reliance upon evidence outside the record. Accordingly, it is obvious that each of the assertions made by Intervenor's counsel in his letter of June 26, 2003 is utterly baseless.

The undersigned thanks this Board in advance for its consideration and thoughtful review of this letter.

Sincerely,

Tamir Damari

cc.

Matthew Green, Esq. (via telecopy)
David Bardin, Esq. (via telecopy)
John Patrick Brown, Esq. (via telecopy)

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[1] There is nothing in Rule 3121 of this Board (the Rule of this Board concerning proposed findings of fact and conclusions of law) which expressly or implicitly prohibits a party from including "factual and legal argument" in its proposed findings of fact and conclusions of law.

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TELECOPIER COVER SHEET

TO:	Chairman Geoffrey Griffis
RECIPIENT'S TELECOPIER NO:	202-727-6072
FROM:	Tamir Damari, Esq.
DATE:	June 30, 2003
NUMBER OF PAGES:	3 (including this cover sheet)

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Please see attached.