June 10, 2003

D.C. OFFICE OF ZONING
2003 JUN 10 AM 11: 40

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustments
441 Fourth Street, N.W., Room 201
Washington, D.C. 20001

Re: BZA Application No. 16970
National Child Research Center ("NCRC")
3209 Highland Place, N.W.,
Square 2072, Lot 30 (the "Property")

Motion of R. Bruce Beckner, Sallie R. Beckner, Steven R. Hunsicker, Henry Little, Lydia Mendoza, Gaylord Neely and Linda Badami for Recusal of Member Ruthanne Miller

Dear Mr. Chairman:

The undersigned, having been admitted as parties in opposition in this proceeding, hereby move that Ruthanne Miller, recently appointed to the Board of Zoning Adjustment ("BZA") while this case has been pending, recuse herself from all participation.

Prior to her appointment to the BZA, Ms. Miller was a member of the Board of the Cleveland Park Historical Society ("CPHS"). In that capacity, Ms. Miller was exposed to presentations from both the applicant and some of the parties in opposition, including at a meeting of the CPHS Board held on February 4, 2003. In addition, as a member of the CPHS Board, Ms. Miller was asked to take a formal position on both the architectural merits of the proposed new construction (because NCRC is located in an historic district) and on the project as a whole.

Section 3127.2 of the Rules of Practice and Procedure of this Board requires that the decision be made "upon the exclusive record of proceedings before the Board." As a quasi-judicial officer (*see Morrison v. District of Columbia Board of Zoning Adjustment*, 422 A.2d 347 (DC App. 1980)), Ms. Miller is bound by the Code of Judicial Conduct. It provides, in part, that a judge should recuse herself when she has "personal knowledge of disputed evidentiary facts concerning the proceeding." Code of Judicial Conduct, Section 3E(1)(a) (1995).

We think that Ms. Miller's prior role in hearing presentations by the applicant and its opponents and then voting on the CPHS's position with respect to the application makes it highly likely that Ms. Miller has such knowledge of disputed evidentiary facts from sources outside of this hearing and that she may have even come to a conclusion regarding the advisability of the relief the Applicant seeks. For these reasons, we believe Ms. Miller should not participate in any aspect of this proceeding, including exposing or consulting with other members of this Board

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District of Columbia
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EXHIBIT NO.188

about what she may have learned outside of the hearing and of her own views regarding the Applicant's proposal.

We are informed that, on May 19, 2003, Ms. Miller wrote the Chair of this Board stating her intention to recuse herself from this proceeding. We appreciate Ms. Miller's stated intention to recuse herself *sua sponte*. However, in the interest of protecting the record, the undersigned hereby submit this Motion to make their position on the matter clear.

Respectfully submitted,

R. Bruce Beckner
Sallie R. Beckner
3225 Highland Place, N.W.

Steven R. Hunsicker
3083 Ordway Street, N.W.

Henry P. Little
Lydia Mendoza
Owners of 3220 Ordway Street. N.W.

Gaylord Neely
Linda Badami
3207 Highland Place, N.W.

cc: service list

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