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June 29, 2004

D.C. BOARD OF ZONING ADJUSTMENT
2004 JUL -1 PM 2:48

BY TELEFAX AND U.S. MAIL

Jerrily R. Kress, FAIA
Director
Office of Zoning
441 4th Street, N.W., Suite 210
Washington D.C. 20001

Re: Second Supplement to Complaint of Non-Compliance with Conditions of BZA/ZC Order No. 16977.

Dear Ms. Kress:

On February 26, 2004, I filed a Form 300 – Complaint of Non-Compliance With Condition(s) of a BZA/ZC Order, in connection with the Sheridan School's violations of BZA Order No. 16977, which the BZA issued on February 4, 2004. On March 10, 2004, Ms. Yvonne Rockett informed me by telephone voice mail message that she had issued a cease and desist order to the Sheridan School in connection with my complaint, to immediately end the School's violations of BZA Order No. 16977. Ms. Rockett requested that I inform her of additional violations by the School after the date of the cease and desist order. In accordance with Ms. Rockett's request, on April 29, 2004, I submitted a supplement to the original Complaint documenting, among other things, additional violations by the Sheridan School after the March 10 cease and desist order. Please accept this letter as the second supplement to my February 26, 2004, Complaint. Set forth below are additional violations of BZA Order No. 16977 by the Sheridan School that I personally observed between April 30, 2004, and today, Tuesday, June 29, 2004.

Sheridan School violations of BZA Order No. 16977 (Feb. 4, 2004), between April 30, 2004, June 29, 2004, in reverse chronological order:

1. Condition No. 18 ("The applicant shall comply with, implement, and enforce the construction management plan dated September 16, 2003 (Exh. 45 (Tab C)[)] during the period of construction of the interior and exterior work described in the plans and drawings submitted in conjunction with the subject application."); Construction Management Plan Item 1 ("Conduct no construction activities before 8:00 AM or after 5:00 PM[] Mondays-Fridays. . . . Construction activities shall include, but not be limited to, mobilization, deliveries, pickups, staging, preparation, demolition, construction, cleanup and demobilization.") (emphasis added):

BZA
Case No. 16977
Exhibit No. 66

Board of Zoning Adjustment
District of Columbia
CASE NO. 16977
EXHIBIT NO. 66

Since beginning heavy construction activities on Monday, June 21, 2004, the School has violated this condition almost every business day. For example, today, Tuesday, June 29, 2004, workers began arriving at the construction site in their trucks at 0550 hours (5:50 a.m.). Between 0550 hours and 0800 hours (5:50 a.m. and 8:00 a.m.), workers mobilized, staged, prepared, and conducted heavy demolition and construction activities, including but not limited to smashing glass windows, demolishing brick, concrete and cinder block walls, and disposed of demolition debris, all in violation of Condition No. 18 and Construction Management Plan Item 1.

I personally observed identical violations of this condition on Monday, June 21, 2004, at 0650 hours (6:50 a.m.), Thursday, June 24, 2004, at 0700 hours (7:00 a.m.), and Monday, June 28, 2004, at 0650 hours (6:50 a.m).

2. Condition No. 18 ("The applicant shall comply with, implement, and enforce the construction management plan dated September 16, 2003 (Exh. 45 (Tab C)[)] during the period of construction of the interior and exterior work described in the plans and drawings submitted in conjunction with the subject application."); Construction Management Plan Item 9 ("Locate all . . . trailers entirely within School property."); Construction Management Plan Item 10 ("Keep all . . . vehicles that . . . remain overnight on School property.")

On Tuesday, Wednesday, and Thursday, June 15, 16, and 17, 2004, including but not limited to the overnight periods each day, the School parked a tractor trailer truck (Bowman Trailer Leasing, (800) 635-6733, Tennessee license plate number T666736) on Alton Place in violation of Condition No. 18 and Construction Management Plan Items 9 and 10.

3. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Thursday, June 17, 2004, at 0740 hours (7:40 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

4. Condition No. 8(a) ("No deliveries or pickups shall occur at any entrance located on the north side of the building (i.e., facing Alton Place) before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Tuesday, June 8, 2004, at 0735 hours (7:35 a.m.), a Cloverland Dairy delivery truck arrived at the School on Alton Place in violation of Condition No. 8(a).

5. Condition No. 8(a) ("No deliveries or pickups shall occur at any entrance located on the north side of the building (i.e., facing Alton Place) before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Monday, June 7, 2004, at 0715 hours (7:15 a.m.), a Ridgewell Caterer delivery truck arrived at the School on Alton Place in violation of Condition No. 8(a).

6. Condition No. 8(a) ("No deliveries or pickups shall occur at any entrance located on the north side of the building (i.e., facing Alton Place) before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Friday, May 28, 2004, at 0705 hours (7:05 a.m.), an Aqua Cool delivery truck arrived at the School on Alton Place in violation of Condition No. 8(a).

7. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Thursday, May 20, 2004, at 0820 hours (8:20 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

8. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Monday, May 17, 2004, at 0705 hours (7:05 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

9. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Thursday, May 13, 2004, at 0820 hours (8:20 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

10. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Thursday, May 13, 2004, at 0835 hours (8:35 a.m.), trash was collected from the School by a second BFI garbage truck in violation of Condition No. 7.

11. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Friday, May 7, 2004, at 0815 hours (8:15 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

12. Condition No. 7 ("No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday."):

On Thursday, May 6, 2004, at 0805 hours (8:05 a.m.), trash was collected from the School by a BFI garbage truck in violation of Condition No. 7.

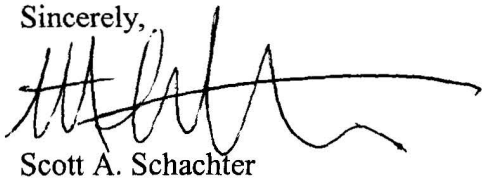
The Complaint and the two supplements to the Complaint document more than 50 violations of BZA Order No. 16977 by the School in the five short months since it was issued. The Sheridan School has failed to make any showing whatsoever that it did not in fact commit these violations, and the School has failed to comply with the BZA's March 10, 2004, cease and desist order. Notwithstanding the BZA's cease and desist order, and notwithstanding the School's representations to the BZA and the School's neighbors that it could and would comply with the terms and conditions of BZA Order No. 16977, the School continues to flagrantly and significantly disregard and violate the requirements of the order, on an almost daily basis. Consequently, it is beyond doubt that the Sheridan School has not achieved compliance with BZA Order No. 16977. More severe sanctions are required to punish the School for its past and continuing violations of the Order, and to specifically deter future violations by the School.

The Office of Zoning should turn the matter over to the Zoning Administrator with supporting documentation and a recommendation that the order conditions be enforced by imposition of significant fines for all past and future violations. Moreover, if the BZA does not order immediate termination or cessation of the School's construction activities, the BZA should immediately order the Sheridan School to: (1) lock the fence around the perimeter of the construction area; (2) prohibit the unlocking the fence prior to 8:00 a.m.; and (3) prohibit all construction personnel from entering the construction site and immediately neighboring streets site prior to 8:00 a.m.

In short, the School itself agreed and was ordered by the BZA, among other things, not to perform construction work before 8:00 a.m. The School reneged on its agreement and is currently violating the BZA's Order. The School's prior promises to do better and comply with the law in the future have all proven false. The neighbors of the School need the BZA to put an end to the School's disregard of its legal obligations.

Thank you in advance for your prompt attention to this matter. Please contact me in writing to inform me how the BZA will address the School's unlawful conduct.

Sincerely,



Scott A. Schachter

cc: Mr. Toye Bello
Ms. Yvonne Rockett (202) 442-4591
Ms. Cathy Wiss (by email to schumannwiss@juno.com)
Mr. Carl Kessler (by email to anc3f01@starpower.net)

Mr. C. Randall Plummer (by email to rplummer@sheridanschool.org)
Mr. James D. Heath (by email to jheath@sheridanschool.org)
Mr. Lyle M. Blanchard, Esquire (by email to lmb@gdllaw.com)
Mr. Jacques B. DePuy, Esquire (by email to jbd@gdllaw.com)