March 20, 2003

Advisory Neighborhood Commission 1B

Box 73710

Washington, D.C. 20056

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D.C. OFFICE OF ZONING
2003 MAR 25 PM 4:47

Re: BZA Application No. 16987

To Whom It May Concern,

I am writing to express my concern and that of Robert Stofferson, the other party opponent in the Board of Zoning Adjustment proceeding concerning the above-referenced Application, about the notice which was given by the Commission of its meeting held on February 6, 2003, at which the Commission voted to recommend approval of the said Application.

Had we known of the meeting, and that the Application would be considered and voted on at that meeting, we would have attended and urged the Commission to recommend that the Application be denied; however, we received no notice of the meeting. As a result of our not receiving notice, not only were we denied the opportunity to conceivably have prevented the resulting recommendation in favor of the Application, but we were also denied the possibility that our input might have resulted in a recommendation to deny the Application, a recommendation which, coming from the Commission and referencing with particularity our concerns, would have been afforded "great weight" by the Board as required by law, thus giving us a more substantial voice than we now have.

I spoke this afternoon with the Commission's Secretary, Philip C. Spalding, who was very helpful and generous in taking his time to discuss the matter with me, which I greatly appreciate. He informed me that notice of the meeting at which the Commission considered and voted on the above-referenced Application (on February 6, 2003) consisted exclusively of postings on two Internet websites, namely http:\\groups.yahoo.com\group\ustreetnews, and http:\\groups.yahoo.com\group\columbiabuzz, and that he felt that word of the meetings "gets around," citing the fact that approximately one hundred people attended the meeting in question. Mr. Stofferson and I do not doubt that word got around to many people, but it did

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not get to us, and we are concerned that, while the websites in question are undoubtedly useful in helping to spread the word, not everyone is online, and even those who are may not be aware of the existence of those specific websites.

As you know, D.C. Code §1-309.11(b)(3) provides that "[e]ach Commission shall establish mechanisms to ensure the broadest dissemination of information with respect to Commission meetings, positions and actions," and D.C. Code §1-309.11(c) specifies that notice of Commission meetings "must include, but is not limited to, at least 2 of the following:

(1) Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area;

(2) Publication in a city or community newspaper;

(3) Transmitting or distributing notice to a list of residents and other stakeholders in the community; and

(4) In any other manner approved by the Commission."

Based on the information provided by Mr. Spalding, it appears that at most one of the specified means of providing notice was utilized in this case, and that the notice therefore fails to meet the express requirements of D.C. Code §§ 1-309.10(d)(1) and 1-309.11(c), and additionally fails to meet Constitutional due process notice standards (U.S.C.A. Const.Am. 5; *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, L.Ed.2d 18 (1976)).

Furthermore, it appears that that the Commission's recommendation fails to articulate the basis for its decision as required by D.C. Code §1-309.10(d)(1).

Accordingly, in view of the foregoing, it is our position that the Commission's recommendation that the Board of Zoning Adjustment approve the above-referenced Application, can not only not be given "great weight" as the Commission requested in its report, but is in fact a legal nullity entitled to no weight or consideration whatsoever by the Board.

Thank you for your kind attention to these concerns.

Sincerely yours,



Larry Ewers

1205 Clifton St., N.W.

Washington, D.C. 20009

(202) 332-0834;



Robert Stoffarson, concurring

1209 Clifton St., N.W.

Washington, D.C. 20009

(202) 387-4502

cc:

Board of Zoning Adjustment

Office of Zoning

441 4th St., N.W.

Washington, D.C. 20001

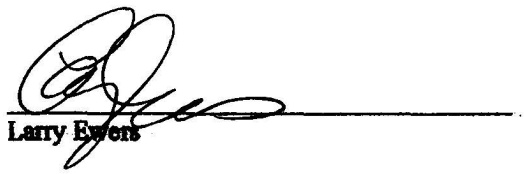
Pablo Martinez

1207 Clifton St., N.W.

Washington, D.C. 20009

CERTIFICATE OF SERVICE

I, Larry Ewers, hereby certify that I mailed this 25th day of March, 2003, first class postage prepaid, a copy of the foregoing letter to Advisory Neighborhood Commission 1B, dated March 20, 2003, to Pablo Martinez, 1207 Clifton St., N.W., Washington, D.C. 20009; and additionally that I hand-delivered a copy addressed to Pablo Martinez to premises 1207 Clifton St., N.W., Washington, D.C. this 25th day of March, 2003.



Larry Ewers