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APPELLANT'S STATEMENT OF AGRIEVEMENT

This Appeal is being filed in order for the Appellant to preserve its earlier exercised exhaustion of administrative remedies. It was previously understood and agreed by the Appellant and the BZA, that the previously pending action (BZA Case #16649) would encompass all issues related to that case, including the side yard issue, and would be stayed pending the resolution of all matters before the U.S. District Court. However, despite that understanding, the matter has since been withdrawn and dismissed. So, in order to preserve its position based upon the status-quo, prior to that dismissal, Appellant American Towers submits this appeal, and requests that all matters before the BZA be stayed pending resolution of all judicial proceedings.

As to the administrative decision, Appellant states that the Agency (DCCRA) erred in ruling that a side yard was established by the appellant, which was far less than the minimum side yard of 126 feet required for the erection of a 756 foot tower. The Appellant did not receive approval for any side yard for either the building structures or the Tower, and therefore none is required under 11 DCMR 775. Specifically, 11 DCMR Section 199.1 defines a side yard as " a yard between any portion of a building or other structure and the adjacent side lot line extending for the full depth of the building or structure". As was reflected on the final building permit application and related approved drawings, no side yard was created, provided, required or approved for either the studio buildings (existing and proposed addition) or for the tower's footings. None of the foregoing waives Appellant's position that the DCRA decision imposing a side-yard requirement after the fact, was not in compliance with applicable regulations and was ultra vires.

BZA
Case No. 16990
Exhibit No. 2

Board of Zoning Adjustment
District of Columbia
CASE NO. 16990
EXHIBIT NO. 2