GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

April 16, 2004

BY FAX

Joseph A. Camardo, Jr., Esq.
Joseph A. Camardo, Jr. Attorney at Law
127 Genesee Street
Auburn, New York 13021

Re: BZA Appeal No. 16998 – Bannum

Dear Mr. Camardo:

The Office of Zoning (OZ) received your motion (attached) on April 14, 2004, requesting reconsideration of the above-cited appeal. Your motion although dated April 13, 2004, was filed one day after the deadline for acceptance of a motion for reconsideration of the March 31, 2004, final date of BZA Order No. 16998. In order for the OZ to accept your motion you must request in writing a waiver of the filing requirements for said motion of reconsideration. Please call Richard S. Nero, Jr., Chief, Administrative Services on (202) 727-6311, if you have any questions relevant to the foregoing.

SINCERELY,

JERRILY R. KRESS, FAIA
Director, Office of Zoning

rsn
Attachment

BZA
Case No. 16998
Exhibit No. 94

Board of Zoning Adjustment
District of Columbia
CASE NO. 16998
EXHIBIT NO. 94

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Government of the District of Columbia
OFFICE OF ZONING

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JOSEPH A. CAMARDO, JR.
ATTORNEY AT LAW
127 GENESEE STREET
AUBURN, NEW YORK 13021
WWW.CAMARDO.COM

JOSEPH A. CAMARDO, JR.
NANCY M. CAMARDO*
*admitted to Georgia Bar only
KEVIN M. COX
BRIAN J. SMITH
KEVIN P. RYAN

MANAGER-GOVERNMENT COST/PRICE ANALYST
JOSEPH W. NORRIS, M.B.A.

PHONE: (315) 252-3846
FAX: (315) 252-3508
E-MAIL: JCAMI23@AOL.COM

Via Facsimile and Federal Express

April 13, 2004

Chairman Geoffrey Griffis
District of Columbia Office of Zoning
441 4th Street, NW Suite 210 South
Washington, DC 20001

Re: Appeal of ANC 5B
BZA Appeal No. 16998

Dear Chairman Griffis:

Enclosed for filing in the above-referenced matter please find Bannum's Motion for Reconsideration.

Thank you for your cooperation in this regard.

Sincerely,

Joseph A. Camardo, Jr.

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal of ANC 5B	)	
	)	
	)	BZA Appeal No. 16998
Re: 2210 Adams Place, N.E.	)	
	)	

BANNUM, INC.'S MOTION FOR RECONSIDERATION
AND FOR A STAY OF THE EFFECT OF THE BOARD'S FINAL DECISION

COMES NOW, BANNUM, INC. (hereinafter "Bannum") and files this motion for reconsideration and states as follows:

Bannum, Inc. ("Bannum") moves for reconsideration of the Board's March 31, 2004 Order ("Order"), which concludes that Bannum's community corrections center ("CCC") is neither a "community-based residential facility" ("CBRF") as defined by 11 DCMR §199.1, nor a "temporary detention or correctional institution" as that term is sued in 11 DCMR §801.7. Bannum respectfully requests that the Order be modified and the appeal denied. Bannum also moves for a stay of the Order's effect while this motion for reconsideration and any related motions or hearings are pending.

Since the Board's Order found Appellant's theory of error unpersuasive that the facility is not a CBRF, it should have denied the appeal outright. Instead, the Board attacked the very clear meaning of 801.7(k) which states as follows:

> Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.

In essence, the Board determined that the Federal Government is misrepresenting that a community corrections center is a "detention or correctional institution" (see Bannum's Findings of Fact and Conclusions of Law). The Board also takes the position that U.S. Attorney General John Ashcroft and the Federal Courts do not know what they are talking about with respect to

their conclusion that a CCC is a "detention or correctional institution" (see Bannum's Findings of Fact and Conclusions of Law).

Section 801.7(k) also defines "temporary" as a period "not to exceed three (3) years." Despite this fact, and even though Bannum's certificate of zoning was limited to three (3) years, the Board went outside that limitation to interpret Bannum's intent and what the Zoning Commission envisioned when it passed 801.7(k). In essence, by doing this, this Board has determined that the word "temporary" is vague. When a statute or ordinance is vague, it is unconstitutional. Therefore, it is Bannum's contention that 801.7(k) is very clear on its face, and DCRA agreed. For the Board to step in after a Federal Government Contract has been operating for close to a year, putting this program in jeopardy, determining that DCRA acted improperly, the Federal Government and Courts are wrong, it is clearly acting beyond the scope of its authority and assuming a legislative role.

WHEREFORE, Bannum demands to be re-heard and, unlike this Board, will not be intimidated by Appellant. In all fairness, this Board should leave the status quo in place until it has fully and fairly determined this reconsideration motion.

Dated: April 13, 2004

Respectfully submitted,

Joseph A. Camardo, Jr.
127 Genesee Street
Auburn, New York 13021
Tel: (315) 252-2846
Fax: (315) 252-3508

Attorneys for Intervenor Bannum, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion for Reconsideration was served this 13th day of April, 2004, by facsimile transmission and first-class mail, postage prepaid, to the following:

Donald Temple, Esq.
Temple Law Offices
1200 G Street, N.W.
Suite 370
Washington, D.C. 20001
Counsel for Appellant ANC 5B

Bennett Rushkoff, Esq.
Civil Division
Office of Corporation Counsel
441 4th Street, N.W. Suite 540N
Washington, D.C. 20001

By: Tania Mulvaney
Tania Mulvaney