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Via Facsimile and First Class Mail

April 16, 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:

This follows up on my telephone conversation on this day with Richard Nero of your office, as well as Mr. Nero's April 16, 2004 facsimile to this firm regarding filing of Bannum's Motion for Reconsideration.

As I explained to Mr. Nero, the Motion for Reconsideration was field with the BZA via facsimile on April 13, 2003, which was the last day for filing. However, Mr. Nero stated that your office never received the facsimile. As such, I have enclosed herewith as proof of filing, the fax sent on April 13, 2004, along with a fax transmission verification sheet. As you can see from the verification sheet, your office received the motion for reconsideration for filing in a timely manner on April 13, 2004. We also sent the motion via Federal Express to your office for receipt on April 14th (Mr. Nero acknowledged receipt of this).

I hope the foregoing adequately explains the filing of the Motion for Reconsideration, and that you decide that the motion was timely filed by facsimile on April 13th. Alternatively, Bannum respectfully requests that the Board waive the filing requirements to permit the motion sent by Federal Express to be filed on April 14, 2004.

Thank you for your consideration in this regard. If you have nay questions, please do not hesitate to contact the undersigned.

Sincerely,

Kevin M. Cox

Cc: Richard S. Nero, Jr., Chief, Administrative Services, via fax & mail

BZA
Case No. 16998
Exhibit No. 96

Board of Zoning Adjustment
District of Columbia
CASE NO. 16998
EXHIBIT NO. 96

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FAX TRANSMISSION

To:	BZA Chairman Griffiss	Date:	4/13/04
Fax #:	(202) 727-6072	Pages:	_____, including this cover sheet.
From:	J. Camardo		
Subject:	BZA Appeal 16998		

ATTORNEY / CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION

IF YOU DO NOT RECEIVE ALL OF THE PAGES, OR THERE WAS A PROBLEM WITH TRANSMISSION, PLEASE CALL (315) 252-3846.

COMMENTS:

Enclosed for filing please find Bauman Motion for Reconsideration & Stay.

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

TRANSMISSION VERIFICATION REPORT

TIME : 04/13/2004 16:40
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PAGE(S)	04
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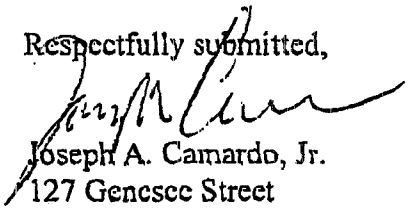
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Counsel for Appellant ANC 5B

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