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April 21, 2003

Board of Zoning Administration
1 Judiciary Square
441 4th Street NW - Room 210S
Washington, DC

Board Members:

Please be advised this hand delivery has enclosed 14 copies of Appellant ANC5B's "Opposition to Motion to Continue of Bannum, Inc." Copies of this document have been faxed and mailed to parties on listed on the Certificate of Service.

Respectfully

/sb

Donald M. Temple

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D.C. OFFICE OF ZONING
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BZA
Case No. 16998
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 16998
EXHIBIT NO. 22

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal of ANC 5B	:	
	:	BZA Appeal No. 16998
From the Decision of the Zoning Administrator Approving the Issuance of a Building Permit to Renovate the Existing Building at 2210 Adams Pl., NE, for Use as a Temporary Correctional Institution in the CM-2 District	:	Hearing Date: April 22, 2003

OPPOSITION TO MOTION TO CONTINUE OF BANNUM, INC.

COMES NOW Appellant, ANC 5B, through counsel, and in opposition to Bannum's Motion to Continue, states as follows:

1. On April 11, 2003 Appellant filed its documents intended to be used as exhibits at the hearing currently scheduled for April 22, 2003. This filing was only three days beyond the time prescribed in Section 3112.10 of the Zoning Regulations, and certainly did not prejudice any of the parties' rights or ability to prepare for the hearing.

2. Pursuant to Zoning Regulations, Appellant was not required to serve Bannum or its counsel with copies of the exhibits, only file 14 copies with the Board for distribution to all concerned persons or entities. It was Bannum and its counsel's responsibility, in preparation for the hearing, to review the record on file with the Zoning Board. Nevertheless, as a courtesy, undersigned counsel served copies of Appellant's exhibits on Bannum's counsel, Holland and Knight, on April 17, 2003.

3. Even if Appellant was required to serve Bannum with copies of the exhibits, Bannum would still not have been prejudiced by Appellant's filing of the exhibits with the Board on April

11, 2003 or service of courtesy copies on Bannum's counsel on April 17, 2003. Bannum clearly has more than adequate time to review the exhibits and prepare for the hearing on April 22, 2003.

4. Significantly, Bannum and its counsel have seen all the exhibits and have been intimately familiar with the contents of each exhibit, except for the videotape, for more than six (6) weeks now because some or all of these exhibits were used at the hearings for a temporary restraining order and preliminary injunction before the Superior Court on March 7, 2003 and April 3, 2003, respectively.

5. Based on the foregoing, and taking into consideration that Bannum has filed a Motion to Dismiss and a Memorandum in Opposition to the Appeal at the eleventh hour, it is abundantly clear that Bannum's request for a continuance of the hearing is a calculated delay tactic, made in bad faith, to Appellant's prejudice. ANC 5B has already been prejudiced by Bannum excluding them from exercising their rights as residents of the community. A continuance of the hearing would only serve to further prejudice the rights of Appellant ANC 5B while rewarding an undeserving Bannum. Therefore, this Board should not sanction Bannum's obstructionist tactics by continuing the hearing.

WHEREFORE, Appellant respectfully prays that this Board deny Bannum's request to continue the April 22, 2003 hearing and rule as moot Bannum's request for service of hearing exhibits.

Respectfully submitted,

TEMPLE LAW OFFICES

By: Donald M. Temple/JFH

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1200 G Street, NW; Suite 370
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Attorney for Appellant ANC 5B

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2003 a copy of the foregoing was served by facsimile and first-class mail, postage prepaid on:

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Mary Carolyn Brown, Esquire
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Regina James, Chair
Advisory Neighborhood Commission 5B
1363 Adams Street, NE
Washington, D.C. 20018
(first-class mail)

Donald M. Temple/JFH
Donald M. Temple

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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

Upon consideration of Bannum's Motion to Continue, Appellant ANC 5B's opposition thereto, and the record of the case, it is by the Board of Zoning Adjustment this ___ day of April, 2003,

ORDERED, that Bannum's request to continue the hearing be and is hereby **DENIED**; and it is further

ORDERED that Bannum's request for service of hearing documents be and is hereby **DENIED AS MOOT**.

_____
Board Chairman

cc:
Donald M. Temple, Esquire
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Washington, D.C. 20005

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