COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

Phil Mendelson
Councilmember At-Large

Office: (202) 724-8064
Fax: (202) 724-8099

June 17, 2003

Mr. Geoffrey H. Griffis, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, NW Suite 210
Washington DC 20001

RE: Appeal No. 16998 (Bannum, Inc.)

Dear Mr. Griffis:

I am writing to lend my support to the considerable community opposition to a halfway house proposed in the C-M District at 2210 Adams Place, N.E. Even though the halfway house would be located in a former warehouse, the Zoning Regulations are clear enough that halfway houses are not permitted in C-M Districts.

The Zoning Regulations define community based residential facilities (CBRF) as including halfway houses for sentenced offenders: A CBRF includes "a facility providing residential care for ... [individuals] under pre-trial detention or sentenced court orders." (11 DCMR 199.1) The Zoning Regulations also state explicitly that a community-based residential facility shall not be considered a matter of right use in the CM zone (11 DCMR 801.2). Yet Bannum, Inc. is seeking to put a halfway house in a CM zone. Therefore, Bannum should not have obtained permits as the use is not matter of right.

Bannum and DCRA argue that the halfway house is a "temporary detention or correctional institution on leased property for a period not to exceed three years" – a permitted use in the CM zone (11 DCMR 801.7). Indeed, DCRA proffers case law to support this. But the cases are not on point. They do not concern zoning, nor do they address the distinction in our zoning regulations between a CBRF – which is explicitly excluded from matter of right – and a correctional institution – which is explicitly permitted.

Further, DCRA admits that Bannum's facility is a CBRF (see Exhibit 34). Because of this admission, and to avoid the provision in § 801.2, DCRA says, well, the facility is also a detention or correctional institution. But the principles of statutory construction do not support this creative argument. It is not reasonable to interpret the regulations to specifically exclude a use in § 801.2 and then specifically include it five paragraphs later, in § 801.7. [1]

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[1]Indeed, the Regulations state that "If an establishment is a community-based residential facility as defined in this section, it shall not be deemed to constitute any other use permitted under the authority of these regulations." (11 DCMR 199.1; page 1-16 (February 2003))

BZA
Case No. 16998
Exhibit No. 53

Board of Zoning Adjustment
District of Columbia
CASE NO.16998
EXHIBIT NO. 53

Community opposition to the Bannum proposal is widespread and deep. It is also grounded in the regulations. I urge you to grant their appeal.

Sincerely,

Phil Mendelson