BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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

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OPPOSITION TO BANNUM, INC.'S MOTION FOR EXTENSION OF TIME TO FILE DISPOSITIVE MOTION AND OPPOSITION TO MOTION FOR CONTINUANCE

COMES NOW Appellant ANC 5B and respectfully opposes Bannum's Motion for Extension of Time to File Dispositive Motion and Motion for Continuance.[1] Said motion should be denied for the following reasons.

First and foremost, the Board should give Bannum's motion cautious scrutiny. Bannum has systematically made every effort possible to delay this Board's consideration of the underlying zoning issue while continuing to advance interests that are counterposed with the underlying case. For example, Bannum pursued and secured a certificate of occupancy in violation of the same zoning law which is at issue here, after arguing strenuously for a delay of the first hearing[2]. In so doing, Bannum opened its halfway house between the first and second hearing and began to house offenders. According to case law, it did so at its own peril.[3]

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[1]Appellants received Bannum's motion on Monday, June 30, 2003.

[2]Appellant underscores that on May 21, Bannum filed a lawsuit in federal court against the Appellant and the leading community activist in this case. Therein, Bannum sought an injunction to stop the Board of Zoning Adjustment from considering this case.

[3]Bannum believes that its investment of money at its own peril, potentially makes it beyond the grasp of D.C. zoning laws. This position would make zoning law enforcement in the

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There are quite substantive reasons to deny Bannum's motion. Indeed, Bannum noted its intention to file a dispositive motion on June 17, 2003. However, believing its representations in its pending motion, Bannum waited until June 25, 2003, eight (8) days later to contact some unnamed person at the Board of Zoning Adjustment to request a copy of the transcript. Bannum refers to that person as "the Board." See Bannum, Inc.'s Motion for Extension of Time to File Dispositive Motion and Motion for Continuance at 2. As most lawyers in this jurisdiction know, or should know, to secure an accelerated transcript copy during a pending state court, federal court, or BZA proceeding, the party would have to order the transcript directly from the reporting company, which in this instance is Neil Gross Reporting Company. If Bannum would have contacted the company for an expedited appeal, it would have learned that the cost approximates between six hundred and seven hundred dollars ($600 and $700) and delivery takes two to three (2-3) days. Bannum could have contacted the Reporting Company on June 18, June 19 or even as late as June 23 and still have secured a copy of the transcript by June 25, in order to prepare a timely motion. It did not.

Lawyers in this jurisdiction who file dispositive motions during trials are frequently faced with the burden of ordering expedited transcripts. The same situation exists here. Peculiarly, Bannum does not state that it inquired of "the Board" as to how it could obtain an expedited transcript. This question would surely have led Bannum to the private court reporter.

It is not this Board's responsibility to accelerate production of a transcript for any party's benefit. Bannum failed to order the transcript and did not timely file its motion. The District of

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District of Columbia a marketplace where the interpretation and enforcement of law would go to the highest bidder.

Columbia, on the other hand, timely filed a dispositive motion in which it referenced several pertinent exhibits. Bannum could have filed a similar motion. It did not. Now, Bannum wants to further delay this legal proceeding so that it can secure a transcript. Such accommodation would significantly delay the Board of Zoning Adjustment process and unduly prejudice Appellant. Bannum has forfeited its opportunity to file a dispositive motion. In so doing, it has simply not proffered a justification to delay the scheduled July 8, 2003 hearing.

Consistent with this Board's order, Appellant will be responding to the District's timely filed motion. This Board should dutifully rule on this motion and proceed accordingly.

For these reasons, we urge this Board to deny Bannum's motion and keep the July 8, 2003 hearing on its calendar, as scheduled.

Respectfully submitted,

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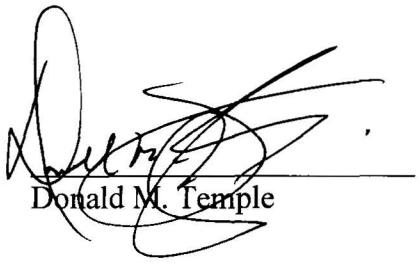
COUNSEL FOR ANC 5B

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Opposition to Bannum, Inc.'s Motion for Extension of Time to File Dispositive Motion and Opposition to Motion for Continuance was served this 1 day of July, 2003 via U.S. first-class mail, postage-prepaid to:

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