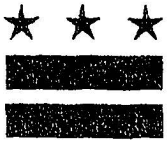
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Office of the Director



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December 21, 2001

The Honorable Kathy Patterson
D.C. Councilmember, Ward 3
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: William Timmons
2708 44th Street, N.W
4417 Garfield Street, N.W.

Dear Councilmember Patterson:

I am informed that the Zoning Division has constructively engaged Mr William Timmons over the two referenced properties and has provided written interpretations of the Zoning Regulations as they apply to numerous elements of the construction of two new single family dwellings at each site respectively.

The Zoning Office contends that it has fully provided Mr. Timmons with an explanation of the applicability of the zoning regulations to all his questions regarding construction at the referenced sites, but concedes two outstanding issues, one at each respective property.

Although Mr. Timmons disagrees with the interpretations provided by the zoning office in all respects, following are what I understand to be the outstanding issues at each subject premises:

1. 2708 44th Street, N.W.

   Subsequent to the issuance of a revised building permit, the attic space of a new single family dwelling under construction was converted for purposes of human habitation, thereby constituting a fourth story, in violation of the three (3) story limitation of the Zoning Regulations. For a combination of reasons, this permit was inadvertently issued to the builder/developer, who then, on good-faith reliance on said permit, built out the attic space. This property was subsequently sold to the current occupants of the property.

BZA
Case No. 17039
Exhibit No. 10

Board of Zoning Adjustment
District of Columbia
CASE NO. 17039
EXHIBIT NO. 10

2. 4417 Garfield Street, N.W.

An accessory structure was constructed to a height of seventeen (17) feet in excess of the height limitation of fifteen (15) feet, as prescribed by the Zoning Regulations. This permit was also inadvertently issued to the builder/developer who has since sold the property to the current occupant.

My understanding is that both of these issues present a quandary of retroactive enforcement. I also understand that case law may not be kind to the ability of the Department to force enforcement action upon a construction carried to completion on a construction permit duly issued by the government, even if issued in error, provided such permit was not obtained on false information.

I am having the Zoning Administrator, in conjunction with our General Counsel evaluate this very issue and provide a determination in no later than two-weeks from the date of this letter. I will instruct Toye Bello to inform Mr. Timmons of the decision of the general counsel as soon as it is available.

I assure you that the Department will continue to strive towards an error-free environment and vigorously enforce the Zoning Regulations to the maximum permitted by law.

Respectfully,

David A. Clark
Director

Cc: Theresa Lewis
J. Gregory Love
Denzil Noble
Toye Bello
William Timmons