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17054

October 29, 2003

D.C. OFFICE OF ZONING
2003 OCT 29 PM 3:48
RECEIVED

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Appeal of Henry Sailer, *et al*
3101 Chain Bridge Road
Our File No. 091868.00001

Dear Mr. Griffis:

Pursuant to the Board's request at the conclusion of the October 21, 2003 hearing, enclosed you will find the agendas for the Chain Bridge Road/University Terrace Preservation Committee's (the "Committee") Board of Director's meetings for March 10, June 16 and June 29, 2003. The March 10, 2003 meeting was attended only by the Board of Directors, which included Judith Lanius, William Barnard, Peter Hapstak, Carlton Stoiber, Robert Sussman and Aurthor Watson, as well as Alan Aiches of the Palisades Citizens Association, with whom the Committee has worked closely on Overlay issues. The June 16 meeting, the first meeting in which the neighbors' appeal was mentioned, was again attend only by the Committee's Board of Directors (Judith Lanius (Chair), William Barnard, Carlton Stoiber, Robert Sussman, and Arthur Watson) and Mr. Aiches. Mr. Wolf attended the Committee's Board meeting on June 29, 2003, by invitation. Please be advised that the agendas, rather than the minutes, are being provided, as the minutes contain information regarding the private internal operations of the Committee that have no bearing on the issues before the Board.

Also enclosed is the FOIA request, which is dated May 13, 2003. Upon learning that work had commenced on the site, the undersigned counsel attempted to contact both Ms. Theresa Lewis and Mr. Denzil Noble of DCRA, leaving both voicemails. On April 3 and 4, attempts were made to review the file and obtain copies of permits and all orders relating to the Property. During the month of April, numerous calls were made and emails sent to Ms. Lewis, Mr. Noble and Mr. David Clark regarding this property. In addition, inquiries were made to Karen Edwards, Esquire, counsel for DCRA. All of these efforts were to no avail. When we did finally meet with DCRA on June 25, 2003, DCRA took the position that they had no obligation to inform the community when a stop-work order was lifted and went so far as to state that they would "let the attorney's fight it out before the BZA".

Word 45650428.1

BZA
Case No. 17054
Exhibit No. 35

Board of Zoning Adjustment
District of Columbia
CASE NO. 17054
EXHIBIT NO. 35

That the appeal in the instant matter was timely filed is supported by *Goto v. D.C. Board of Zoning Adjustment*, 423 A.2d 917, 924 (D.C. 1980). In *Goto*, the court upheld the Board's finding that it was written notice, not verbal notice, which starts the clock running regarding timeliness of an appeal. Even with the recent amendment to the Zoning Regulations adding section 3112, the *Goto* decision remains valid, as the Office of Zoning continues to systematically reject appeals which do not include a written decision of DCRA. As to the accessory building on the property, the appeal is timely, as the Appellants did not have knowledge of the violation as to height until the building was well under construction. Likewise, the appeal is timely as to the impervious surface violation. Finally, the appeal is timely as to the clear-cutting of the property, as the Appellants immediately amended their appeal upon review of the topography map provided by the developer in September. The Appellants had diligently attempted to obtain such map, as well as building plans, from DCRA to no avail.

Contrary to the developers submission, it is the June 1, 2003 filing that determines the timeliness issue. At that point, the developer was on notice that continued construction was at his own risk. It is disingenuous of the developer to state that is the July filing that controls, as all issues had not, and could not have, been determined by June 1. Again, the Appellants acted diligently in attempting to obtain information from DCRA.

The Committee submits that, as the appeal was timely filed, it should be granted and, upon hearing the evidence in this matter, the permits for the property be revoked and the developer compelled to remove the improvements to the property.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

Enclosures (as stated)
cc: Ms. Judith Lanius (by facsimile)
John T. Epting
Appellants, c/o Steven S. Wolf, M.D.
Karen Edwards, General Counsel, DCRA
ANC 3D
(All with enclosures)

Chain Bridge Road/University Terrace Preservation Committee

March 10, 2003

Meeting Agenda

I. Treasurer's Report- Hapstak 5 min.
II. Fundraising Report & Benefit- Hapstak 10 min
III. Chair's Report
3101 Chain Bridge Road Violation Feb. 8
DCRA Meeting March 11, 2003
Bender Property
Director's Insurance

Chain Bridge Road/University Terrace Preservation Committee

June 16, 2003

Meeting Agenda

I. Treasurer's Report- Lanius 10 min.
II. Fundraising Report & Benefit– Lanius 10 min
III. Discussion: Luther's Memo 30 min.
IV. Chair's Report & Discussion 40 min.
Arizona Avenue
Neighbors 3101 Chain Bridge Road violations and BZA filing
Directors Insurance
Search for Chair & Transition
Appleseed Request

Chain Bridge Road/University Terrace Preservation Committee
Meeting Agenda
June 29, 2003
7-8:30 pm

I. Financial Report- Lanius 10 min.

II. Status Report 3101 Chain Bridge Road – Sussman & Wolf 10 min.

III. Report & Discussion: Short & Medium term options – Watson, Steinwarld, Carter 30 min

IV. Report & Discussion: Overall Neighborhood Strategies: DCRA, Appleseed, Office of Planning: 30 min.

V. Chair's Report – 10 min.
Directors Insurance

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE DIRECTOR

FREEDOM OF INFORMATION REQUEST

Under Authority of D.C. Code 1-1522

D.C. Code 1-1522 allows the Department up to 10 business days to respond to your request.

You will be notified when your request is ready for pick up.

Please print and be as detailed as possible when requesting information and/or records

~~Research Fee is $10.00 for each Freedom of Information request~~

NAME OF THE REQUESTOR: Kevin R. Carter

ADDRESS 1801 K Street, NW

STATE Wash. DC

ZIP CODE 20006

TELEPHONE NO. HOME AREA CODE ( )

BUSINESS AREA CODE (202) 736-2640

FREEDOM OF INFORMATION REQUESTED:

Stop work orders and releases for ~~3100~~ 3101 Chain ~~Brigt~~ Bridge Rd, N.W for the past year.

Continue on page two for additional space

FREEDOM OF INFORMATION REQUESTED: _____

REQUESTOR'S SIGNATURE: Kevin R. Castles DATE: 5/13/03