GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

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2010 FEB 24 AM 11:07

December 24, 2009

Robert Diamond
6251 29th St NW
Washington, DC 20015

Dear Mr. Diamond:

I have concluded my review of your concerns over noise from the roof top equipment of the Knollwood Army Residence located at 6200 Oregon St NW in relation to BZA Order #17055. You have requested that my office take an action to enforce Finding of Fact #33 of that order. The Office of the Zoning Administrator has no authority to enforce Findings of Fact, only specific Conditions ordered by the Board of Zoning Adjustments as set forth in its published orders.

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In regard to the noise related Condition in the order, I also find the rooftop structure to be in compliance with Condition 5, which states:

> "The Applicant shall include sound absorbing material in the wall section of the mechanical penthouse, associated with the addition."

Based on the review of the statement of Donald Hilbert, Executive Director of the Army Distaff Foundation for Knollwood, the sound absorbing materials required in Condition #5 were installed in the mechanical penthouse in May 2008. Furthermore, the Army Distaff Foundation has taken additional steps to mitigate noise from the chiller.

As you know, Knollwood commissioned acoustical studies dated June 4 2008 from Miller, Beam, and Paganelli, Inc, and, from Henning Associates dated June 1, 2009. My review of these reports is that they conclude that the subject equipment is in conformance with the DC Noise Regulations. Furthermore the District's enforcement of the District's Noise Regulations is the responsibility of the District Department of the Environment [DDOE] not the Office of the Zoning Administrator.

Given this review, I consider this matter closed from further enforcement actions from my office. Please let me know if you have any further questions.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17055
EXHIBIT NO. 164

Sincerely,

Matthew Le Grant
Zoning Administrator

cc: Leigh Johnson, DC Office of Zoning

941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002
Phone: (202) 442-4576 Fax: (202) 442-4871

Board of Zoning Adjustment
District of Columbia
CASE NO. 17055
EXHIBIT NO. 164

3/4G Chevy Chase
Advisory Neighborhood Commission 3/4G
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February 18, 2010

Chairman Marc D. Loud
Board of Zoning Adjustment
441 4th Street NW
Washington, DC 20001

BY MAIL AND FAX

Re: Appeal of the decision of the DCRA, as issued by Zoning Administrator Matthew LeGraut, dated December 24, 2009, denying the request for enforcement of BZA Order #17055 and/or Request for modification of BZA Order #17055

Dear Chairman Loud:

At a public meeting, advertised and rescheduled because of a snow emergency, held on Wednesday evening, February 17, 2010, Advisory Neighborhood Commission 3/4G (the ANC) voted 5-1 (the dissenting vote by proxy; a quorum consisting of four members present) to appeal the decision of the DCRA, as issued by Zoning Administrator Matthew LeGrant, dated December 24, 2009, denying the request for enforcement of BZA Order #17055 and/or to request modification of BZA Order #17055. The ANC may appeal the decision as a matter of right. Therefore, please take notice of our ANC's appeal.

We understand that Knollwood Neighbors, Inc., a non-profit, is also party to this appeal. While we join in the appeal regarding this noise issue, we also want to convey our appreciation for Knollwood and the Army Distaff Foundation for how they operate Knollwood generally, for being good neighbors, and for their admirable mission in caring for elderly individuals with unique needs.

The ANC is concerned that Knollwood (through the Army Distaff Foundation) is not operating the chiller on the roof of its new addition in a way that sufficiently minimizes the noise impact on the surrounding R-1-A neighborhood. When the ANC supported Knollwood's original Application for a Special Exception in 2004, it was represented to the ANC that the new addition would cause little to no increase in the noise experienced by the neighbors (relative to prior noise

conditions), and based on that representation and with that condition (among others), the ANC approved the application. At the time of the application there was (and still is) in effect a 25-year moratorium on further construction at Knollwood, but the ANC and the Knollwood Neighbors agreed to set aside that moratorium in this instance to allow the addition to proceed, again, premised on the representations and conditions respecting noise and otherwise. The same representations and conditions regarding noise (and otherwise) were referenced by the BZA when it approved that Application in BZA Order #17055.

Upon completion of construction in 2008, Knollwood began operating a chiller, which Knollwood erected outside the mechanical penthouse on the roof of the addition. The chiller is reported by the neighbors to make a loud and unacceptable noise that persists day and night, all year long. Although Knollwood made some efforts to abate the noise, the noise remains an issue for the neighbors. The ANC understands that certain acoustical measurements have been taken, and the matter reviewed strictly from the point of view of the technical decibel level requirements of the DC noise ordinance; however, the ANC does not believe such inquiry is sufficient to address the representations and conditions made respecting the application and the BZA Order. The letter and spirit of the BZA Order, and related documents regarding the addition, is that the chiller would not be a noise issue from the point of view of the neighbors.

Thus, the ANC remains concerned that the DCRA has failed to enforce the BZA's order and requirements, as well as the laws and regulations of the District of Columbia, as follows:

1. Knollwood has not met the conditions and requirements in the BZA Order, including but not limited to Conditions 1, 4 and 5.

   - Condition 1 requires that Knollwood build the addition, including the mechanical penthouse, "in accordance with the plans and materials submitted into the record as Exhibits Nos. 130 and 155." Exhibit 155 implies that the chiller would be included within the mechanical penthouse and shows the mechanical penthouse placed back from the abutting neighboring houses. Knollwood moved the location of the mechanical penthouse much closer to the neighboring homes. Knollwood also built a separate chiller not enclosed within the mechanical penthouse.

   - Condition 4 requires that a neighborhood committee meet on a regular basis to discuss amicably these and other issues. The committee has not been convened, at least any time in recent years. Indeed, such a group may resolve other issues of concern.

   - Condition 5 requires noise abatement measures that are sufficient to satisfy the standard set forth in the BZA Order -- and represented by Knollwood in its Application -- that the new addition will cause "no, or minimal, increase in noise."

2. Knollwood may not have complied with the zoning laws of the District of Columbia, including 11 DCMR 411.3, which requires that all rooftop mechanical equipment must be housed in a single enclosure.

The ANC requests that the BZA give "great weight," as required by law, to the views of the ANC.

The ANC requests that Knollwood Neighbors be permitted to submit materials in this Appeal and/or Request for Modification pursuant to the BZA rule that permits the Applicant ANC to "solicit pertinent information."

Chairman Gary Thompson, or any other Commissioner, is authorized to present the report of the ANC and to represent and act for the ANC with respect to any and all matters related to this appeal and/or request for modification.

Sincerely,

Gary Thompson
Chairman ANC 3/4G

CC: Army Distaff Hall (Knollwood)
Knollwood Neighbors
Councilmember Muriel Bowser