ShawPittman LLP

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November 6, 2003

By Hand Delivery

Garland Pinkston, Jr., Clerk
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, DC 20001

Re: No. 02-AA-802, Father Flanagan's Boys Home v. District of Columbia Board of Zoning Adjustment (Argued on September 16, 2003)

Dear Mr. Pinkston:

I am writing to inform the Court of the likelihood that the issues presented in the above-referenced appeal may become moot in the near future in the wake of events that have occurred since the parties' oral argument to the Court in this matter on September 16, 2003.

By letter of September 18, 2003, David A. Clark, Director of the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), pursuant to the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and 14 DCMR § 111 *et seq.*, granted a reasonable accommodation to Father Flanagan's Boys Home ("Girls & Boys Town") to operate four youth residential care homes on the record lots on Potomac Avenue, S.E. that are at issue in the appeal now pending before the Court. (A copy of Mr. Clark's letter is attached hereto.) That letter provides a basis for the District to issue the certificates of occupancy necessary under District law to permit the four homes to be occupied.

Girls & Boys Town has filed the required applications and supporting material for the certificates of occupancy for the four homes that would enable each home to be occupied by the appropriate staff and handicapped children. Girls & Boys Town is awaiting issuance of these certificates. When the certificates are issued, Girls & Boys Town's appeal before the Court will become moot and Girls & Boys Town will promptly file the appropriate motion. *See Milar Elevator Co. v. District of Columbia Dep't of Employment Servs.*, 704 A.2d 291 (D.C. 1997). *See also Udebiuwa v. District of Columbia Bd. of Medicine*, 818 A.2d 160 (D.C. 2003).

BZA
Case No. 17121
Exhibit No. 2

Board of Zoning Adjustment
District of Columbia
CASE NO. 17121
EXHIBIT NO. 2

This letter and its enclosures are submitted in quadruplicate for distribution to the pertinent Division of the Court (Judges Steadman, Schwelb and Glickman). In addition, a copy of this letter and its enclosure are being mailed today to counsel for the Respondent and to counsel for the Intervenor.

Sincerely,

Phil T. Feola

Enclosure

cc: Charlotte Parker, Esq.
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