DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

In re RLA Revitalization Corporation
BZA Application Number 17232

PETITION TO DISMISS OR TO RESCHEDULE HEARING FOR FAILURE TO PROVIDE NOTICE TO ALL PROPERTY OWNERS AND TENANTS AFFECTING AND DESERVING NOTICE REGULATIONS

The parties, Kelsey Temple Church of God in Christ and Temple Church Building & Economic Development Corporation asks the District of Columbia Board of Zoning Adjustment to dismiss or to reschedule this hearing, and it makes this motion for the following reasons.

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FACTUAL BASIS FOR REQUEST

The parties, Kelsey Temple Church and Temple Church Building & Economic Development Corporation, asks the Board of Zoning Adjustment for a dismissal or for a continuance of this hearing because the applicant, RLA Revitalization Corporation, has altogether failed to provide notice to the property owners and to the tenants owed and in need of notice as required by District of Columbia law. To be sure, Kelsey Temple Church of God in Christ, located across the street from the proposed development at 1435 Park Road, N.W., in the District of Columbia, has never received any form of notice of this hearing from either the applicant or from the Board of Zoning Adjustment. This has been evidenced by the attached declaration under penalty of

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perjury from Ms. Delores Ruffin, the chairperson of the Kelsey Temple Church Board of Trustees. *See* **Declaration of Delores Ruffin** (EXHIBIT #1).

Similarly, tenants living under a lease at the Samuel Kelsey Apartments, located across the street from the proposed development at 3322 14th Street, N.W., never received written or other notice about this hearing the applicant RLA Revitalization Corporation or from the Board of Zoning Adjustment. The attached declarations under penalty of perjury from tenants Elma Whorley, Elizabeth Gaston, and Martha Thomas, all residents of the Samuel Kelsey Apartments, indicate clearly that the applicant and the government never provided the notice required of by District of Columbia regulations. *See* **Declarations of Whorley, Gaston, and Thomas** (EXHIBIT #2).

Moreover, the applicant RLA Revitalization and the government failed altogether to provide written notice in Spanish and other neighborhood languages, like Vietnamese, as required by local law. The attached declaration from the Kelsey Temple Church Deacon Board Chairperson, Mr. Thomas Ruffin, Sr., in paragraphs (3) through (5) of this declaration, indicates that merely three signs had been posted about this hearing on November 12, 2004, but that none of these posted notices advised about the meeting in

either Spanish or Vietnamese, although Spanish may be the most widely used language in the neighborhood. *See* **Declaration of Thomas Ruffin, Sr.** (EXHIBIT #3). Also, the applicant RLA Revitalization Corporation and the government never posted these or other notices on the buildings on the grounds at 1400-1420 Park Road, N.W., where the proposed development would take place, and Mr. Ruffin's declaration, in paragraph (6), proves that the applicant failed to post the notices on the buildings on the grounds as required by local law. *See* **Declaration of Thomas Ruffin, Sr.** (EXHIBIT #3).

APPLICABLE LAW GOVERNING NOTICE FOR THIS BZA HEARING

As absolutely required by the District of Columbia regulations, the written notices posted on in the community or delivered to residents and other tenants owed written notice under District of Columbia law had to be posted "at each street frontage on the property involved and on the front of each building located on the subject property" that RLA Revitalization Corporation would construct or restore in this development project. **11 DCMR 3113.15.** Also, these written notices had to be mailed "to the owners of all property within two hundred feet of the property involved in the application". **11 DCMR 3113.13(b).** Moreover, under the **D.C. Code, section 2-2001.04(a),** the

District of Columbia Board of Zoning Adjustment has a firm obligation to provide this written notice to the property owners and residents in the Park Road community in Spanish, because more than 500 people in the 1400 block of Park Road speak Spanish. **D.C. Code, section 2-2001.04(a).** In other words, under **section 2-2001.04(a)**, the Board of Zoning Adjustment served as a "covered entity", and the posted and mailed notices about this hearing before this board served as "vital documents" under the statute. *See* **D.C. Code, section 2-2001.02(3)(A)** and **(7)**.

Therefore, the District of Columbia statute demanded that the Board of Zoning Adjustment give adequate notice that would inform the Spanish-speaking property owners and other residents in the 1400 block of Park Road, N.W. Also, the District of Columbia regulations at **11 DCMR 3113.15** mandated that the written notice that should have been posted in English and in Spanish be posted on all the buildings on the grounds of the "subject property" at 1400-1420 Park Road, N.W. However, the applicant RLA Revitalization Corporation and the District of Columbia government failed altogether to provide this notice. In fact, the applicant and the government overlooked the requirement of giving proper and written notice to the prominent and longstanding church institution, Kelsey

Temple Church of God in Christ, located within 200 feet of the "subject property" at 1435 Park Road, N.W. This failure violated **11 DCMR 3113.13(b)**.

With these failures to provide statutory and regulatory notice as needed in this case, the applicant and the local government have failed to give the affected property owners and residents the notice about this hearing needed for their meaningful participation. For this reason, the parties, Kelsey Temple Church and Temple Church Building & Economic Development Corporation, ask this board to dismiss this hearing. The applicant which must comply with local law before obtaining the variances and licenses it wants may proceed anew with proper notice to all parties and interested persons as required by law, so that these individuals may meaningfully participate in this action.

WHEREFORE, the parties, Kelsey Temple Church of God in Christ and Temple Church Building & Economic Development Corporation, asks this board to dismiss this action and this hearing for failure of the applicant and of the

government to provide the notice required by law.

Respectfully submitted,

Thomas Ruffin, Jr. #370817
Attorney for Opponents
RUFFIN LEGAL SERVICES
153 Galveston Place, S.W.
Suite 4
District of Columbia 20032
(202) 561-2898

Certificate of Service

I, Thomas Ruffin, Jr., certify that, on November 15, 2004, I delivered copies of this petition the offices of Norman Glasgow, Esquire, the lawyer for RLA Revitalization Corporation.

Thomas Ruffin, Jr.

Exhibit #1

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

In re RLA Revitalization Corporation
BZA Application Number 17232

DECLARATION FROM DELORES RUFFIN, KELSEY TEMPLE CHURCH TRUSTEES BOARD CHAIRPERSON, REGARDING LACK OF NOTICE ABOUT BZA APPLICATION HEARING
Sunday, November 14, 2004

I, Delores Ruffin, provide this declaration as follows under penalty of perjury as permitted by **28 U.S.C., section 1746,** as a federally authorized substitute for my affidavit before the District of Columbia Board of Zoning Adjustment:

(1) I am the chairperson of the Kelsey Temple Church of God in Christ Board of Trustees which manages the business affairs of the Kelsey Temple Church of God in Christ, located at 1435 Park Road, N.W.;

(2) The Kelsey Temple Church of God in Christ stands on grounds directly across the street from the business establishments, including the *Waffle Shop*, located at 1400-1420 Park Road, N.W., and, as such, the Kelsey Temple Church of God in Christ stands on grounds within 200 feet of the property located at 1400-1420 Park Road, N.W.;

(3) Although the Kelsey Temple Church stands on grounds within 200 feet of 1400-1420 Park Road, N.W., the Kelsey Temple Church of God in Christ never received any personal or corporate notice in writing directed to the

Kelsey Temple Church about any construction development at the property located 1400-1420 Park Road, N.W.;

(4) Kelsey Temple Church of God in Christ has never received a written notice like the attached notice (shared with me by Attorney Thomas Ruffin, Jr., on November 14, 2004) which advises a Mr. Mack James about a Board of Zoning Adjustment hearing scheduled for Tuesday, November 16, 2004;

(5) In other words, the Kelsey Temple Church of God in Christ never received individual notice to it regarding a Board of Zoning Adjustment hearing on Tuesday, November 16, 2004, about matters concerning the property located at 1400-1420 Park Road, N.W.; and

(6) As the chairperson of the Kelsey Temple Church of God in Christ Board of Trustees, I am deeply concerned about matters involving property development in my church's neighborhood, including at 1400-1420 Park Road, N.W., and the Kelsey Temple Church Board of Trustees and the rest of the church's congregation, including parishioners living at the Samuel Kelsey Apartments, would be deeply concerned about these issues as well.

WHEREFORE, I, Delores Ruffin, make this statement under penalty of perjury and according to the best of my

knowledge, information, and belief.

Respectfully submitted,

Delores Ruffin, Chairperson
Kelsey Temple Church of God in
Christ Board of Trustees
1435 Park Road, N.W.
District of Columbia

date: Sunday, November 14, 2004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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SEP 0 2 2004

Mack James, Chairperson
Advisory Neighborhood Commission 1A
3511 14th Street, NW, 2nd Floor
Washington, DC 20010

Re: BZA Application No. 17232

Dear Mr. James:

This is to advise you that a public hearing has been scheduled by the Board of Zoning Adjustment to consider the following application which is located within the boundaries of your ANC area:

> **Application of RLA Revitalization Corporation**, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements under section 411, and pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to permit a multi-use commercial establishment in the C-3-A District at premises 1400-1420 Park Road, N.W., 3100-3220 14th Street, N.W., and 1417-1437 Irving Street, N.W. (Square 2674, Lots 719, 720, 812, 832, 863, 866, 869, 870, 871, and 872).

The hearing will be held on Tuesday, November 16, 2004, in Suite 220, 441 4th Street, N.W., Washington, D.C. 20001. This application will be heard between 9:30 a.m. and 12:00 p.m.

You are advised that 11 DCMR Section 3115.1 sets out certain requirements related to reports of ANCs, and specifically that Section 3115 requires that the written report of the ANC be filed with the Board at least seven days in advance of the hearing. A copy of Section 3115 is enclosed for your convenience. Information on the procedures which will govern consideration of this case are also available from the Office of Zoning, in Suite 210, 441 4th Street, N.W. Washington, D.C. 20001. The telephone number for the Office of Zoning is (202) 727-6311.

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EXHIBIT NO. 18

Exhibit #2

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

In re RLA Revitalization Corporation
BZA Application Number 17232

DECLARATION FROM RESIDENT ELMA WORLEY
REGARDING LACK OF NOTICE ABOUT BZA APPLICATION HEARING
Saturday, November 13, 2004

I, Elma M. Worley, provide this declaration as follows under penalty of perjury as permitted by **28 U.S.C., section 1746**, as a federally authorized substitute for my affidavit before the District of Columbia Board of Zoning Adjustment:

(1) I live as a tenant under a lease in apartment 408 at the Samuel Kelsey Apartments located at 3322 14th Street, N.W., at the corner of 14th Street and Park Road, N.W., and I have lived on a consistent basis in apartment 408 at the Samuel Kelsey Apartments for several years;

(2) The Samuel Kelsey Apartments where I live stand on grounds directly across the street from the business establishments, including the *Waffle Shop*, located at 1400-1420 Park Road, N.W., and, as such, the Samuel Kelsey Apartments stand on grounds within 200 feet of the property located at 1400-1420 Park Road, N.W.;

(3) Although I have lived in apartment 408 at the Samuel Kelsey Apartments for several years, I never received any personal notice in writing about any

construction development at the property located 1400-1420 Park Road, N.W., across the street from where I live;

(4) In fact, I have never received a written notice like the attached notice (shared with me by Attorney Thomas Ruffin, Jr., on November 13, 2004) which advises a Mr. Mack James about a Board of Zoning Adjustment hearing scheduled for Tuesday, November 16, 2004;

(5) I never received notice about a Board of Zoning Adjustment hearing on Tuesday, November 16, 2004, about matters concerning the property located at 1400-1420 Park Road, N.W.; and

(6) As a resident at the Samuel Kelsey Apartments, I am deeply concerned about matters involving property development in my neighborhood, including at 1400-1420 Park Road, N.W., and I am sure that my neighbors at the Samuel Kelsey Apartments and my friends at my church, Kelsey Temple Church of God in Christ, located at 1435 Park Road, N.W., would be deeply concerned about these issues as well.

WHEREFORE, I, Elma Worley, make this statement under penalty of perjury and according to the best of my

knowledge, information, and belief.

Respectfully submitted,

Elma Whorley

Ms. Elma M. Worley
3322 14th Street, N.W. #408
District of Columbia

date: Saturday, November 13, 2004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

SEP 0 2 2004

Mack James, Chairperson
Advisory Neighborhood Commission 1A
3511 14th Street, NW, 2nd Floor
Washington, DC 20010

Re: BZA Application No. 17232

Dear Mr. James:

This is to advise you that a public hearing has been scheduled by the Board of Zoning Adjustment to consider the following application which is located within the boundaries of your ANC area:

> **Application of RLA Revitalization Corporation**, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements under section 411, and pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to permit a multi-use commercial establishment in the C-3-A District at premises 1400-1420 Park Road, N.W., 3100-3220 14th Street, N.W., and 1417-1437 Irving Street, N.W. (Square 2674, Lots 719, 720, 812, 832, 863, 866, 869, 870, 871, and 872).

The hearing will be held on Tuesday, November 16, 2004, in Suite 220, 441 4th Street, N.W., Washington, D.C. 20001. This application will be heard between 9:30 a.m. and 12:00 p.m.

You are advised that 11 DCMR Section 3115.1 sets out certain requirements related to reports of ANCs, and specifically that Section 3115 requires that the written report of the ANC be filed with the Board at least seven days in advance of the hearing. A copy of Section 3115 is enclosed for your convenience. Information on the procedures which will govern consideration of this case are also available from the Office of Zoning, in Suite 210, 441 4th Street, N.W. Washington, D.C. 20001. The telephone number for the Office of Zoning is (202) 727-6311.

BOARD OF ZONING ADJUSTMENT
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CHANGE, INC.


CHANGE, INC.

Exhibit #3

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

In re RLA Revitalization Corporation
BZA Application Number 17232

DECLARATION FROM THOMAS RUFFIN, SR., KELSEY TEMPLE CHURCH DEACON BOARD CHAIRPERSON, REGARDING LACK OF SPANISH-LANGUAGE AND OTHER NOTICE ABOUT BZA APPLICATION HEARING
Sunday, November 14, 2004

I, Thomas Ruffin, Sr., provide this declaration as follows under penalty of perjury as permitted by **28 U.S.C., section 1746,** as a federally authorized substitute for my affidavit before the District of Columbia Board of Zoning Adjustment:

(1) I am the chairperson of the Kelsey Temple Church of God in Christ Deacon Board which assists in many of the religious and social affairs at the Kelsey Temple Church of God in Christ, located at 1435 Park Road, N.W.;

(2) The Kelsey Temple Church of God in Christ stands on grounds directly across the street from the business establishments, including the *Waffle Shop*, located at 1400-1420 Park Road, N.W., and, as such, the Kelsey Temple Church of God in Christ stands on grounds within 200 feet of the property located at 1400-1420 Park Road, N.W.;

(3) On Friday, November 12, 2004, I examined the posted written notice on the fence located at the parking lock across the street on Park Road, N.W., from Kelsey

Temple Church of God in Christ, and, on November 12, 2004, I also noticed and examined similar posted signs on a fence on the 1400 block of Irving Street, N.W., and on a fence on the 3200 block of 14th Street, N.W.;

(4) These posted signs, while advising readers in English about a Board of Zoning Adjustment hearing on November 16, 2004, do not provide that warning in Spanish or in Vietnamese, two languages prominently used by residents on the 1400 block of Park Road, N.W.;

(5) In other words, these signs fail altogether to advise many of the hundreds of residents in the Park Road region about the hearing scheduled for Tuesday, November 16, 2004, before the District of Columbia Board of Zoning Adjustment; and

(6) Also, while examining these signs, I noticed after careful examination on November 12 that none of these or similar signs had been posted on the buildings located on the premises at 1400-1420 Park Road, N.W., and, in fact, the attached photographs provide as of November 12th a fair and accurate image of the buildings on the grounds at 1400-1420 Park Road, N.W., and show clearly that these buildings lack posted signs advising about the Board of Zoning Adjustment hearing scheduled for Tuesday, November 16, 2004.

WHEREFORE, I, Thomas Ruffin, Sr., make this statement under penalty of perjury and according to the best of my knowledge, information, and belief.

Respectfully submitted,

Thomas Ruffin, Sr., Chairperson
Kelsey Temple Church of God in
Christ Deacon Board
1435 Park Road, N.W.
District of Columbia

date: Sunday, November 14, 2004


BAGEL SHOP






WAFFLE SHOP






WAY
7-9 30AM
4-5 30PM
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Open
Sundays




QUALITY WASH
LAUNDROMAT
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HOURS












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