Form 140
(Revised 03/15/02)

Case No. 17264

PARTY STATUS APPLICATION

Notice: See other side of party status form for instructions.

NAME: Last	First	Middle I.
K. NEJAD	M.	NASSER

ADDRESS: Street	Apt. # (if any)	City	State	Zip Code
405 E. ST. NE		WASH.,	DC.	20002

Phone No.	Fax No.	E-Mail
(202)544-0735	(202)544-5192	nasser@builttech.co

I, hereby request to appear and participate as a party. Signature: M. J. K. Nejad Date: MARCH 1, 05

Will you appear as a(n) ☐ Proponent ☑ Opponent Will you appear through legal counsel ☐ Yes ☑ No

If yes, please enter the name and address of such legal counsel.

NAME: Last	First	Middle I.

ADDRESS: Street	Ste. # (if any)	City	State	Zip Code

Phone No.	Fax No.	E-Mail

Please answer all of the following questions referencing why the above person should be granted party status.
(If you require additional space, please attach an additional sheet.)

1). How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Board?
PLEASE SEE ATTACHED

RECEIVED
2005 MAR -1 PM 2:04
ZONING

2). What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
OWNER

3). What is the distance between the person's property and the property that is the subject of the appeal or application before the Board? (Preferably no farther than 200ft.)
0'-0"

4). What are the environmental, economic or social impacts that are likely to affect the person and/or the person's property if the action requested of the Board is approved or denied?
BLOCKING SUN LIGHT, AIR & OUR PRIVACY & HEALTH
ALSO SEE ATTACHED

5). Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Board is approved or denied.
WE WILL BE DENIED OUR BASIC RIGHTS BY APPROVING

6). Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other person's in the general public.
SOME NEIGHBORS ~~will~~ INCLUDING US WILL GET THEIR PRIVACY

BZA
Case No. 17264
Exhibit No. 39

Board of Zoning Adjustment
District of Columbia
CASE NO. 17264
EXHIBIT NO. 39

February 2, 2005
DCBZA Application No. 17264

Request to dismantle the Deck at "407 E – Street, N.E."

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March 1, 2005

Jerrily R. Kress, FAIA
Director, Office of Zoning
Suite 210
441 4th Street, NW
Washington, DC 20001

Regarding: DCBZA Application Number 17264

Dear Director Kress,

As residents of the Zone 6C and next door to the subject applicant's property which shares a party wall we are expressing not only our opposition to already illegally constructed Deck at 407 E – St., NE but also defend our basic rights. We, like everybody else do not believe that our Health and Privacy are something that can be compromised or to be compromised in our behalf for any reason. By granting the applicants not to dismantle the Deck, you will be denying our basic rights.

In the first meeting of the ANC 6C Committee, which was held on Feb 2nd, 2005 at 7:00 P.M. some Committee members voted for the Deck. Their decisions were based on the Grandfather Law. However, the Grandfather was not granted for this case by DCRA because The Law applies for existing construction to be repaired. Any new construction has to comply with new Zoning rules. That was the reason the case was referred to DCBZA. Therefore, this is our understanding that in the last ANC 6C meeting some committee members were not aware of the compliance of the Grandfather Law.

In the second meeting of ANC 6C Commission, which was held on Feb 9th, 2005 At 7:00 P.M. The Chairman of the Commission was not convinced that the Grandfather Law might apply at this case; he was suggesting leaving it up to DCBZA to make the decision and do the voting for the case. However, as soon as we were gathering our stuff to leave the stage area, one member of Commission suggested that since in the 1st meeting they voted in favor of the case according to the reasoning (Grandfather Law) of one of the Committee member, they should vote again for the second time in favor of the case.

Also at the end of the first meeting, a representative from the Capitol Hill Restoration Society approached us and said that he has heard our case and if we go to their meetings on Feb. 10th, 2005 he will be able to help us out by giving recommendation to DCBZA. Therefore, we attended their gathering the next day. The same person who suggested the Grandfather Law at the first meeting and caused the Commissioners to vote in favor of the case at the second meeting was one of the members of the Capitol Hill Restoration Society. Therefore, this

concludes that all these decisions were influenced by only one person's suggestion.

As per our conversation with DCRA Zoning Department officials, they made it clear to us that if an existing non-conforming structure is dismantled or demolished the new codes must apply which call for maximum %60 land coverage for R4 Zone.

Please refer to the attached for the supporting legal documents. (Total 12 pages)

Sincerely,

Nasser & Fariba nejad
405 E – St., N.E.
Washington, DC 20002
202-271-3808
Nasser@builttech.com

CC: All the members

February 2, 2005

Please make a note of the followings:

1. According to **DCMA title 11 Zoning Code's Sections 403** and **404** the subject Deck has violated the DC Codes:

   403- Lot Coverage: Maximum lot coverage for zone R4 building is %60. The existing subject building at 407 E – St., NE itself already exceeds the %60.

   404- Backyard: Minimum backyard for Zone R4 is 20 feet. The existing subject backyard at 407 E – St., NE is only (+ or -)6'-6".

2. Knowingly, the owners of 407 constructed the Deck at their own risks.

3. Not only DC laws were violated also our rights have been violated such as: Our privacy (no privacy in the backyard, kitchen, and second floor bedroom), blocking natural sunlight, our well-beings due to extra moist because of blocking the sun. The sun is blocked for a good portion of the day especially during The rain and snow seasons.

4. The applicants' gains are directly related to our loses including the value of our property.

It took us more than 7 or 8 months to make the applicants to comply and respect the DC Laws as well as respecting our rights.

The calculations regarding the Lot Coverage and the backyard either is not complete or miscalculated, Deck was built in the Summer of 2003 not in 2002 as shown in the application/ form 140 of DCBZA, the application is for Area Variance not for Use Variance as it was filed by applicants. If you need documents please let us know to demonstrate.

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ZONE DISTRICT AND STRUCTURE	MAXIMUM FLOOR AREA RATIO (FAR)
R-5-B All structures	1.8
R-5-C All structures	3.0
R-5-D All structures	3.5
R-5-E Aparument house and hotel	6.0
Any other structure	5.0

402.5 First floor or basement areas designed and used for parking space or for recreation space shall not be counted in the floor area ratio; provided, that not more than fifty percent (50%) of the perimeter of the space may be comprised of columns, piers, walls or windows, or may be similarly enclosed.

SOURCE: § 3302 of the Zoning Regulations, effective May 12, 1958; as amended by: Zoning Commission Order No. 19, dated November 17, 1970, published at 17 DCR 306, 307 (November 30, 1970); Final Rulemaking published at 39 DCR 8305, 8306-8307 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368 (October 20, 2000).

403 PERCENTAGE OF LOT OCCUPANCY (R)

403.1 A public school building may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in § 403.2; provided, that the portion of the building excluding closed courts exceeding the permitted lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and provided further, that direct pedestrian access not less than ten feet (10 ft.) in width from at least two (2) public right-of-ways shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level.

403.2 No structure, including its accessory building, shall occupy its lot in excess of the percentage of lot occupancy set forth in the following table:

ZONE DISTRICT AND STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
R-1-A, R-1-B, R-2 Church or public school	60%
R-1-A, R-1-B, R-2 All other structures	40%
R-3 Row dwelling, church, or public school	60%
R-3 All other structures	40%
R-4 Row dwelling, flat, church, or public school	60%
R-4 Conversion to multiple dwelling	None Prescribed
R-4 All other structures	40%
R-5-A Church or public school	60%
R-5-A All other structures	40%
R-5-B All other structures	60%
R-5-C, R-5-D, R-5-E All other structures	75%

SOURCE: § 3303 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305, 8307 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368 (October 20, 2000).

404 REAR YARDS (R)

404.1 A rear yard shall be provided for each structure located in a Residence District, the minimum depth of which shall be as set forth in the following table:

ZONE DISTRICT	MINIMUM DEPTH OF REAR YARD
R-1-A, R-1-B	25 feet
R-2, R-3, R-4, R-5-A	20 feet
R-5-B, R-5-C, R-5-D	4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet.
R-5-E	3 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet.

404.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

404.3 In the case of a lot proposed to be used by a public school that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

404.4 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

SOURCE: § 3304 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305, 8307 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368-69 (October 20, 2000).

405 SIDE YARDS (R)

405.1 In an R-2, R-3, R-4, or R-5 District, a one-family detached dwelling shall be subject to the side yard requirements of an R-1 District.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., August 17, 2004

Plat for Building Permit of SQUARE 812 LOT 42

Scale: 1 Inch = 10 feet Recorded in Book 16 Page 83

Receipt No. 13830

Furnished to: SHANTEE

Surveyor, D.C.

By: L.M.A. BM.

I hereby certify that all existing improvements shown hereon, are completely dimensi and are correctly platted; that all proposed buildings or construction, or parts thereof, incl covered porches, are correctly dimensioned and platted and agree with plans accompa the application; that the foundation plans as shown hereon is drawn, and dimensi accurately to the same scale as the property lines shown on this plat;and that by reason proposed improvements to be erected as shown hereon the size of any adjoining premises is not decreased to an area less than is required by the Zoning Regulations fo and ventilation; and it is further certified and agreed that accessible parking area required by the Zoning Regulations will be reserved in accordance with the Z Regulations, and that this area has been correctly drawn and dimensioned hereon further agreed that the elevation of the accessible parking area with respect to the Hig Department approved curb and alley grade will not result in a rate of grade along cent of driveway at any point on private property in excess of 20% for single-family dwellings or in excess of 12% at any point for other buildings. (The policy of the Highway Depar permits a maximum driveway grade of 12% across the public parking and the p restricted property.)

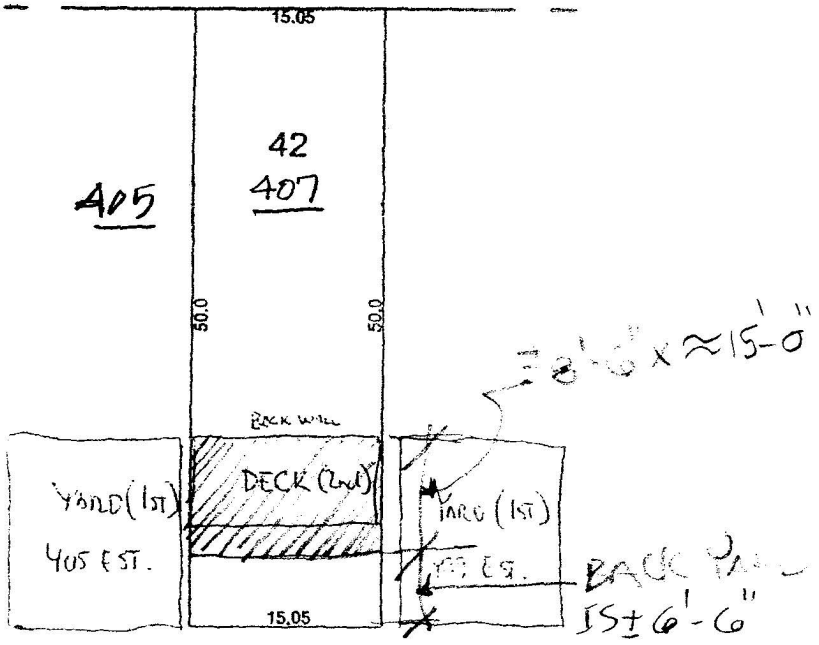
Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

THIS MUST BE SIGNED BY APPLICANT

LOT AREA: 752.5'
LOT WIDTH: 15.05'
LOT OCCUPANCY: ≈506.72' NOT INCLUDING THE DECK ≈ % 67
LOT OCCUPANCY INCLUDING THE DECK: (506.72' + 123.25' = 629.97 SQFT) ≈ % 83.7
BACK YARD WITH THE DECK IS ± 6'-0"
[BACK YARD W/O THE DECK IS ± 15'-0"



SUPPLEMENTAL EXHIBIT B

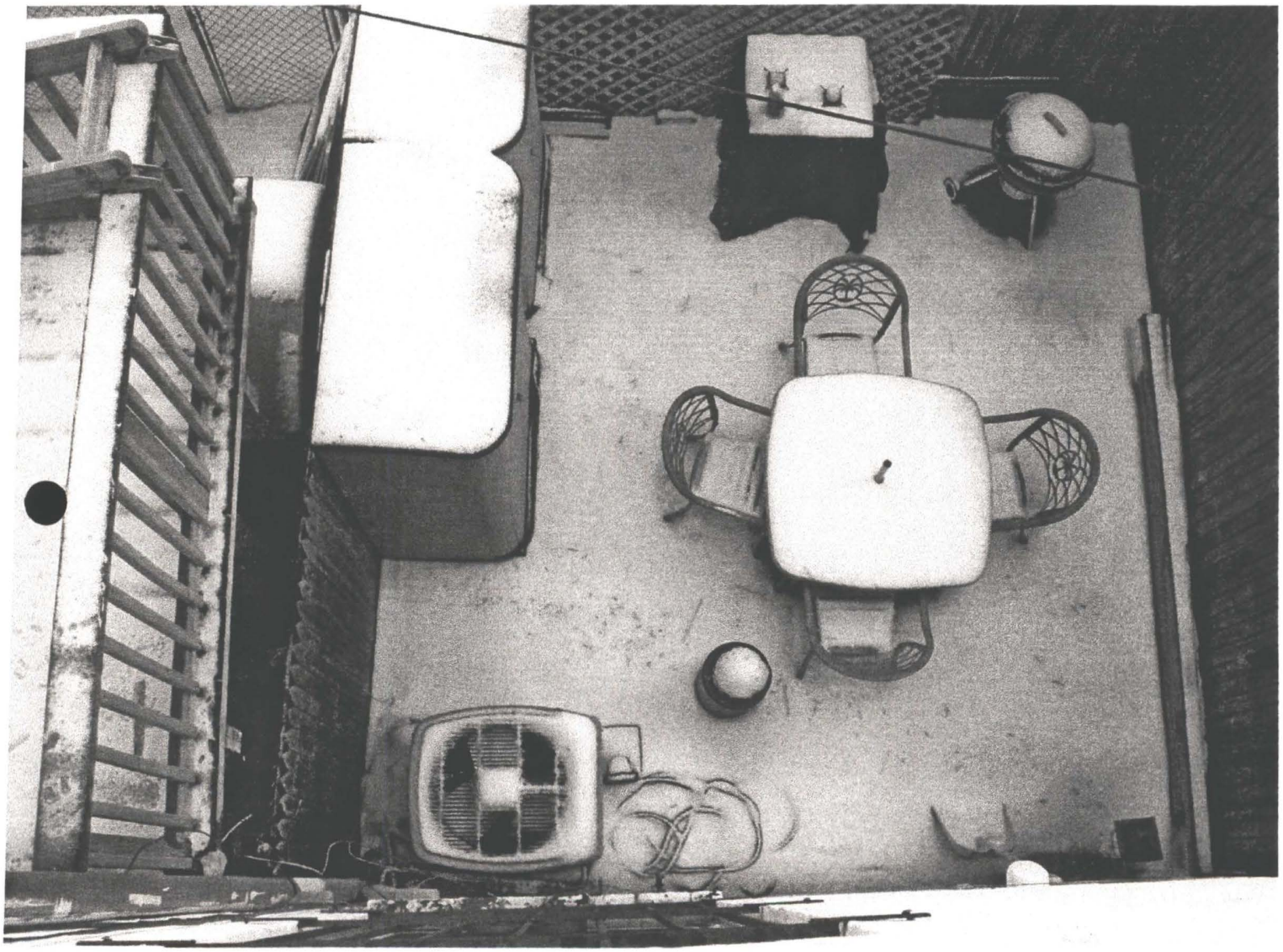


Rear Elevation of 401-413 E Street, NE
Not to Scale

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Kitchen window less than 4 feet away from their view "

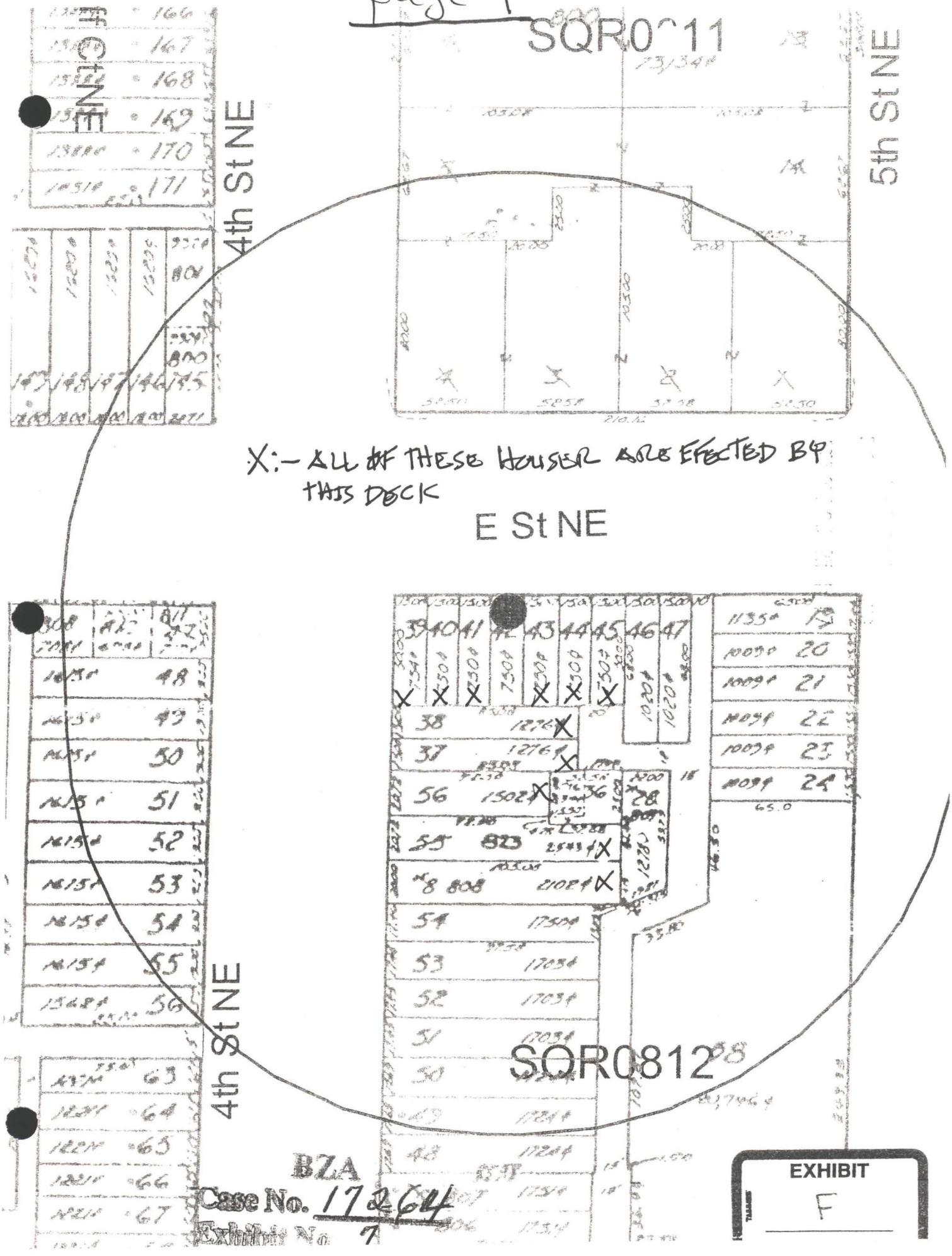

Second Floor bedroom at their eye-level less than 4 feet"



"Their view of our backyard"

Zero privacy

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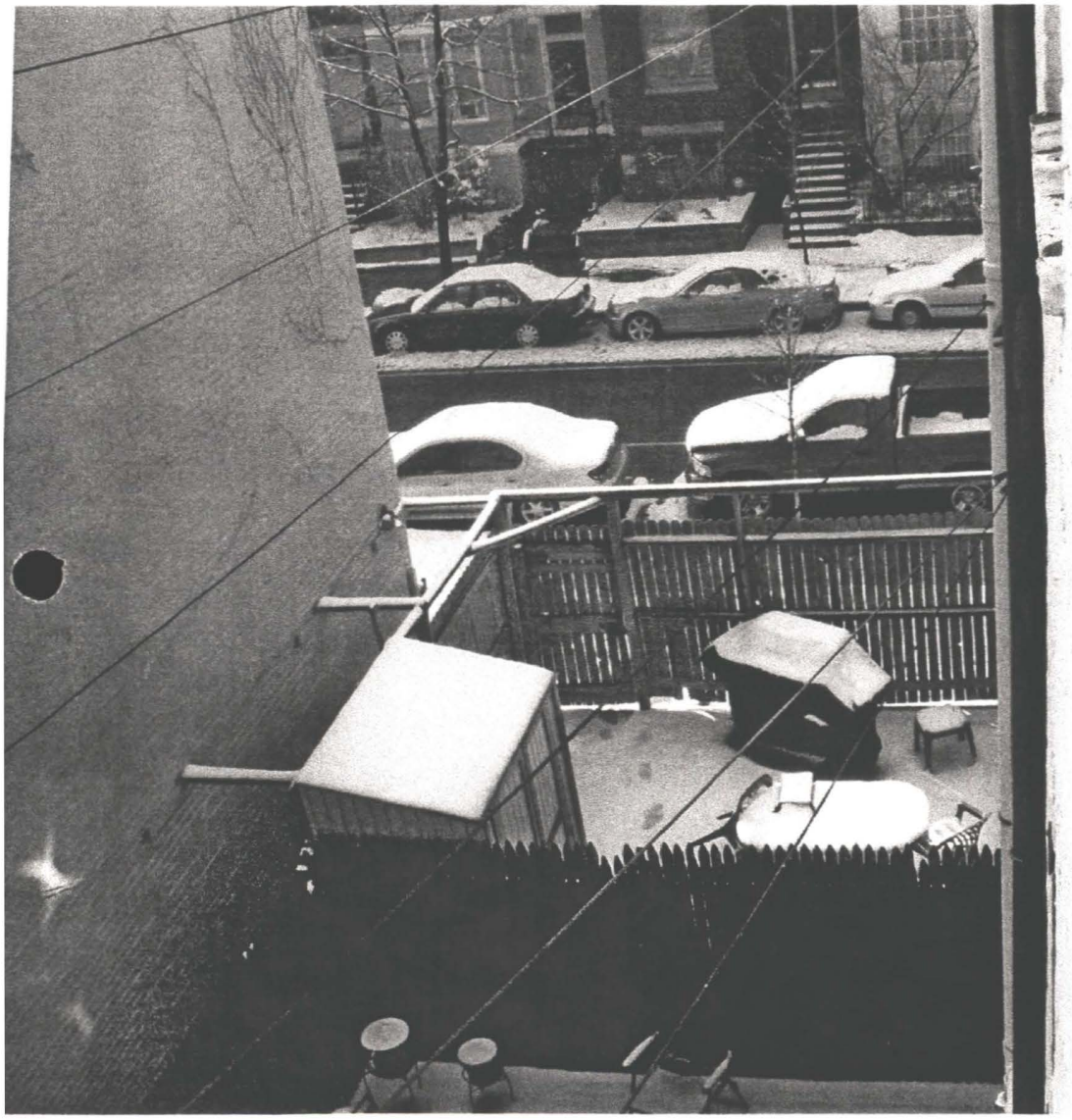


BZA
Case No. 17264
Exhibit No. 7

EXHIBIT
F



"Effected properties"



"Effected properties"