PHONE 225-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

December 30, 2005

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D.C. OFFICE OF ZONING
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The Honorable Geoffrey Griffis
Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, NW
Washington, DC 20001

Re: Zoning Commission Case No. 05-13 and Board of Zoning Adjustment Case 17271

Dear Chairperson Griffis:

Section 435 of the "Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006", Pub.L. 109-54, 119 Stat. 557 (August 2, 2005), establishes conditions for a zoning variance at 51 Louisiana Avenue N.W. (Square 631, Lot 17, in the District of Columbia). The Capitol Police Board hereby submits its determination pursuant to Capitol Police Board Order 05.04 (attached) that, any building with a height in excess of 110 feet above ground level on the premises of 51 Louisiana Avenue N.W. (Square 631, Lot 17), will negatively impact congressional security and federal expenditures relating to congressional security.

Therefore, in accordance with Pub.L. 109-54, Section 435, the April 6, 2005, D.C. Board of Zoning Adjustment "Decision and Order" for Application No. 17271, allowing a forty (40) foot height variance to130 feet, remains set aside and shall have no force and effect. Pursuant to this determination, the maximum height allowed for a building on the premises of 51 Louisiana Avenue N.W. (Square 631, Lot 17) is 110 feet inclusive of any applicable transferable development rights.

Respectfully submitted,

William H. Pickle
Chairman
Capitol Police Board

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17271
EXHIBIT NO. 38

Board of Zoning Adjustment
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CAPITOL POLICE BOARD ORDER 05.04
INVOLVING DETERMINATION AS TO 51 LOUISIANA AVENUE, NW
UNDER PUB.L. 109-54, SECTION 435

Sec. 1. (a) Pursuant to the authority of the Capitol Police Board (Board) under provisions of Section 435 of Public Law 109-54, 119 Stat. 557 (August 2, 2005) to make a determination that any variance by the District of Columbia Board of Zoning Adjustment (BZA) and the District of Columbia Zoning Commission (Commission) relating to the property located at 51 Louisiana Avenue, NW (Square 631, Lot 17) in the District of Columbia, shall remain set aside and not be given force and effect unless the Capitol Police Board makes a determination that any such variance shall not negatively impact congressional security and increase Federal expenditures relating to congressional security.

(b) Since early 2005, the Board has been engaged in an extensive assessment of the impact on congressional security and federal expenditures related to congressional security of the contemplated variance for the proposed development at 51 Louisiana Avenue, NW by developer JBG/51 Louisiana Ave. LLC, a property which is immediately adjacent to the Capitol Grounds.

(c) In conducting this evaluation, the Board has reviewed information provided by United States Capitol Police security professionals and independent security consultants, had numerous communications with the developer, and corresponded with and provided submissions to District of Columbia zoning officials.

(d) Notwithstanding these efforts by the Board and others prior to the Commission's, April 11, 2005, unanimous acceptance of a *sua sponte* motion to review, the Commission, on June 20, 2005, failed to act upon the motion to overturn or remand the April 6, 2005, BZA "Decision and Order" in Case

No. 17271, after the commission identified for the record an insufficient consideration as to the variance's impact on congressional security, as well as an insufficient record of economic hardship on the part of the variance applicant, a prerequisite to the granting of such a variance.

(e) Section 435 of Public Law 109-54, 119 Stat. 557 (August 2, 2005), places the condition on the force and effect of the BZA "Decision and Order" granting a variance to 130 feet that the Board determine whether there would not be a negative impact on congressional security and Federal expenditures relating to congressional security.

Sec. 2. Therefore, based on the facts and circumstances outlined above, as well as other considerations, it is the determination of the Board and is hereby ordered that any building structure on the premises of 51 Louisiana Avenue N.W. (Square 631, Lot 17) in the District of Columbia in excess of 110 feet in height, to include any applicable transferable development rights, shall negatively impact congressional security and Federal expenditures relating to congressional security and in accordance with the provisions of Section 435 of Public Law 109-54, and determination of the Board pursuant thereto, the April 6, 2005, BZA " Decision and Order" for Case No. 17271 granting a forty (40) foot variance to 130 feet for a building at 51 Louisiana Avenue, NW shall remain set aside and have no force and effect.

The Board further orders that Board Order 05.04 shall be communicated to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives and the BZA and Commission, as well as, the zoning variance applicant, JBG/ Louisiana Ave. LLC, within five (5) days of Board approval.

Determined and ordered, this 30th day of December, 2005.

William H. Pickle Chairman Capitol Police Board	Wilson Livingood Member Capitol Police Board	Alan M. Hantman Member Capitol Police Board