



HUNTON & WILLIAMS LLP
1900 K STREET, N.W.
WASHINGTON, D.C. 20006-1109

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

RICHARD L. AGUGLIA
DIRECT DIAL.: 202-955-1634
EMAIL: raguglia@hunton.com

FILE NO: 66256.000002

April 4, 2005

By Hand Delivery

Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Room 210 South
441 4th Street, N.W.
Washington, D.C. 20001

**Re: BZA Appeal No. 17285
Appeal of Patrick Carome
(4825 Dexter Terrace, N.W.)**

Dear Chairman Griffis and Board Members:

Enclosed for filing in this case are the original affidavits of William Ryan and Doug Statler. Copies of those affidavits were filed timely on March 30, 2005 with the Board as part of my submission in this case.

Sincerely,

Richard L. Aguglia

Enclosures

By Hand Delivery

cc: Patrick Carome, Esq., appellant

By Fax

Lisa Bell, Esq.,
counsel for Toye Bello, Zoning Administrator

BZA

Case No. 17285

Exhibit No. 57

ATLANTA AUSTIN BANGKOK BRUSSELS CHARLOTTE DALLAS HONG KONG KNOXVILLE
LONDON MCLEAN MIAMI NEW YORK NORFOLK RALEIGH RICHMOND SINGAPORE WASHINGTON

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Board of Zoning Adjustment
District of Columbia
CASE NO. 17285
EXHIBIT NO. 57

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Geoffrey Griffis, Chairman
April 4, 2005
Page 2

Jeffrey Bernstein, Esq.
counsel for Department of Interior/NPS

By Fax and By Mail

Alma Gates, Chair
ANC 3D

AFFIDAVIT OF DOUG STATLER

Affiant, being first duly sworn under oath, deposes and says as follows:

1. My name is Douglas K. Statler. I am an adult citizen of the United States of America of sound mind and body.

2. I am a General Manager working for the engineering firm of Ryan and Associates. William K. Ryan is a registered engineer in the District of Columbia, No. 10946. I have worked at this position for five and a half years.

3. I was responsible for compiling the Final Design for a Mesa site retaining wall for the Economides residence at 4825 Dexter Terrace, N.W., Washington, D.C., identified as Exhibit No. 24 to Patrick Carome's appeal in BZA case number 17285.

4. In response to the statement of the National Park Service (NPS), which has intervened in that case on the side of Mr. Carome, I have the following information:

A. NPS Statement (March 14, 2005 letter to BZA) at 3.

"However, it appears that a portion of parkland ranging from at least 7.4 feet to 9.6 feet wide and paralleling the face of the wall may be subject to this illegal constructive easement.

This estimate is based on the engineering specification's prohibition on operation of equipment with wheel loads in excess of 150 pounds per square foot within 10 feet of the face of the wall. Specifications for Segmental Retaining Wall System at 8."

Response

The correct citation to this information is found at Section 3.13A of the Final Design Plans and refers only to "heavy paving or grading equipment . . . not being operated within 10 feet of the face of the retaining wall during construction adjacent to the wall." (Emphasis supplied). This section means that there was to be no heavy equipment in the rear yard of the

Economides house next to the wall (above/behind it) while it was being constructed and has no reference to the other side of the wall (face side- below the wall) fronting on federal parkland and does not mean that the retaining wall needs “support” from the parkland for construction purposes.

Statement of NPS (March 14, 2005 letter to BZA) at 2.

“The DCRA was obligated to read the engineering specification, to recognize that the walled structure was supported by parkland, and to conclude therefore that the footer extended well into NPS property. Ultimately, the DCRA should have reached the conclusion that it could not permit the structure.

A footer is a foundation supporting a structure. The footer supporting the massive structure at issue is comprised of two components, 1) a gravel base that extends in front of the wall, and 2) United States Park property that the wall relies on for structural support. The following examines the size of the encroachment onto federal property by the footer².

The outer-wall of the structure ranges from between approximately 4 inches and 2.5 feet from the Park boundary. The blocks of the wall extend below ground “a minimum of 1 inch buried for every one foot of wall exposed.” Specifications for Segmental Retaining Wall System at 5; Carome Brief Exhibit 24. Thus, at the tallest point of the wall there are at least 32 inches of block buried below ground. The blocks stack-slope toward parkland. *Id.* The greater the slope the closer the blocks below ground are to Park property. *Id.* Additionally, the specifications for the wall indicate that the gravel component of the footer extends approximately 6 inches from the last buried block toward Park property. Since at least some portions of the wall are within inches of the boundary, it is clear that at least some of the gravel component of the footer is on Park property.

The second component of the footer is the earth down slope of the wall that is largely within the Park. The specifications for the wall provide that:

The owner or owner’s representative is responsible for ensuring that construction adjacent to the wall by others does not disturb the wall or place temporary construction loads on the wall that exceed design loads, including loads such as water pressure, temporary grades, or equipment loading. . . .

Specifications for Segmental Retaining Wall System at 8; Carome Brief Exhibit 24. Thus, the wall clearly relies on NPS property for its stability.^{3”}

Response

The Mesa wall is a structure comprised of blocks, geogrid, gravel and compacted soils. It is a “unified mass” exerting pressure downward onto the Economides property. The 1 inch

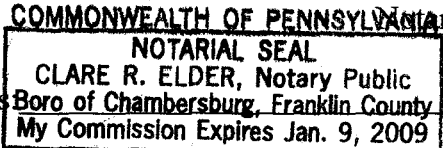
buried per 1 foot of exposed wall height relates to vertical depth into the soil beneath the wall and not horizontal protrusion toward the Park. The embedment (below grade blocks) on this wall varies from 1.33' (two courses) to 3.00' (four and a half courses). Therefore, with a batter (setback) of 5/8" (.625") per course the forward extension on this wall should range from 1.25" (.104') to 2.81" (.234').

Further affiant sayeth not.



Douglas K. Statler

Subscribed to and sworn before me this 29 day of March, 2005.

My commission expires _____
 COMMONWEALTH OF PENNSYLVANIA Notary Public
NOTARIAL SEAL
CLARE R. ELDER, Notary Public
Boro of Chambersburg, Franklin County
My Commission Expires Jan. 9, 2009

AFFIDAVIT OF WILLIAM K. RYAN

Affiant, being first duly sworn under oath, deposes and says as follows:

1. My name is William K. Ryan. I am an adult citizen of the United States of America of sound mind and body.

2. I am a civil, geotechnical and structural engineer with the following academic degrees:

Masters of Civil Engineering (M.S.) from Villanova in 1993.

Bachelors of Civil (Geotechnical & Structural) Engineering from University of Colorado in 1986.

3. I am certified as a professional engineer in 17 jurisdictions including the District of Columbia (#10946) and I am the principal of the firm of Ryan & Associates.

4. I have been a professional engineer since 1994 and I have reviewed and approved approximately 50 to 60 final design plans for Mesa block retaining walls similar to that designed by my company for the Economides residence in the District of Columbia.

5. The retaining wall is indeed a true retaining wall, contrary to the allegations by Patrick Carome in BZA Appeal No. 17285 that it is a fence or fence wall or part of a warehouse, platform or terrace.

6. All Mesa block retaining walls rely on a geogrid system (grids, properly compacted soil and gravel) for support.

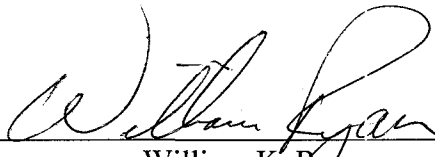
7. All properly constructed retaining walls whether or not Mesa blocks, rely on some in ground reinforcing system for support, such as geosynthetic grid, steel straps, steel reinforced concrete or wood "deadmen".

8. I reviewed and approved the final design for a Mesa site retaining wall as consistent with the D.C. Building Code for the Economides residence at 4825 Dexter Terrace, N.W., Washington, D.C. compiled by Doug Statler of my Pennsylvania office.

9. Zoning Counsel for the Economides, Richard Aguglia, has brought to my attention that Patrick Carome, a neighbor of the Economides, in BZA Appeal No. 17285, has questioned the authenticity of my seal of approval in those final design plans.

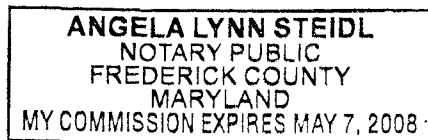
10. I hereby confirm that my seal of approval on those plans – 4 in all – (See Exhibit A attached hereto) is indeed authentic and valid and has not been forged.

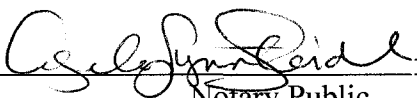
Further affiant sayeth not.



William K. Ryan

Subscribed to and sworn before me this 29 day of March, 2005.





Notary Public

My commission expires: May 7, 2008