BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal of the Georgetown Residents Alliance on behalf of adversely affected neighbors from the failure and refusal of the Department of Consumer and Regulatory Affairs Affairs to enforce the Zoning Regulations against the unlawful and un-permitted extension of the non-conforming use at 1531 31st St. NW.

BZA No. 17329
ANC2E

APPELLANTS' STATEMENT IN SUPPORT OF THEIR APPEAL

Pursuant to 11 DCMR § 3112.21, the Georgetown Residents Alliance, a not for profit civic association, on behalf of Don W. Crockett, Elaine W. Crockett, and Don G. Scroggin, (appellants), respectfully requests the Board of Zoning Adjustment (BZA), to reverse Department of Consumer and Regulatory Affairs' (DCRA) refusal to enforce the Zoning Laws with respect to the the unlawful and un-permitted extension of the non-conforming use of the four-unit apartment house at 1531 31st Street, NW. and to order DCRA to enforce all applicable zoning laws and regulations[1]

The single-family home at 1531 31st Street, NW was converted into a nonconforming four-unit apartment house in this R3 district, prior to the imposition of residential zoning in Georgetown. Accordingly, pursuant to § 2002.3 of the Zoning Regulations, the "nonconforming use shall not be extended to portions of a structure not devoted to that nonconforming use at the time of enactment of amendment of this title." (Emphasis added).

The owners of all homes on the row, anchored by the corner house located at 1531 31st Street, App. 36, are aggrieved by the expansion of the nonconforming apartment use to the roof for recreational space because it would create significant noise nuisances; would reduce or eliminate the current privacy,

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[1]Appellants also ask the Board to find that the building permit, issued for minor modifications of the unlawful and un-permitted extensions of the non-conforming use on December 28, 2004, was beyond the authority of the Zoning Administrator and the Historic Preservation Office.

BZA
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Board of Zoning Adjustment
District of Columbia
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EXHIBIT NO. 2

App. 42; would create security and trespass problems for all owners on this row because the fragile tin roofs are not designed foot traffic; and would make their gardens the receptacle for trash and other objects which are readily blown off nearby roofs.

The neighboring owners and ANC2E have diligently attempted to persuade DCRA to require the developer to restore the roof and the turret to their original condition before the unlawful demolition of one half of the turret and the construction of the staircases and roof structure. The DCRA, however, has failed and refused to even acknowledge, much less act on the recommendation by ANC2E that turret and roof be restored to its original condition. Accordingly, the only recourse now available to the aggrieved parties is this appeal from DCRA's refusal to carry out its statutory duty to enforce the zoning laws and zoning regulations with respect to this unlawful extension of the non-conforming apartment use.

STATEMENT OF RELEVANT FACTS

1. In the Summer of 2004, Reid A. Dunn purchased 1531 31st Street NW, and began demolishing the interior for the purpose of converting the four nonconforming apartments into condominium units.

2. Mr. Dunn filed an application with the Old Georgetown Board (OGB), requesting permission to create two separate roof decks for each of the top floor apartments. (Neither the immediate neighbors nor the ANC were advised of this application.) The developer's plans called for building new staircases through the attic to the roof with walk-out entrances through a covered penthouse for each deck.

3. However, because a large ornamental turret occupied the majority of the roof space over the rear unit, the plans called for removing the entire back half of the turret to make space for the deck. The remaining front half of the turret would be converted into new space for housing HVAC equipment.

4. On September 21, 2004, the OGB recommended "AGAINST issuance of permit for proposed roof decks and roof access which, as noted on site visit on 21 September 2004, will be visible from public space and not appropriate to the historic district." App. p. 1. The HPRB concurred in the OGB's recommendation and no permit was issued for the proposed roof work.

5. Although both the CFA and the HPRB had refused to issue a building permit for the proposed roof decks, sometime prior to November 16, 2004, the developer proceeded – without permits – with the rejected plans for the roof structure and the demolition of the turret. App. pp. 2, 39.

6. On November 16, 2004, at the request of appellants, an HPRB inspector visited the property and issued a stop work order for the un-permitted demolition and construction on the roof. App. p. 5. The developer then defied the stop work order and went ahead with construction of a large walk-out penthouse over the dual staircases during the Thanksgiving day weekend. App. pp. 4, 40.

7. On December 7, 2004, responding to appellants' further complaint, Mr. Dennee of the HPO informed appellants that the developer would "dismantle the roof access structure and replace it with two hatches". App. p. 7.

8. On December 8, 2004, Don W. Crockett asked the Chairman of the HPRB, Tersh Boasberg, to require the owner to restore the turret and roof to its original condition. App. pp. 8-9.

9. Mr. Crockett also met with the Zoning Administrator, Toye Bello, to complain about the un-permitted work on the roof. App. p. 17.

10. On December 29, Mr. Bello informed Mr. Crockett that a DCRA inspector had visited the property and issued a stop work order for the entire project. He also said that the "subject property owner brought in revised plans showing only a proposed roof hatch, no roof deck, and has obtained a revised building permit reflective of the scope of the work allowed." App. p. 18.

11. In fact, however, the revised plans proposed to retain the large illegal roof structure with six-foot walk-out doorways. Moreover, the so-called hatches on top of the unlawful roof structure were nothing more that a ruse. The "hatches" the builder later installed simply serve as sky lights for the new penthouse which still provides walk-out access to the roof through six foot high doors.

12. The property owner also requested permission to build a doorway into the remaining half of the unlawfully demolished turret for access to mechanical equipment.

13. On the basis of those representations, DCRA issued building permit No.468701 on December 28, 2004 for these minor alterations to the illegally demolished turret and the illegal roof structure.

14. The affected neighbors then sought the help of the ANC in getting the turret and roof restored to its original condition. On January 10, 2005, ANC2E sent the following resolution to the Director of the HPO:

> ANC 2E requests the Historic Preservation Office to take immediate action to be sure that both the roof and roof turret are restored to their original condition at 1531 31st Street allowing only a flat roof hatch. If it is within the authority of the Historic Preservation Office then the maximum penalties should be imposed for the flagrant disregard of the city regulations by the owner.

App. p. 19.

15. On January 25, 2005, Don W. Crockett again wrote to chairman Boasberg asking his agency to issue a stop work order for the entire project until the turret and the roof were restored to their original condition. App. pp. 21-24.

16. Again, the only response came from Mr. Dennee who stated that:

> If Mr. Dunn replaces the stair structures with hatches, then he will be in compliance with the permits issued and with our guidelines and general practice. We have every reason to believe he will do so because we have asked the chief building inspector to make certain that there is no certificate of occupancy issued for the units until the structures are removed.

App. p. 25.

17. Because Mr. Dennee did not address the issue of the turret which had been demolished without a permit, Mr. Crockett sent a letter on January's 26, 2005, pointing out that the rear half of the turret had been demolished and that

no permit should have been issued to put an access door in the remaining half of the illegally altered structure.[2] App. p. 26-29.

18. Mr. Dennee responded the same day by denying that the turret had been demolished: "Mr. Dunn has not demolished the turret or even half of it. The structure is intact, and the appearance from the street is the same." App. P. 30.

19. Mr. Crockett responded on February 21, 2005, in a letter sent to all relevant DCRA offices, with before-and-after pictures of the turret which provided conclusive evidence that the rear half of the turret could be clearly seen from the street and that it had been unlawfully demolished. The letter again requested the HPRB and all other DCRA offices to implement the ANC's recommendation and order the developer to restore the turret and roof to their original condition. App. pp. 33-35, 41-43.

20. The construction at 1531 31st St. NW is nearing completion and the developer put the putative condominiums on the market in early March. A realtor has been holding open houses on the weekends. App. 36.

21. Accordingly, if DCRA's refusal to take any action to stop this unlawful extension of the non-conforming apartment use is not reversed, the two top floor units will be sold to innocent third parties who will expect to be able to use the their extended staircases and walk-out roof penthouses as entrances to their respective extended roof decks.

22. Because no one in DCRA has responded in any way to either appellants' February 21, 2005 request that the roof and turret be restored to their original condition and the ANC's similar request, the instant appeal is the only remaining recourse for protecting appellants from the unlawful extension of this nonconforming apartment use.

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[2]Mr. Crockett also noted that the chimneys of the neighboring row house were several feet below the walk-out roof structure, creating health and fire hazzards in violation of the building code.

REQUEST FOR RELIEF

On the basis of the foregoing, appellants respectfully ask the Board:

(A) To find that there is no basis for DCRA's failure and refusal to enforce either § 2002.3 of the Zoning Regulations or D.C. Code § 6-1106 and to require the developer to restore the unlawfully demolished turret and dismantle the unlawful roof structure.

(B) To find that DCRA exceeded its authority in issuing a permit for minor modifications of the unlawful structures on December 28, 2004, because no permit may be issued to facilitate the unlawful expansion of a non-conforming use and that the developers proposals had not been submitted to the Old Georgetown Board before issuing the permit for those minor modifications to the demolished turret and unlawful roof structure, as required by OGB's September 21, 2004 Order. App. 1.

(C) To order the property owner, pursuant to D.C. Code § 6-1106, to restore the turret and the roof to their original condition before the unlawful and un-permitted extension of the nonconforming use to the attic space, the turret space, and the roof.

Respectfully submitted,

GEORGETOWN RESIDENTS ALLIANCE
On behalf of Don Crockett, Elaine Crockett, and Don G. Scroggin

By Don W. Crockett
Don W. Crockett, Chairman
3070 Q Street, NW
Appellants

March 25, 2005

APPENDIX

Appeal of the Georgetown Residents Alliance, March 25, 2005

PAGES 1-43

O.G. 04-225 (HPA N/A)
1531 31st Street, NW (Lot 294 - Square 1269)
Reid A. Dunn - Multi-family residential
Expansion of excavated rear yard into sidewalk, addition of enclosed stairs to new roof decks and alterations to masonry openings at rear
Permit

RECOMMENDATION: No objection to issuance of permit for proposed alterations to multi-family residential building, including repair of existing windows, alterations to openings on rear facade with new wood windows to match existing, vertical wood board fence and gate to be painted or stained, and excavation of courtyard at basement level to project into public space no further than stoop of adjacent building as shown in supplemental drawings received and dated 14 September 2004. Recommend **AGAINST** issuance of permit for proposed roof decks and roof access which, as noted on site visit on 21 September 2004, will be visible from public space and not appropriate to the historic district. Note is made that permit application is pending final Zoning review. Any modifications to the approved design as a result of further review in the permit process must be submitted to the Commission for approval.

O.G. 04-227 (HPA 04-347)
1339 30th Street, NW (Lot 128 - Square 1241)
Susan Liberman - Residence
Repair of cast iron front stoop
Permit

RECOMMENDATION: No objection to issuance of permit for proposed repair of cast iron front stoop, including disassembling, reconstruction with replacement only of missing parts to match existing, and re-installation in its original placement and configuration.

O.G. 04-228 (HPA 04-348)
1337 30th Street, NW (Lot 127 - Square 1241)
Dale James - Residence
Repair of cast iron front stoop
Permit

RECOMMENDATION: No objection to issuance of permit for proposed repair of cast iron front stoop, including disassembling, reconstruction with replacement only of missing parts to match existing, and re-installation in its original placement and configuration.

EXHIBIT
A

Crockett, Don

From: Crockett, Don
Sent: Tuesday, November 16, 2004 12:06 PM
To: 'timothy.dennee@dc.gov'
Cc: 'zartmanbj@aol.com'
Subject: Roof deck construction at 1531 31st Street NW

Dear Tim:

I had to do some maintenance on my roof this weekend and discovered, to my dismay, that the contractor doing the condo conversion at 1531 31st Street has cut the roof for a large cupola that can be seen clearly from both Q Street and upper 31st Street. The permit in the window is for interior renovations only. (I live at 3070 Q Street and there is one row house between me and the corner apartment house.)

While there are also permits, approved by the Old Georgetown Board, to rearrange the windows and provide for an enlarged excavated basement entry way on the South end of the building. I see nothing in the window that indicated a permit for a roof deck. I have also not seen anything on the ANC2E agenda for any roof deck at this location.

Two full size staircases have been built to provide roof access for both of the separate top floor apartments. This arrangement would obviously require a very large cupola that could be seen from the street.

My understanding of the zoning regulations is that roof structures may be authorized only if they are at least 6 feet from each of the four side walls. In this case, no permit can lawfully be issued for a roof structure because there would no setback whatsoever from the side walls.

I do not want this roof deck constructed because it would intrude upon the current privacy of my garden and become a source of flying debris and noise from roof parties, radios, etc. I am sure I can speak for Susan Reilly, who owns 3072 Q Street, who would have even greater intrusions of privacy and noise.

I would greatly appreciate it if you could let me know whether this matter has been approved either by your Board or the Old Georgetown Board. I could see the copula being constructed from the Street this morning, so time is of the essence.

Best regards,

Don Crockett

Crockett, Don

From: Dennee, Timothy (OP) [Timothy.Dennee@dc.gov]
Sent: Tuesday, November 30, 2004 5:07 PM
To: Crockett, Don
Subject: RE: Roof deck construction at 1531 31st Street NW

I went by today and could see it, but only from a half-block north and more than a half-block south. As a consequence, it will have to go to the CFA, but I will not oppose it when it does. The rest of the deck he plans will also have to go before the CFA as well. That is more perhaps more problematic for him, because he will likely have more difficulty concealing the rails.

It does appear that he has ceased work on the rooftop structure for the time being.

Tim Dennee

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Tuesday, November 30, 2004 5:01 PM
To: 'Dennee, Timothy (OP)'
Subject: RE: Roof deck construction at 1531 31st Street NW

Tim:

I dropped new pictures by your office today which demonstrate that the unauthorized roof structure which was constructed over the long weekend is visible from both 31st and Q Streets. I also read the OGB file in which the OGB itself determined that the proposed roof structure and modified turret would be visible from the street. Nothing has changed since the OGB recommended denial of the plan for the roof decks except that the owner has proceeded -- without a permit and in violation of a stop work order -- to do exactly what the OGB and, I presume your office, found he should not be permitted to do. It seems clear to me that no permit for roof top structures and alterations may be lawfully granted this owner without returning the whole matter to the OGB.

Don Crockett

-----Original Message-----
From: Dennee, Timothy (OP) [mailto:Timothy.Dennee@dc.gov]
Sent: Monday, November 29, 2004 2:54 PM
To: Crockett, Don
Subject: RE: Roof deck construction at 1531 31st Street NW

Mr. Crockett:

The owner came in shortly after I sent the last email. He was trying to get a permit for the rooftop structure. I told him that I would have to go by and check the visibility of the structure before I could make any sort of determination. I will likely go out there tomorrow.

Our inspector is still going to swing by to see if there is work taking place on the roof.

Tim Dennee

-----Original Message-----
From: Crockett, Don
Sent: Monday, November 29, 2004 10:41 AM
To: Crockett, Don
Subject: RE: Roof deck construction at 1531 31st Street NW

Tim:

Over the Thanksgiving ho iday, I noticed activity on the roof of 1531 31st Street. Yesterday, I went up on the roof to check things out and discovered that the builder has now constructed a large roof structure for the two staircases to the roof. This structure can be clearly seen from both Q and 31st Streets.

The stop work order is still on the door so I assume no plans for the proposed roof structure have been approved. I also noticed that the demolition of one half of the large tiled middle spire can be clearly seen from lower 31st Street. I would assume the plan is to turn this into a large skylight. Again, I doubt that the Georgetown Board would have approved such a modification of a 19th century building. This builder appears to be a scoff law who believes he can do anything he wants without consequences.

If this builder did, in fact, get the necessary approvals for the roof structure please let me know immediately so I can file my appeal with the BZA.

I took another set of pictures and would be happy to drop them by your office tomorrow.

-----Original Message-----
From: Crockett, Don
Sent: Wednesday, November 17, 2004 1:36 PM
To: 'Dennee, Timothy (OP)'
Cc: 'sriley@foley.com'
Subject: RE: Roof deck construction at 1531 31st Street NW

Tim:

Thank you very much for your E-mail. I will also take pictures because any cupola over four feet high would be visible from the street. The temporary structure is currently visible from both Q Street and upper 31St Street.

The contractor's story that these two full size staircases to the roof are not to be marketed to prospective condominium purchasers as access to their own private roof decks is is obviously disingenuous. This building is being renovated on spec and the purchasers of the two top floor condominiums will obviously create their own roof decks if the large access stairways and copula are actually built to facilitate them. It would make no sense to waste all of the space taken up by the large staircases in each of these 800 square foot apartments just for access to roof equipment, when a simple ceiling hatch with folding stairs would adequately serve the same function.

I learned too late that the copula built for the roof deck on the other side of my house was improperly approved by the Zoning Administrator. Section 400.7 of the Zoning Regulations clearly provides that any roof structure "shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located." Had the Zoning Administrator properly applied this regulation to the twelve foot-wide roof on my neighbor's house, the six foot copula, which was constructed on the party wall of my house could not have been approved. (By the way, at about 10:00 P.M. one night this Summer, the renters of the house next door threw a large party on the so-called "equipment pad" which is merely four feet from our top bedroom windows. We had to threaten to call the police if they didn't take the party inside. The next morning we found all sorts of trash and cigarette butts in our garden. That is why roof decks are an anathema in our historic neighborhoods.)

The roof of the apartment house at 1531 31st Street NW looks to be no more than ten feet wide at its widest point. Therefore, the largest copula that could be built would under the regulations would be three feet high and three feet wide and centered in the middle of the roof. The two staircases, however, terminate at the East party wall. Therefore, the contemplated copula would violate Section 400.7 because it would be at least six feet high and would not be set back from the walls by six feet on each side.

This also makes me wonder where the condensing units for the four separate air conditioning systems will be located. I expected to see the lines for these units on the roof rather than a huge

7X7 foot hole to accommodate access from two separate staircases. Four such units on the relatively small roof would take up much of the area, so I suspect the plans call for hiding them in some area that may also be objectionable to neighbors.

In light of my previous unfortunate experience with with the Zoning Administrator on the same issue in 2002, I do not trust them to properly apply the pertinent Zoning Regulations to this case. If any large roof structure is approved, I will immediately appeal to the BZA. I also note that Section 411.10 of the Zoning Regulations provides that "Before taking final action on a roof structure plan, the Zoning Administrator shall submit the plan to the D.C. Office of Planning for review and report." This regulation was also not followed with respect to the copula built on my neighbors house to the East in 2002.

Thanks again for your prompt response to this matter.

Don Crockett

-----Original Message-----
From: Dennee, Timothy (OP) [mailto:Timothy.Dennee@dc.gov]
Sent: Tuesday, November 16, 2004 5:28 PM
To: Crockett, Don
Subject: RE: Roof deck construction at 1531 31st Street NW

Mr. Crockett:

One of our inspectors went out to look at it today. I spoke with the contractor a short time ago and told him that the permit application would have to be revised, because the approved plans did not include such structures. In fact, the owner had proposed to build rooftop decks for each of the top-floor units, but that portion of his application was denied by the Commission of Fine Arts in September because portions of the rails and of one of the penthouses was likely to be visible from the street.

Now, the story is that this is not for decks, but for access to rooftop HVAC equipment. Naturally, I am suspicious, but if anything built on the roof will *not* be visible from the street then it is acceptable from our point of view (the explicit test for rooftop decks in our design guidelines is that they not be visible from the street) and not in the purview of the Commission of Fine Arts. Nonetheless, I told the contractor that they need to revise the permit for any new structures because there may be code or zoning issues triggered since the structures were not in the plans reviewed. He will do so-and, for what it's worth, he said that he has no instructions to build any decks. We will review the permit revision application when it comes in.

I am waiting for the inspector's photos, but his impression was that the structures would not be visible from the street.

Tim Dennee
DC Historic Preservation Office

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Tuesday, November 16, 2004 12:06 PM
To: 'timothy.dennee@dc.gov'
Cc: 'zartmanbj@aol.com'
Subject: Roof deck construction at 1531 31st Street NW

Dear Tim:

I had to do some maintenance on my roof this weekend and discovered, to my dismay, that the contractor doing the condo conversion at 1531 31st Street has cut the roof for a large cupola that can be seen clearly from both Q Street and upper 31st

Street. The permit in the window is for interior renovations only. (I live at 3070 Q Street and there is one row house between me and the corner apartment house)

While there are also permits, approved by the Old Georgetown Board, to rearrange the windows and provide for an enlarged excavated basement entry way on the South end of the building. I see nothing in the window that indicated a permit for a roof deck. I have also not seen anything on the ANC2E agenda for any roof deck at this location.

Two full size staircases have been built to provide roof access for both of the separate top floor apartments. This arrangement would obviously require a very large cupola that could be seen from the street.

My understanding of the zoning regulations is that roof structures may be authorized only if they are at least 6 feet from each of the four side walls. In this case, no permit can lawfully be issued for a roof structure because there would no setback whatsoever from the side walls.

I do not want this roof deck constructed because it would intrude upon the current privacy of my garden and become a source of flying debris and noise from roof parties, radios, etc. I am sure I can speak for Susan Reilly, who owns 3072 Q Street, who would have even greater intrusions of privacy and noise.

I would greatly appreciate it if you could let me know whether this matter has been approved either by your Board or the Old Georgetown Board. I could see the copula being constructed from the Street this morning, so time is of the essence.

Best regards,

Don Crockett

Crockett, Don

From: Dennee, Timothy (OP) [Timothy.Dennee@dc.gov]
Sent: Tuesday, December 07, 2004 3:58 PM
To: Crockett, Don
Cc: 'Martinez, Jose'; Cherry, Toni (OP)
Subject: RE: Roof deck construction at 1531 31st Street NW

Mr. Crockett,

Last week I spoke with Mr. Dunn, the owner of 1531 31st Street. He said that he will dismantle the roof access structure and replace it with two hatches, so that there is nothing visible over the roof parapet.

He does intend to pursue the deck project, however. The hatches and the deck itself would not be visible from public space. As a consequence, their review would fall to our office and, for the same reason, we would approve them. However, he will presumably need a railing to bound the deck. I again informed him that that would have to be closely scrutinized for conspicuousness and most likely would be visible from public space and would require CFA review as well as our own.

Tim Dennee
DC Historic Preservation Office

DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

December 8, 2004

Tersh Boasberg, Chairman
Historic Preservation Review Board
801 North Capital Street NE
Washington, DC 20002

RE: PETITION TO REQUIRE THE OWNER OF 1531 31st STREET NW TO RESTORE THE TURRET AND ROOF OF THIS BUILDING TO ITS ORIGINAL CONDITION.

Dear Mr. Boasberg:

I am writing to seek your help with respect to some un-permitted work being performed at a small apartment house one door down from my home.

thatAs I informed you by E-mail on Monday, the owner of 1531 31st Street NW, constructed an unlawful roof structure over the Thanksgiving holiday period in direct violation of the "Stop Work Order" posted on the door. I trust that this violation will be brought to the attention of the proper authorities and that appropriate penalties will be imposed including, but not limited to, the complete restoration of the roof and tiled turret on this building. This builder is a scofflaw and his punishment should be designed to deter others from violating zoning regulations, approved plans, and "stop work orders." Pictures of the construction that took place after the stop work order was issued are enclosed.

This roof structure is clearly in violation of § 400.07 of the Zoning Regulations which requires that "It be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located." Because this roof is very narrow, the only roof structure allowed by §400.7 would be approximately three feet high and set back three feet from all walls. The original skylight in the middle of the roof – which the builder has removed – did, in fact, comply with the current Zoning Regulations.

The alterations to the roof and turret are also in direct violation of the Old Georgetown Board's recommendation which expressly rejected the builder's plan to demolish half of the turret and construct two separate roof decks for each top floor apartment.

This builder obviously intends to bootleg these roof decks and market them as a feature to buyers of the top floor apartments. He did the same thing at the corner of 31st and P about twenty years ago and two illegal roof decks have existed since that time without any railings. In recent months, the owners of the two apartments, for obvious safety reasons, have constructed a fence around their decks which is not in keeping with the historic nature of the neighborhood. If this

builder is allowed to construct these large entry ways to the roof, the new owners will obviously create their own roof deck spaces as they did at 31st and P. This is why the Board and the Zoning Administrator should order Mr. Dunn to restore the roof and the turret to its original condition

I would appreciate it if you will keep me informed of the status of the builder's belated request for approval of his demolition of the turret, the construction of an illegal roof structure, and his obvious intent to create two roof decks for use of the prospective buyers of these apartments.

Sincerely,

Don W. Crockett

Enclosures

cc Zoning Enforcement
Zoning Administrator

DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

January 25, 2005

Tersh Boasberg, Chairman
Historic Preservation Review Board
801 North Capital Street NE
Washington, DC 20002

RE: Illegal demolition and construction at 1531 31st St. NW.

Dear Mr. Boasberg:

On December 8, 2004, I hand-delivered a letter informing you and the Board that a developer was going forward with plans for two roof decks at 1531 31st St. in Georgetown that had been formally rejected by both the OGB and the HPRB.

Although an HPRB inspector had posted a "stop work order" for the disapproved and un-permitted roof deck project on November 16, 2004, the builder continued the demolition of the turret and the erection of a large roof structure which the OGB had expressly rejected as "not appropriate to the historic district." Since that time, the developer has literally thumbed his nose at the HPRB and proceeded with the unlawful project because the HPRB staff has taken no action whatsoever to stop it.

Exhibit G, attached to my December 8, 2004 letter, contains photographs I took of the unlawful project just before the HPRB inspector issued the stop work order on November 16, 2004. See Pictures 2 and 3. As you will note, there is a blue tarp with temporary supports covering a 10' x13' hole in the roof and a separate tarp covering the area under the East half of the demolished turret.

Pictures 4, 5, and 6, show the construction that was completed within two weeks **after the HPRB stop work order was issued and posted on the door.** As you will note, the builder partially filled the 10' x 13' hole in the roof with a large roof structure that provided walk-out doorways for staircases from each of the top floor apartments. The two doorways of the roof structure open onto a passage-way (built on the attic floor) that extends about 3 feet from the doors to the East exterior wall of the house. That passage-way is approximately four feet below

roof level, i.e, the depth of the attic space. Thus, anyone wishing to access the roof would simply ascend the wide interior staircase to the attic-level door, step through the door into the open passage-way, turn right or left and ascend the four or five open steps to the roof level. Because the passage-way, with its two short staircases to the roof level is open to the elements, the builder then installed storm drains that presumably carry the rain water off through the interior plumbing system. The developer also installed electrical outlets for lighting, radios, stereo's, etc. at the top of the roof structure to facilitate use of the roof as additional living space.

On December 27, 2004, pursuant to my much earlier request, the Zoning Administrator dispatched a DCRA inspector to the property. That inspector issued a stop work order which, unlike the HPRB order, halted all construction on the project until the un-permitted work on the roof was abated. See Exhibit I attached hereto.

The next day, December 28, 2004, the developer appeared at DCRA with "revised plans" for this roof deck project. The "revised pans" were simply the original roof deck plans that had been rejected by the OGB and HPRB on which the builder made **one hand-drawn change:** To lower the height of the un-permitted roof structure by about two feet and to install two "hatches" on top of the unlawful structure. The builder also asked permission to install a doorway that would permit roof-level access to the remaining un-demolished half of the turret.

The builder did not seek a permit to legitimize either the unlawful demolition of the turret or the unlawful roof structure and open roof passage way to the roof. Accordingly, that unlawful work still remains intact and without the required permits.

The proposed hatches, of course, were just a ruse intended to deceive DCRA into lifting the stop work orders. They could serve no conceivable useful purpose as long as the illegal roof structure and passage way were still intact. Even if the roof structure were lowered by two feet, as proposed on the "revised plan", it would still accommodate 5 tor 6 ft. doors opening onto the passage-way, thereby providing the originally intended walk-out roof access for both apartments.

The DCRA and HPRB staffs, however, fell for this ruse hook-line-and-sinker; approved these two minor modifications to the illegal project; and lifted the stop work orders. I fail to see how the regulations can be read to authorize DCRA

to approve changes to illegal projects that have been constructed without permits. In my view, the developer would have to first obtain a retroactive building permit for the illegal project and pay any fees and penalties before being entitled to make changes to a bootleg project such as this.

With both the inspectors and stop work orders out of the way, the developer moved ahead with his unlawful roof deck project the very next day. He removed the old tin roof and installed a new rubber roof. This new rubber roof covered the area previously occupied by the historic turret; covered and waterproofed the open passage-way; and was otherwise tied into the unlawful roof structure. Notably, the developer **did not lower** the roof structure by two feet or install the proposed hatches. See new photographs on Exhibit H attached hereto (Pictures 13 - 18).

On January 4, 2005, ANC2E adopted a resolution asking the HPRB to require the builder to restore the turret, remove the unauthorized roof structures and permit only a "roof level" hatch for roof access like all of the other houses on our row. ANC Resolution attached as Exhibit J. Newspaper articles concerning this unlawful work attached as Exhibit K.

I would also point out that the unlawful roof deck project is in violation of several other DC regulations: (1) As the Zoning Administrator recognized, any attempt to create outdoor living space on the roof would require a zoning exception from the BZA. See Exhibit I. (2) Section 411.10 of the Zoning Regulations provides that "Before taking final action on a roof structure plan, the Zoning Administrator shall have submitted the plan to the Director of the Office of Planning for review and report." Obviously, no such referral was made in this case because the structure was built without permits and remains without permits. (3) The top of the chimneys for the adjacent row house are several feet below the roof structure and constitute serious fire and health hazzards to the property. See pictures photograph 14-17 on Exhibit H attached hereto.

As of today, the walk-out roof structure and passage-way for the two new staircases to the roof are still in their pristine illegal and un-permitted form as reflected by the photographs in Exhibit H.

I believe that the developer has no intention whatsoever of installing the useless hatches approved by the HPRB staff. Instead, he will attempt to wait out DCRA's inept inspection process and then put the finishing touches on his illegal structure just prior to putting the new condo units on the market. Although the

developer will not lay down an actual wood deck, he will have completed everything else necessary for the two disapproved roof decks, i.e., creating necessary space by removing the turret; creating walk-out "living space" access to the roof for each apartment; and installing electric utilities. The only thing remaining for the new owners would be to bootleg portable wood deck floors (which could be done in one day) and to put out their deck furniture.

As noted in my December 8, 2004 letter, this developer has renovated dozens of homes in DC and Georgetown over the past 30 years and created unlawful roof decks for the property at 3101 P Street many years ago. He has beat the system in the past and counts on beating the system this time because DCRA and the HPRB are toothless tigers who consistently fail to enforce the law. As a victim of this lawlessness, I believe it is high time that the HPRB vigorously fulfills its statutory responsibilities and stops this assault on my property in particular and on the Georgetown Historic District in general.

Accordingly, I respectfully renew my request that the HPRB immediately issue a stop work order for the entire project until: (1) The unlawfully demolished turret is restored to its original condition, thereby taking back the space created for one of the roof decks . (2) The unlawfully constructed roof structure and passage-way are demolished and the roof restored to its original level with a single roof-level hatch for roof access, thereby removing the unauthorized "living space access" to the roof. (3) The developer pays the fines assessed by the HPRB for his wilful and flagrant violation of the building and zoning regulations.

Sincerely,

Don W. Crockett

Attached Exhibits
cc via E-mail w/o exhibits
David Clark (DCRA)
Jose Martinez (CFA)
Toye Bello (Zoning Administrator)
Barbara Zartman (CAG)
Pam Moore (ANC2E)
Timothy Dennee
Toni Cherry

DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

December 8, 2004

David Clark, Director
Department of Consumer and Regulatory Affairs
941 North Capital Street NE
Washington, DC 20002

RE: Illegal Roof Structure and Turret demolition at 1531 31st Street NW.

Dear Mr. Clark:

I am writing to seek your help with respect to some un-permitted work being performed at a small apartment house one door down from my home.

As I informed you by E-mail on Monday, the owner of 1531 31st Street NW, constructed an unlawful roof structure over the Thanksgiving holiday period in direct violation of the "Stop Work Order" posted on the door. I trust that this violation will be brought to the attention of the proper authorities and that appropriate penalties will be imposed including, but not limited to, the complete restoration of the roof and tiled turret on this building. This builder is a scofflaw and his punishment should be designed to deter others from violating zoning regulations, approved plans, and "stop work orders." Pictures of the construction that took place after the stop work order was issued are enclosed.

This roof structure is clearly in violation of § 400.07 of the Zoning Regulations which requires that "It be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located." Because this roof is very narrow, the only roof structure allowed by §400.7 would be approximately three feet high and set back three feet from all walls. The original skylight in the middle of the roof – which the builder has removed – did, in fact, comply with the current Zoning Regulations.

The alterations to the roof and turret are also in direct violation of the Old Georgetown Board's recommendation which expressly rejected the builder's plan to demolish half of the turret and construct two separate roof decks for each top floor apartment.

This builder obviously intends to bootleg these roof decks and market them as a feature to buyers of the top floor apartments. He did the same thing at the corner of 31st and P about twenty years ago and two illegal roof decks have existed since that time without any railings. In recent months, the owners of the two apartments, for obvious safety reasons, have constructed a fence around their decks which is not in keeping with the historic nature of the neighborhood. If this builder is allowed to construct these large entry ways to the roof, the new owners will obviously

create their own roof deck spaces as they did at 31st and P. This is why the Board and the Zoning Administrator should order Mr. Dunn to restore the roof and the turret to its original condition

I would appreciate it if you will keep me informed of the status of the builder's belated request for approval of his demolition of the turret, the construction of an illegal roof structure, and his obvious intent to create two roof decks for use of the prospective buyers of these apartments.

Sincerely,

Don W. Crockett

Enclosures

cc Zoning Enforcement
Zoning Administrator

Crockett, Don

From: Bello, Toye (DCRA) [Toye.Bello@dc.gov]
Sent: Tuesday, December 21, 2004 6:45 PM
To: Crockett, Don
Subject: RE: Un-permitted turret demolition and roof deck structure at 153 1 31st Street NW.

I will speak with the assigned inspector tomorrow and get back to you. I apologize because it seems that I dropped the ball myself But rest assured that enforcement of this violation will be seen through to its logical and legal length. Thanks for your patience.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Tuesday, December 21, 2004 5:16 PM
To: 'Bello, Toye (DCRA)'
Subject: RE: Un-permitted turret demolition and roof deck structure at 153 1 31st Street NW.

Mr. Bello,

Have there been any recommendations or actions with respect to the unpermitted roof construction at 1531 31st St. NW since your last E-mail?

-----Original Message-----
From: Bello, Toye (DCRA) [mailto:Toye.Bello@dc.gov]
Sent: Wednesday, December 08, 2004 5:54 PM
To: Crockett, Don; Bello, Toye (DCRA)
Cc: Dennee, Timothy (OP); Cherry, Toni (OP)
Subject: RE: Un-permitted turret demolition and roof deck structure at 153 1 31st Street NW.

A zoning inspector is scheduled to visit this site tomorrow. I will keep you informed. Thank you.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202-442-4576

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Wednesday, December 08, 2004 3:25 PM
To: 'toye.bello@dc.gov'
Cc: 'Timothy.dennee@dc.gov'; 'toni.cherry@dc.gov'
Subject: FW: Un-permitted turret demolition and roof deck structure at 153 1 31st Street NW.

Correction: In my E-mail I inverted the numbers for the relevant Zoning Section. It should be Section 400.7 and not 700.4.

-----Original Message-----
From: Crockett, Don

Sent: Wednesday, December 08, 2004 2:59 PM
To: 'toye.bello@dc.gov'
Cc: 'vincent.ford@dc.gov'; 'Timothy.dennee@dc.gov'; 'toni.cherry@dc.gov'; 'ZARTMANBJ@aol.com'
Subject: Un-permitted turret demolition and roof deck structure at 1531 31st Street NW.

Dear Mr. Bello:

I greatly appreciated our meeting on Monday. I hope that a zoning inspector has been able to visit the property and assess the roof work which has been bootlegged without a building permit and in violation of an order by the Historic Preservation Review Board denying the plans for the roof deck, roof structure, and the demolition of the turret.

As we discussed, Section 700.4 of the Zoning regulations provides that any roof housing for a stairway "**shall** be set back from all exterior walls a distance at least equal to its height **above the roof upon which it is located.**" In this case, the distance between the two exterior side walls at the narrowest point is 14 feet. Therefore, a 4.5 ft. high stair housing would require a 4.5 ft. set back from each wall. The stairway housing, as built, however, is more that 5 feet above the roof, is ten feet wide and, accordingly, abuts the East exterior wall with no setback. It also abuts the bottom of the turret on the West side with no set back. (The turret was unlawfully demolished to make room for the proposed roof deck). I also mentioned that the chimney of the neighboring row house comes up to the top of the East exterior wall. Therefore, the stairway housing sits directly above the chimney which, I believe, must violate numerous sections of the building code.

I would greatly appreciate it if you could let me know the results of the inspection.

Thanks again for your time.

Don W. Crockett
3070 Q Street NW
Washington, DC 20007

Home 202-338-1997
Work 202-586-1465
don.crockett@hq.doe.gov

Crockett, Don

From: Bello, Toye (DCRA) [Toye.Bello@dc.gov]
Sent: Wednesday, December 29, 2004 11:20 AM
To: Crockett, Don
Subject: RE. Unlawful construction at 1531 31st Street NW

Mr Crockett,

DCRA and the zoning division have indeed focused on the problem at the subject address. In distinction to the Historic Preservation Stop Work Order which permitted interior work to continue, this office issued a Stop Work Order 12/27 stopping all work pending abatement of the roof work that was done outside the scope of the instant building permit. Whereas Historic's 11/6 Stop Work did not elicit compliance because the owner was allowed to continue to work on the interior, ours has brought remedy in 24 hours.

The subject property owner brought in revised plans showing only a proposed roof hatch, no roof deck, and has obtained a revised building permit reflective of the scope of the work allowed. Further, the owner has been put on notice that as an existing non-conforming structure, a roof deck addition is impossible without a public hearing before the Board of Zoning Adjustments (BZA); which notice to you is un-escapable since you are within a 200 feet radius of subject premises. The division may conduct unscheduled monitoring inspections to keep the owner honest. Thanks for your civic vigilance.

Toye Bello
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Suite 2000
202 442-4576

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Wednesday, December 29, 2004 9:47 AM
To: 'toye.bello@dc.gov'
Subject: Unlawfull construction at 1531 31st Street NW

Mr. Bello:

This morning I was awakened by work on the roof of 1531 31st Street. Therefore I assume that the owner is going forward with the plans for his roof deck that were rejected by the Commission on Fine Arts and the Historic Preservation Review Board.

It would be extremely helpful if your office (and DCRA) would focus on this problem and take appropriate action.

The developer is a scofflaw who will continue this un-permitted work on the roof until someone in DCRA issues a stop work order.

Sincerely,

Don W. Crockett

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Georgetown and Hillandale

3265 S Street, NW • Washington, DC 20007

(202) 338-7427 • FAX (202) 338-0279 • anc2e@erols.com

January 10, 2005

Ms. Lisa Burchan, Director
Historic Preservation Office
Suite 3000
DC Office of Planning
801 North Capitol Street, NE
Washington, DC 2002

RE: Illegal work at 1531 31st Street, NW

Dear Ms. Burchan:

On January 4, 2005, ANC 2E held its regularly scheduled public meeting which was properly noticed and attended by six commissioners, constituting a quorum. At this meeting the above –referenced item was brought to our attention and discussed. It seems that unauthorized demolition and construction work has been in progress even after a Stop Work Order was issued. Knowing this, ANC 2E presented and adopted by a unanimous vote the following motion:

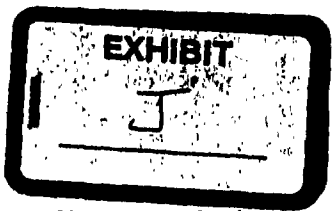
> ANC 2E requests the Historic Preservation Office to take immediate action to be sure that both the roof and roof turret are restored to their original condition at 1531 31st Street allowing only a flat roof hatch. If it is within the authority of the Historic Preservation Office then the maximum penalties should be imposed for the flagrant disregard of the city regulations by the owner.

Please keep us informed as to what actions will be taken. Thank you for your attention.

Sincerely,

Ed Solomon
Chair, ANC 2E

CC: Toye Bello, DCRA



COMMISSIONERS:

Ed Solomon, District 1 John Lever, District 2 Bill Skelsey, District 3 Brett Clements, District 4
Bill Starrels, District 5 Pam Moore, District 6 Charles Eason, District 7

THE GEORGETOWN CURRENT

Davis Kennedy/Publisher & Editor
Chris Kain/Managing Editor

Enforce preservation law

A new citywide coalition is looking to obtain improved enforcement of preservation laws.

Organizers note correctly that protecting the character of historic districts such as those in Dupont Circle, Georgetown and Cleveland Park is good for the city. There is little doubt that the hard-won protections in these areas have bolstered property values and turned them into some of the most desirable neighborhoods in the nation.

But they are also filled with examples of violations of preservation regulations.

The latest case is at 31st and Q streets, where neighbors contend that a property owner has built two roof decks and two exterior stairways without permits, having demolished a historic turret in the process.

The Georgetown advisory neighborhood commission voted unanimously to ask the Historic Preservation Review Board to intervene in the case and require that the owner restore the building's roof and turret. The commission also urged that the owner incur the maximum penalties for what it called a "flagrant disregard" of the regulations.

The owner was not at the commission meeting, but he subsequently told a reporter that he had the necessary permits for the work he did.

Notwithstanding the particulars of this case, it is a reminder of the need for stiffer penalties for violations of the District's preservation laws. We fear that those developers out to make a quick buck are likely to view the current fines as simply a cost of doing business.

The law ought to require that the property owner make the repairs deemed necessary by the Historic Preservation Review Board to restore the building as closely as possible to its prior condition. If the owner fails to do the work, the city ought to undertake the work itself at the owner's expense, with the charge placed as a lien on the tax bill if the owner fails to pay.

Unless the city wrongly issued permits, the owner should have to show extreme economic hardship or, in the case of an owner-occupant, that the violation was inadvertent, in order to avoid the penalty. If permits were issued incorrectly, then the responsible employee ought to be dismissed.



DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

January 25, 2005

Tersh Boasberg, Chairman
Historic Preservation Review Board
801 North Capital Street NE
Washington, DC 20002

RE: Illegal demolition and construction at 1531 31st St. NW.

Dear Mr. Boasberg:

On December 8, 2004, I hand-delivered a letter informing you and the Board that a developer was going forward with plans for two roof decks at 1531 31st St. in Georgetown that had been formally rejected by both the OGB and the HPRB.

Although an HPRB inspector had posted a "stop work order" for the disapproved and un-permitted roof deck project on November 16, 2004, the builder continued the demolition of the turret and the erection of a large roof structure which the OGB had expressly rejected as "not appropriate to the historic district." Since that time, the developer has literally thumbed his nose at the HPRB and proceeded with the unlawful project because the HPRB staff has taken no action whatsoever to stop it.

Exhibit G, attached to my December 8, 2004 letter, contains photographs I took of the unlawful project just before the HPRB inspector issued the stop work order on November 16, 2004. See Pictures 2 and 3. As you will note, there is a blue tarp with temporary supports covering a 10' x13' hole in the roof and a separate tarp covering the area under the East half of the demolished turret.

Pictures 4, 5, and 6, show the construction that was completed within two weeks **after the HPRB stop work order was issued and posted on the door.** As you will note, the builder partially filled the 10' x 13' hole in the roof with a large roof structure that provided walk-out doorways for staircases from each of the top floor apartments. The two doorways of the roof structure open onto a passage-way (built on the attic floor) that extends about 3 feet from the doors to the East exterior wall of the house. That passage-way is approximately four feet below

roof level, i.e, the depth of the attic space. Thus, anyone wishing to access the roof would simply ascend the wide interior staircase to the attic-level door, step through the door into the open passage-way, turn right or left and ascend the four or five open steps to the roof level. Because the passage-way, with its two short staircases to the roof level is open to the elements, the builder then installed storm drains that presumably carry the rain water off through the interior plumbing system. The developer also installed electrical outlets for lighting, radios, stereo's, etc. at the top of the roof structure to facilitate use of the roof as additional living space.

On December 27, 2004, pursuant to my much earlier request, the Zoning Administrator dispatched a DCRA inspector to the property. That inspector issued a stop work order which, unlike the HPRB order, halted all construction on the project until the un-permitted work on the roof was abated. See Exhibit I attached hereto.

The next day, December 28, 2004, the developer appeared at DCRA with "revised plans" for this roof deck project. The "revised pans" were simply the original roof deck plans that had been rejected by the OGB and HPRB on which the builder made **one hand-drawn change:** To lower the height of the un-permitted roof structure by about two feet and to install two "hatches" on top of the unlawful structure. The builder also asked permission to install a doorway that would permit roof-level access to the remaining un-demolished half of the turret.

The builder did not seek a permit to legitimize either the unlawful demolition of the turret or the unlawful roof structure and open roof passage way to the roof. Accordingly, that unlawful work still remains intact and without the required permits.

The proposed hatches, of course, were just a ruse intended to deceive DCRA into lifting the stop work orders. They could serve no conceivable useful purpose as long as the illegal roof structure and passage way were still intact. Even if the roof structure were lowered by two feet, as proposed on the "revised plan", it would still accommodate 5 tor 6 ft. doors opening onto the passage-way, thereby providing the originally intended walk-out roof access for both apartments.

The DCRA and HPRB staffs, however, fell for this ruse hook-line-and-sinker; approved these two minor modifications to the illegal project; and lifted the stop work orders. I fail to see how the regulations can be read to authorize DCRA

to approve changes to illegal projects that have been constructed without permits. In my view, the developer would have to first obtain a retroactive building permit for the illegal project and pay any fees and penalties before being entitled to make changes to a bootleg project such as this.

With both the inspectors and stop work orders out of the way, the developer moved ahead with his unlawful roof deck project the very next day. He removed the old tin roof and installed a new rubber roof. This new rubber roof covered the area previously occupied by the historic turret; covered and waterproofed the open passage-way; and was otherwise tied into the unlawful roof structure. Notably, the developer **did not lower** the roof structure by two feet or install the proposed hatches. See new photographs on Exhibit H attached hereto (Pictures 13 - 18).

On January 4, 2005, ANC2E adopted a resolution asking the HPRB to require the builder to restore the turret, remove the unauthorized roof structures and permit only a "roof level" hatch for roof access like all of the other houses on our row. ANC Resolution attached as Exhibit J. Newspaper articles concerning this unlawful work attached as Exhibit K.

I would also point out that the unlawful roof deck project is in violation of several other DC regulations: (1) As the Zoning Administrator recognized, any attempt to create outdoor living space on the roof would require a zoning exception from the BZA. See Exhibit I. (2) Section 411.10 of the Zoning Regulations provides that "Before taking final action on a roof structure plan, the Zoning Administrator shall have submitted the plan to the Director of the Office of Planning for review and report." Obviously, no such referral was made in this case because the structure was built without permits and remains without permits. (3) The top of the chimneys for the adjacent row house are several feet below the roof structure and constitute serious fire and health hazzards to the property. See pictures photograph 14-17 on Exhibit H attached hereto.

As of today, the walk-out roof structure and passage-way for the two new staircases to the roof are still in their pristine illegal and un-permitted form as reflected by the photographs in Exhibit H.

I believe that the developer has no intention whatsoever of installing the useless hatches approved by the HPRB staff. Instead, he will attempt to wait out DCRA's inept inspection process and then put the finishing touches on his illegal structure just prior to putting the new condo units on the market. Although the

developer will not lay down an actual wood deck, he will have completed everything else necessary for the two disapproved roof decks, i.e., creating necessary space by removing the turret; creating walk-out "living space" access to the roof for each apartment; and installing electric utilities. The only thing remaining for the new owners would be to bootleg portable wood deck floors (which could be done in one day) and to put out their deck furniture.

As noted in my December 8, 2004 letter, this developer has renovated dozens of homes in DC and Georgetown over the past 30 years and created unlawful roof decks for the property at 3101 P Street many years ago. He has beat the system in the past and counts on beating the system this time because DCRA and the HPRB are toothless tigers who consistently fail to enforce the law. As a victim of this lawlessness, I believe it is high time that the HPRB vigorously fulfills its statutory responsibilities and stops this assault on my property in particular and on the Georgetown Historic District in general.

Accordingly, I respectfully renew my request that the HPRB immediately issue a stop work order for the entire project until: (1) The unlawfully demolished turret is restored to its original condition, thereby taking back the space created for one of the roof decks . (2) The unlawfully constructed roof structure and passage-way are demolished and the roof restored to its original level with a single roof-level hatch for roof access, thereby removing the unauthorized "living space access" to the roof. (3) The developer pays the fines assessed by the HPRB for his wilful and flagrant violation of the building and zoning regulations.

Sincerely,

Don W. Crockett

Attached Exhibits
cc via E-mail w/o exhibits
David Clark (DCRA)
Jose Martinez (CFA)
Toye Bello (Zoning Administrator)
Barbara Zartman (CAG)
Pam Moore (ANC2E)
Timothy Dennee
Toni Cherry

Crockett, Don

From: Dennee, Timothy (OP) [Timothy.Dennee@dc.gov]
Sent: Tuesday, January 25, 2005 6:00 PM
To: Crockett, Don
Cc: jose.martinez@cfa.gov; toye.bello@dc.gov; zartmanbj@aol.com; pmooreanc2e06@aol.com; timothy.dennee@dc.gov; toni.cherry@dc.gov
Subject: RE: Unlawful demolition and construction at 1531 31St St. NW

Mr. Crockett:

Thank you for forwarding the letter to Mr. Boasberg.

As I have explained previously, there is no prohibition of roof decks in the District of Columbia under the preservation law or regulations, nor under any other law or regulations with which I am familiar. Although we absolutely understand concerns about potentially inconsiderate neighbors, the preservation law simply does not regulate property use or behavioral issues like noise, in particular. The only issue with roof decks addressed in our preservation guidelines is that elements of them have the potential to be conspicuous on the roofline of historic buildings and should not be, at least as seen from the street. If Mr. Dunn replaces the stair structures with hatches, then he will be in compliance with the permits issued and with our guidelines and general practice We have every reason to believe he will do so, because I have asked the chief building inspector to make certain that there is no certificate of occupancy issued for the units until the structures are removed.

Hatches are common and were common historically and would not be visible from anywhere but an adjoining roof. We simply have not the legal grounds to justify denying the property owner direct access to the roof, even if we suspect that he might wish to build a deck (which, again, is not inherently illegal or infeasible). If Mr. Dunn or his tenants or successors seek to build a deck, they will need the requisite permits. From our point of view, such decking itself would not be visible from the street, the necessary rails might well be, and they would receive the appropriate scrutiny from the Commission of Fine Arts and our office.

As you know, the turret has not been demolished, but Mr. Dunn has altered the side opposite the street for mechanical access. It does not alter the appearance on the street side and we consider it to be a reasonable alteration within the context of the project.

Finally, I have forwarded your letters to Chairman Boasberg. I should point out, however, that he is the chairman of the Historic Preservation Review Board and doesn't otherwise serve as a District employee or our superior. There is no opportunity for third-party applications to the HPRB; only property owners and their designated agents have standing as applicants. But everyone else is welcome to testify on any case that comes before the HPRB or the Commission of Fine Arts.

Tim Dennee
District of Columbia Historic Preservation Office

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Tuesday, January 25, 2005 5:28 PM
To: 'david.clark@dc.gov'; 'jose.martinez@cfa.gov'; 'toye.bello@dc.gov'; 'zartmanbj@aol.com'; 'pmooreanc2e06@aol.com'; 'timothy.dennee@dc.gov'; 'toni.cherry@dc.gov'
Subject: Unlawful demolition and construction at 1531 31St St. NW

The attached letter was delivered today by hand to Tersh Boasberg at 801 North Capitol Street, NE.

DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

January 26, 2005

VIA E-MAIL
Timothy Dennee
Historic Preservation Review Board
801 North Capital Street NE
Washington, DC 20002

RE: Illegal Roof Structure and Turret demolition at 1531 31st Street NW.

Dear Tim:

Thank you for your January 25, 2005 E-mail response to my letter to Mr. Boasberg.

I also want to thank you for your commitment to withhold the certificate of occupancy for this building until the roof structures that were unlawfully built without permits, i.e., the penthouse and sunken passageway, are removed and the roof restored to the configuration that existed prior to the illegal construction. Up until November, 2004, this building had the same type of roof access as all other houses in the row, i.e., a roof level hatch with a fold-down staircase. We do not contend that your office should deny "the property owner direct access to the roof" as you suggest. To the contrary, we and the ANC agree with you that the illegal roof structures should be replaced with the same type of access that has served that property for the past 100 years, namely, a standard roof-level hatch.

Your message, however, contains several misapprehensions about this particular case that I feel compelled to respond to as follows:

(1) In the fourth paragraph you state:

> "As you know, the turret has not been demolished, but Mr. Dunn has altered the side opposite the street for mechanical access. It does not alter the appearance on the street side and we consider it to be a reasonable alteration within the context of the project."

Mr. Dunn did, in fact, "demolish" the entire rear half of this hundred-year-old turret without a permit. He had no permit because the Commission on Fine Arts had rejected his plans which called for removal of the rear half of the turret to create space for a roof deck. Mr. Dunn's proposal to remove the rear half of the turret was within the CFA's jurisdiction because it was plainly visible from 31st Street. The removal of the rear half of the turret did, in fact, alter the appearance of the turret. Looking North from 31st Street anyone can clearly see that there is now only half a turret which still boasts its ornate metal cap for the full turret.

Mr. Dunn did not alter "the side opposite the street for mechanical access" as you suggest. The back half of the turret covered the majority of the middle roof and the plans Mr. Dunn submitted to the CFA called for its removal in order to make space for a second roof deck for the rear apartment. Had Mr. Dunn actually wanted to use the space in this huge turret to house mechanical equipment, he could have accessed that space from the interior of the building without seeking permission from the CFA.

Moreover, because the rear half of the turret was unlawfully removed without any permit, the statutes and regulations do not allow DCRA to issue a permit for further alteration of the initial illegal alteration. To the contrary, DCRA was **required by statute** to order Mr. Dunn to restore the building to its original appearance. Specifically, D.C. Code § 6-1106 provides:

> (b) *Civil remedy.* – Any person who demolishes, alters or constructs a building or structure in violation of § 6-1104, § 6-1105, or § 6-1107 **shall be required to restore the building or structure and its site to its appearance prior to the violation.** Any action to enforce this subsection shall be brought by the Corporation Counsel. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

As I read this statute, your office and DCRA are required to order restoration immediately – not, as you suggest, at some later date after the building is finished and Mr. Dunn finally applies for a certificate of occupancy.

(2) In the third paragraph you state that "If Mr. Dunn or his tenants or successors seek to build a deck, they will need the requisite permits." I take absolutely no comfort from that statement because, as we have just witnessed, Mr. Dunn has completed 90% of the construction for two roofs decks without permits and your office and DCRA have done nothing to stop it. After this experience, how can we be assured that the OHP will actually enforce the law if the new owners attempt to bootleg new decks without permits?

(3) In the second paragraph you state that "the preservation law simply does not regulate property use or behavioral issues like noise, in particular." Your extremely narrow view of your historic preservation mandate is, in my opinion, misguided and in conflict with the view of the Old Georgetown Board and the Commission on Fine Arts. The historic character of a district such as Georgetown cannot be preserved if modern-day property owners are free to make changes that alter the historic relationship between the neighboring properties and create both sights and sounds that are incompatible with the historic uses. Recognizing this, the CFA has consistently interpreted its mandate to regulate "property use" by denying permission to make curb cuts, to put up out-of-character signs, or, as in the instant case, by denying a roof deck which it specifically found was "not appropriate to the historic district."

> Section 101.2 of the HPRB's regulations provides that:
>
> The intent of the regulations is to further promote the following expressed purposes of the Historic Protection Act: (a) Effect and accomplish the protection, enhancement, and perpetuation of historic landmarks and districts which represent distinctive elements of the city's cultural social, economic, political and architectural history.

The "protection, enhancement and perpetuation" of Historic Georgetown will not be accomplished if property owners are permitted to build roof decks on row houses that create new noises, neighborhood disturbance, and loss of the historical privacy that these row houses were designed to protect.

(4) Finally, you note that "only property owners and their designated agents have standing as applicants" to the HPRB. While that may be technically correct, it does not mean that individuals like me who are adversely "affected" by the HPRB's failure to take action against unlawful alterations have no "standing" to complain directly to the Chairman of the Board. As the HPRB regulations provide:

> 110.1 The views of property owners and the general public are essential to informed decisionmaking in the historic preservation process established under the Act
>
> 110.3 Members of the public as individuals and organizations are encouraged to participate fully and to express their views in the historic preservation process, including as parties in contested case hearings held pursuant to these regulations.

Accordingly, this is to request that the Office of Historic Preservation perform its statutory mandate and immediately issue a stop work order at 1531 31st Street NW until all of the unlawful alterations to the roof and turret of that building have been removed and the roof and turret restored "to their appearance prior to the violation" as required by D.C. Code § 6-1110.0

Sincerely,

Don W. Crockett

Crockett, Don

From: Dennee, Timothy (OP) [Timothy.Dennee@dc.gov]
Sent: Wednesday, January 26, 2005 5:49 PM
To: Crockett, Don; Dennee, Timothy (OP)
Cc: 'jose.martinez@cfa.gov'; Bello, Toye (DCRA); 'zartmanbj@aol.com'; 'pmooreanc2e06@aol.com'; Cherry, Toni (OP)
Subject: RE: Unlawful demolition and construction at 1531 31St St. NW

Mr. Crockett:

Thank you for your response and your kind words. I appreciate your concern for the quality of life in your neighborhood and for your vigilance in this matter.

I really don't wish to conduct a public argument, so I think it best to make these my final words on the subject. Personally, I hate decks. In fact, not only do I hate rooftop decks, but I also hate most rear-yard decks for design reasons. And I suppose that from a noise/privacy standpoint, I could point out that my own backyard is overlooked by four neighboring decks. My necessary position on preservation matters is not based upon my personal preference, however; I do not have that luxury. Instead, it is based upon our law and the regulations, guidelines, and, if you will, the common law that emanates from its and from its application since 1978. For what it's worth, my understanding of it is based not only upon reading it and all of the regulations and guidelines but also from reviewing literally thousands of permits (in D.C. and another municipality formerly).

Mr. Dunn has not demolished the turret or even half of it. The structure is intact, and the appearance from the street is the same. If the removal of the cladding on the back constitutes demolition, then the replacement of siding on a frame house also constitutes demolition of said house. We do not consider it to be so. Whether or not Mr. Dunn has put or will put mechanical equipment in the turret is not the point (although both the plans and the fact that he has provided access from both top-floor units suggests that it is the case). The fact that the turret has been altered and not demolished is.

The civil remedy subsection refers to work that remains in violation. Work that is initially in violation for lack of procedural compliance can be later approved if it meets the preservation law, guidelines, standards and practice. Imagine, for instance, if someone replaced a window without a permit. We would not and could not forever forbid them from replacing the window if the work was not inherently contrary to the preservation interest. Simply put, if we would have permitted the work in the first place, had the property owner properly applied in advance, then we will approve it after the fact as well. And while, theoretically, I suppose we could require everyone to return to the status quo before then allowing them then to repeat the same work, we do not and never have because it would be wasteful and pointless and is not the intent of the law.

I am sorry that you will have to content yourself that there is no deck at present. We cannot pre-emptively punish people for things they may do or compel them to take any particular preventative action. Again, I absolutely understand your concerns, but it has never been my intention to promise you that there would be no roof deck. It is entirely possible that it will be pursued first legally or no, and it is something that could potentially be approved.

My narrow view of our law is, in fact, how the law has been implemented during its life. It is a real stretch to apply the verbiage you cite to cover noise nuisances. Your broad interpretation seems to allow for no real limit, i.e., whatever a resident considers to be offensive would presumably be detrimental to the character of the neighborhood would therefore somehow be a violation of the preservation law. That is a road to making the law arbitrary and capricious and absolutely unenforceable. We have plenty to do reviewing construction applications to make sure that the work therein is not too deleterious to the visual character of the historic districts. I believe that the police and even the Health Department can respond to noise nuisances. To suggest a closely analogous case, I would have no grounds to stop a property owner from building a doghouse in the rear yard even if his dog's barking is annoying to others. In front of the building, on public space or in a conspicuous location, I probably could and would prevent it. Thus, the analogy to conspicuous rooftop decks.

The CFA's regulation of curb cuts is directly related to our own concerns about them. The issue is not about parking as a use or the supply of parking or even whether parking can be on or off the street. The problems we see are related to the alterations that necessarily occur behind a curb cut if a property owner wants to park in front of, to the side of, or within a building, especially a row building. Specifically, it is not legal to park on public space (at least without a very, very difficult-to-obtain permit); driveways and parking pads are considered ahistoric in front of pre-automobile rowhouses; the creation of driveways destroys green space in front of buildings and often the excavation of historic topography; and finally, garages and parking spaces can result in the removal of important building elements, the exposure of foundations never meant to be seen, the introduction of out-of-scale

openings in more modestly scaled buildings, and the destruction of historic fabric including bearing walls. Parking off alleys is perfectly fine, however, and rear parking pads are routinely approved because that is the historic access and pattern of use. There have even been a few front garages in new houses on blocks where that is the characteristic pattern.

Incidentally, like noise, there is similarly no protection of the perception of privacy in the regulations relating to construction with which I am familiar. On the face of it, and on historical grounds, I take issue with your statement that those "rowhouses were designed to protect [residents from]...new noises, neighborhood disturbance, and loss of historical privacy." Rear yards were much more likely to be utilitarian spaces than gardens during the nineteenth century (you were generally more likely to find a swept yard than a formal garden, I am certain), and the lack of air-conditioning and laundry facilities and cars meant that people, wet clothing, horses and carriages, etc. were more likely to be on porches and in back yards.

Finally, I certainly do appreciate your views and I welcome any more you have on this or other subjects. You may well believe that they have been well considered by now. I do invite you to participate to any extent you desire in the review of cases before the Commission of Fine Arts/Old Georgetown Board and on the rarer occasions when the HPRB takes up a Georgetown project.

Tim Dennee

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Wednesday, January 26, 2005 4:41 PM
To: 'Dennee, Timothy (OP)'
Cc: jose.martinez@cfa.gov; toye.bello@dc.gov; zartmanbj@aol.com; pmooreanc2e06@aol.com; toni.cherry@dc.gov
Subject: RE: Unlawful demolition and construction at 1531 31St St. NW

Dear Tim,

Attached is a letter in response to your E-mail comments.

-----Original Message-----
From: Dennee, Timothy (OP) [mailto:Timothy.Dennee@dc.gov]
Sent: Tuesday, January 25, 2005 6:09 PM
To: Crockett, Don
Cc: jose.martinez@cfa.gov; toye.bello@dc.gov; zartmanbj@aol.com; pmooreanc2e06@aol.com; timothy.dennee@dc.gov; toni.cherry@dc.gov
Subject: RE: Unlawful demolition and construction at 1531 31St St. NW

Mr. Crockett:

Thank you for forwarding the letter to Mr. Boasberg.

As I have explained previously, there is no prohibition of roof decks in the District of Columbia under the preservation law or regulations, nor under any other law or regulations with which I am familiar. Although we absolutely understand concerns about potentially inconsiderate neighbors, the preservation law simply does not regulate property use or behavioral issues like noise, in particular. The only issue with roof decks addressed in our preservation guidelines is that elements of them have the potential to be conspicuous on the roofline of historic buildings and should not be, at least as seen from the street. If Mr. Dunn replaces the stair structures with hatches, then he will be in compliance with the permits issued and with our guidelines and general practice. We have every reason to believe he will do so, because I have asked the chief building inspector to make certain that there is no certificate of occupancy issued for the units until the structures are removed.

Hatches are common and were common historically and would not be visible from anywhere but an adjoining roof. We simply have not the legal grounds to justify denying the property owner direct access to the roof, even if we suspect that he might wish to build a deck (which, again, is not inherently illegal or infeasible). If Mr. Dunn or his tenants or successors seek to build a deck, they will need the requisite permits. From our point of view, such decking itself would not be visible from the street, the necessary rails might well be, and they would receive the appropriate scrutiny from the Commission of Fine Arts and our office.

As you know, the turret has not been demolished, but Mr. Dunn has altered the side opposite the street for mechanical access. It does not alter the appearance on the street side and we consider it to be a reasonable

alteration within the context of the project.

Finally, I have forwarded your letters to Chairman Boasberg. I should point out, however, that he is the chairman of the Historic Preservation Review Board and doesn't otherwise serve as a District employee or our superior. There is no opportunity for third-party applications to the HPRB; only property owners and their designated agents have standing as applicants. But everyone else is welcome to testify on any case that comes before the HPRB or the Commission of Fine Arts.

Tim Dennee
District of Columbia Historic Preservation Office

-----Original Message-----
From: Crockett, Don [mailto:Don.Crockett@hq.doe.gov]
Sent: Tuesday, January 25, 2005 5:28 PM
To: 'david.clark@dc.gov'; 'jose.martinez@cfa.gov'; 'toye.bello@dc.gov'; 'zartmanbj@aol.com'; 'pmooreanc2e06@aol.com'; 'timothy.dennee@dc.gov'; 'toni.cherry@dc.gov'
Subject: Unlawful demolition and construction at 1531 31St St. NW

The attached letter was delivered today by hand to Tersh Boasberg at 801 North Capitol Street, NE.

DON W. CROCKETT
ATTORNEY AT LAW
3070 Q Street, N.W.
Washington, D.C. 20007 **(202) 338-1997**

February 21, 2005

Timothy Dennee
Historic Preservation Review Board
801 North Capital Street NE
Washington, DC 20002

RE: Illegal Turret demolition and roof structure at 1531 31st Street NW.

Dear Tim:

Thank you for your January 26, 2005 E-mail which sets forth your perceptions of the construction that went forward without permits on the roof of 1531 31st Street – after the CFA and HPRB denied the developer's request for two roof decks and without the necessary special exception from the BZA.

Several of your perceptions are contrary to the actual facts.

First, you continue to insist that "Mr. Dunn has not demolished the turret or even half of it. The structure is intact." I simply don't understand why you continue to repeat this false assertion. I am enclosing before-and-after photographs, Exhibits 1 and 2, which clearly show that Mr. Dunn removed the rear half of the turret which extended more than 10 feet onto the roof beyond the parapet wall. The plans which Mr. Dunn submitted to the OGB also clearly show the outline of the original turret and his proposal to remove the rear half of it to make room for one of the roof decks. After both the CFA and the HPRB rejected his proposed roof decks, he went ahead with the construction that had been disapproved including the removal of the rear half of the turret. Accordingly, your analogy to the replacement of the siding on a frame house does not apply here because Mr. Dunn removed the entire frame. You should visit this property and see first-hand what has been done before making such assertions

Second, you say that "the appearance from the street is the same." Again, this is simply not the case. While I don't have before-and-after photographs of the turret from the street, I do have a current photograph from the street which shows the space where now-missing rear half if the turret used to be. Exhibit 3.

Third, you say that "if we would have permitted the work in the first place, had the property owner properly applied in advance, then we will approve it after the fact as well." This, however, cannot apply to 1531 31st Street. Mr. Dunn did, in fact, apply for a permit to do this work and both the CFA and the HPRB denied that application. Moreover, the Zoning Administrator determined that Mr. Dunn would have to obtain a special exception from the BZA in order to create the roof decks. Therefore, **you would not and could not have approved this particular roof project in the first place.** Is there no penalty for a developer who defies a CFA-HPRB denial of a building permit and then proceeds to build according to the disapproved plans?

Fourth, you challenge my analogy of "curb cuts" to "roof decks" on the ground, among others, that "parking spaces can result in removal of important building elements." In this case, however, the developer has, in fact, removed an "important building element" namely, one half of the large turret, to make room for a roof deck. I think my analogy is right on target. If a developer defied the CFA's disapproval of a curb cut and created a curb cut and parking pad without a permit, would you then give him a retroactive permit, as you suggest in this case, or impose penalties and make him restore the status quo ante?

Fifth, you say that "it is a stretch to apply the verbiage you cite [HPRB §101.2] to cover noise nuisances." You also say that "there is similarly no protection of the perception of privacy in the regulations relating to construction with which I am familiar." This is obviously incorrect. As you know, the proposed roof decks in this case, like most other row houses in Georgetown, require BZA approval because of lot occupancy limits. The BZA, however, could not approve this project unless it found that it "would not tend to affect adversely the use of neighboring property." 11 DCMR § 3108.1. Noise and loss of privacy are "adverse effects" which would, in my opinion, require the BZA to withhold approval of a special exception for these roof decks.

By its negligent failure to require compliance with the law,[1] OHP has permitted this roof deck project to go forward without the required BZA special exception and in defiance of the adverse recommendations of the CFA and ANC2E. In so doing, OHP has facilitated the unlawful use of this roof as living space. Indeed, the disapproved decks are now complete except for a few panels of portable deck flooring and deck furniture.

Finally, it appears that neither the HPRB nor the OHP has responded to the formal recommendation of ANC2E that the turret be restored to its original condition, that the illegal construction be removed and replaced with a roof-level hatch, and that penalties be imposed for the developer's flagrant violation of the zoning and building laws and regulations. This is unacceptable bureaucratic behavior.

The HPRB and the OHP should act immediately to impose the ANC's recommendation on this scoff-law developer and to strictly enforce our Zoning and Historic Preservation laws in Historic Georgetown.

Sincerely,

Don W. Crockett

Attached Exhibits
cc via E-mail w/o exhibits
Tersh Boasberg (HPRB)
David Clark (DCRA)
Jose Martinez (CFA)
Toye Bello (Zoning Administrator)
Barbara Zartman (CAG)
Pam Moore (ANC2E)

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[1]Although the twin walk-out staircases to the roof were built without permits, without BZA approval, and contrary to the recommendations of the CFA and ANC, OHP signed off on a permit to put skylights in the illegal and unapproved roof structure. Is this a great agency or what?



1531 31st Street, NW
Georgetown, Washington, DC

With its romantic turret and commanding location in the heart of the East Village, the building at 1531 31st Street is a Georgetown landmark. The shops, restaurants and parks of this stylish neighborhood are all within walking distance, and every important cultural and commercial destination in the city is easily accessed from its front door.

Originally constructed in the late 1800's, this delightful Victorian home has undergone a complete top-to-bottom renovation. The result is four distinctly chic condominiums, each with its own character and architectural detailing but all with the highest quality workmanship, appliances and fixtures. All have gas fireplaces, hardwood floors, granite counters, stainless steel appliances, marble bathrooms full size washer/dryers, cozy window seats with under seat storage, coat closets and recessed lighting.

Unit #l (street level): Separate street level entrance through charming brick patio; large, sunny living/dining room with exposed brick wall and elevated hearth; powder room with arched "throne area"; kitchen, open to dining area; two carpeted bedrooms with connecting bath

Unit #2 (first floor): One level unit with elegant rounded living/dining room with original stained glass accents, gas fireplace and cove lighting; bedroom with decorative fireplace, connecting bath, carpeted den/study; covers full first floor

Unit #3 (two level unit on South side of building): Generous living/dining area with large windows offering terrific views and gas fireplace, powder room and kitchen on first level; bedroom with two closets, full bath and carpeted den/study on second level

Unit #4 (two level unit occupying interior of turret on North side of building): Spacious rounded living/dining room with gas fireplace and cove lighting, kitchen and powder room on first floor; rounded master bedroom with walk-in closet, full bath and second carpeted bedroom on upper level; lovely views of Tudor place and Georgetown streets

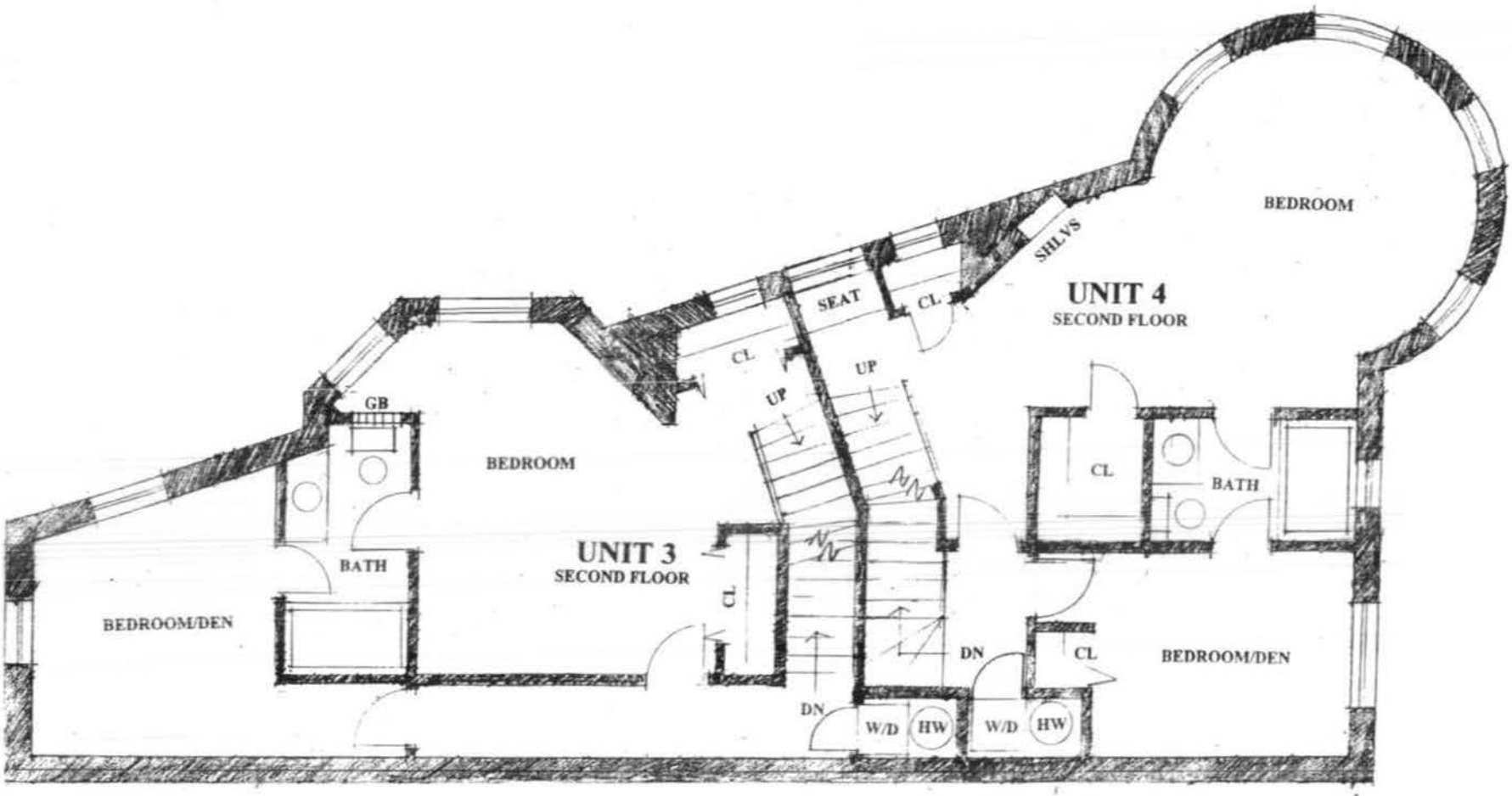
Offered at:
Unit 1 - $650,000
Unit 2 - $720,000
Unit 3 - $740,000
Unit 4 - $775,000

Anne Hatfield Weir 202-243-1635
Heidi Hatfield 202-243-1634
Andrea Hatfield 202-243-1632

Virtual Tour at: www.wfpsir.com

WASHINGTON FINE PROPERTIES, LLC

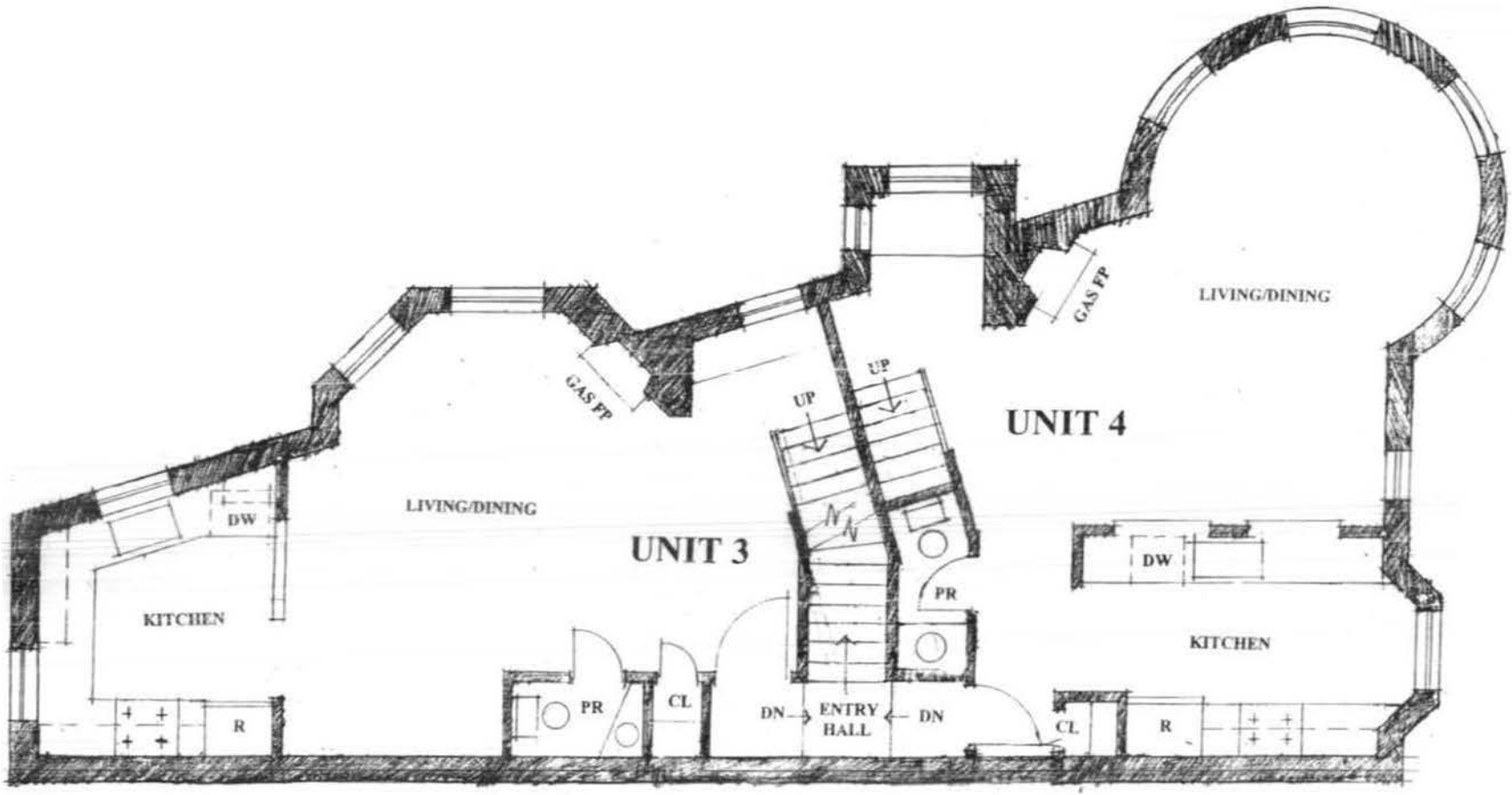
EXCLUSIVE AFFILIATE OF Sotheby's INTERNATIONAL REALTY



1531 CONDOMINIUMS

SCHEMATIC ONLY/NOT ACCURATE IN DETAIL

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1531 CONDOMINIUMS

SCHEMATIC ONLY/NOT ACCURATE IN DETAIL

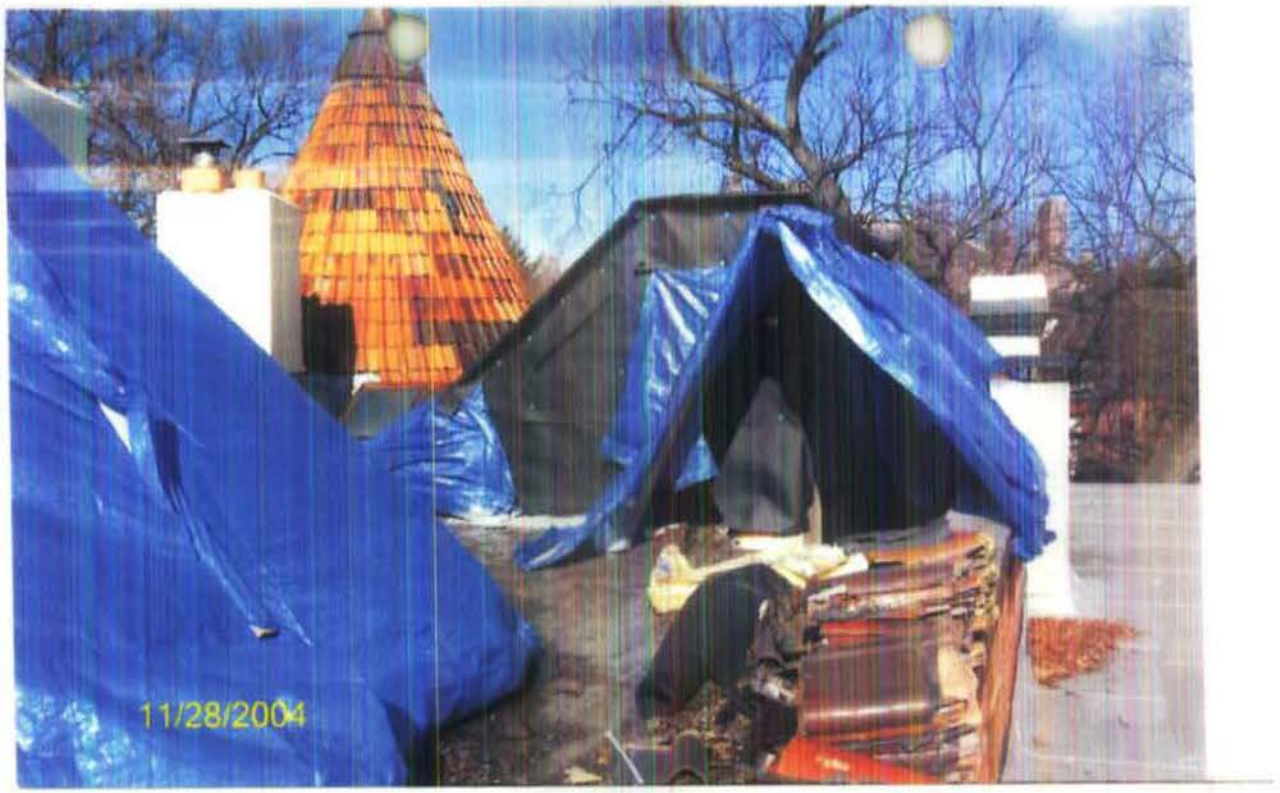
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PICTURE # 1. Demolition of East half of turret in contravention of OGB denial and without permit as of November 18, 2004.Tiles have been removed but frame is still intact and covered by blue tarp.



PICTURE # 2. Hole cut in roof for staircase penthouse without permit prior to November 18, 2004. Temporary frame with blue tarp to keep out rain. Note that chimney of neighboring house is well below temporary frame.



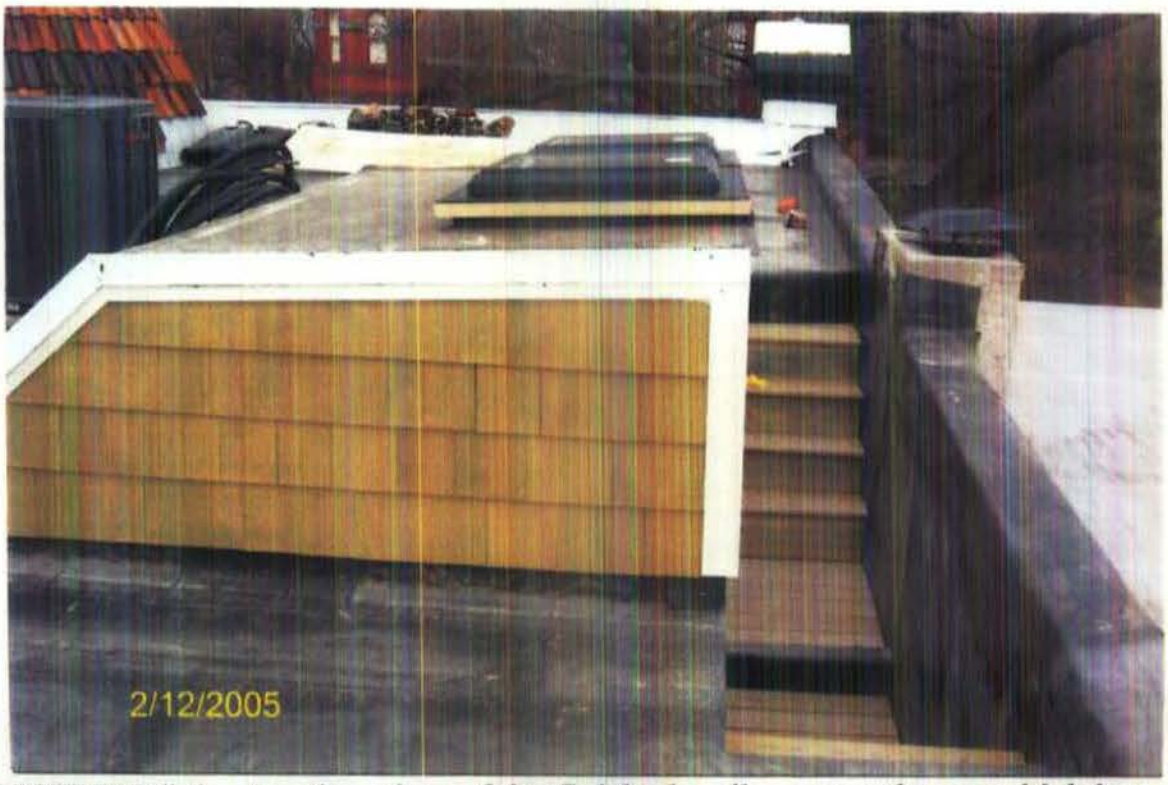
PICTURE # 3. Roof structure is framed-out, insulated, and covered with roofing paper in defiance of a stop work order issued by an HPRB inspector on November 16, 2004. Note that the frame of the turret on the left, still covered by a tarp, encompasses the vast majority of the roof South of the new penthouse.



PICTURE # 4. Another view of the un-permitted work as of December 4, 2004. Note that neighboring chimney is well below the new penthouse structure.



PICTURE # 5. The finished project as of February 12, 2005. The frame of the East half of the turret has been removed and a door installed in the remaining half. The old tin roof has been replaced with a rubber roof and the penthouse has been slightly lowered and finished with sky lights. The doorway on the right is 72" high and the doorway on the left is 67" high.



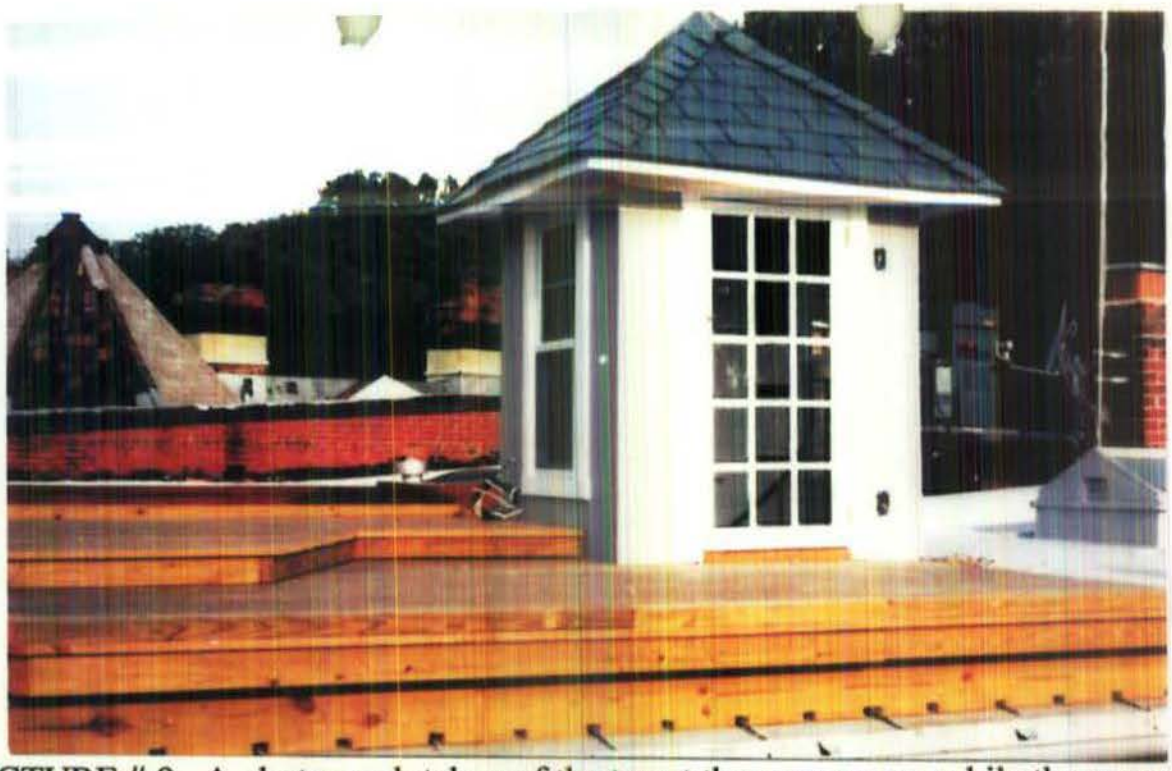
PICTURE # 6. Another view of the finished walk-out penthouse which has expanded the nonconforming use for both of the top floor apartments, looking to the North, as of February 12, 2005.



PICTURE # 7. View of the completed penthouse looking South. Skylights are actually hatches that can be removed but will never be used because of the walk-out doorways.



PICTURE # 8. View of appellants' rear patio at 3070 Q Street NW from the roof of 1531 31st Street NW.



PICTURE # 9. A photograph taken of the turret three years ago while the property was still an apartment house.



PICTURE # 10. A photograph taken on February 12, 2005, from approximately the same distance, showing the completed construction.