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October 28, 2005

VIA HAND DELIVERY

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: BZA Appeal No. 17335
1819 Belmont Road, N.W.

Dear Members of the Board:

In response to a request from the Board of Zoning Adjustment at the October 18, 2005, hearing the above-referenced appeal, Intervenor Montrose LLC submits the attached 1986 memorandum indicating that the Mayor delegated his authority to approve roof structures above the limits of the 1910 Height Act (D.C. Code § 601.05(h)) to the Building and Land Regulation Administration.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: Carolyn Brown
Mary Carolyn Brown

Attachment

cc: Anne Hughes Hargrove, Kalorama Citizens Association (via mail w/attach.)
Lisa Bell, Esq., General Counsel's Office, DCRA (via mail w/attach.)
Alan Roth, Advisory Neighborhood Commission 1C (via mail w/attach.)

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BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17335
EXHIBIT NO. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17335
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

October 16, 1986

M E M O R A N D U M

TO : Hampton Cross
Administrator

FROM : Joseph F. Bottner, Jr.
Deputy Zoning Administrator

SUBJECT : Excess Height of Penthouse
750 17th Street, N.W.
Lots: 19, 35, 36 and 830
Square: 166

An application has been filed by Manufacturers Life Insurance Company, to erect a 12 story office, and addition at 750 17th Street, N.W. The owner desires to locate on the roof thereof, a penthouse to enclose stairs, elevators and mechanical heating and ventilating equipment.

The highest point of the roof of the building is 130 feet in compliance with the Act of June 1, 1910. The building also complies with the D.C. Zoning Regulations for the C-4 District in which it is located. The roof structure was approved by the Office Planning on September 10, 1986.

The Act of June 1, 1910, (35 Stat. 452) provides in part as follows:

> "Section 5. That no building shall be erected, altered or raised in the District of Columbia in any manner so as to exceed in height above the sidewalk the width of the street, avenue, or highway in its front, increased by 20 feet;..."

The width of 17th Street, N.W. is 110 feet and H Street, N.W. is 90 feet permitting the maximum height of 130 feet. An additional

provision of the Act of June 1, 1910 (35 Stat. 452) provides in part as follows:

> "Spires, towers, domes, minarets, pinnacles, penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this act when and as the same may be approved by the ... (Mayor) of the District of Columbia: Provided; however, that such structures when above such limit of height shall be fireproof, and no floor or compartment thereof shall be constructed or used for human occupancy above the top story of the building upon which such structures are placed: And provided, that penthouses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective height above the adjacent roof."

The penthouse rises 18.50 feet above the main roof, 148.50 feet above the curb grade at the middle of the front of the building exceeding the 130 feet height limit by 18.50 feet.

The penthouse set back from H Street, N.W. is 86.47 feet and from 17th Street, N.W., 40.75 feet satisfying the intent of the Act of June 1, 1910.

The penthouse is of full fireproof construction and no part thereof is designed for human occupancy. The penthouse complies with all requirements of existing laws and regulations.

The Zoning Regulations, effective May 12, 1958, as amended, provides in part:

> "Section 5201.3. Where required by the Act of June 1, 1910, (36 Stat. 452) a height in excess of that therein permitted must be authorized by the Mayor of the District of Columbia."

The penthouse, in accordance with the Act of June 1, 1910, must be approved by the Mayor of the District of Columbia, an authority now delegated to the Director, Department of Consumer

and Regulatory Affairs, under Reorganization Plan Number 1 of 1983. Effective April 4, 1983, the Administrator, Building and Land Regulation Administration was given authority with respect to enforcement of the Act of June 1, 1910.

Approval is recommended.

Approved: _____
Hampton Cross
Administrator