GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Office of the Director

April 27, 2004

BY PERSONAL SERVICE
David A. Lowry, Executive Director
BANNUM, INC.
2210 Adams Place, N.E.
Washington, D.C. 2000

and

BY FACSIMILE
Shawn C. Whittaker, Esquire*
9055 Comprint Street, Suite 340
Gaithersburg, Maryland 20877

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D.C. OFFICE OF ZONING
2005 MAY -2 PM 4:05

Re: 2210 Adams Place, N.E.
Washington, D.C. 20002

NOTICE OF INTENT TO REVOKE CERTIFICATE OF OCCUPANCY NO. CO53679

This is official notice to you that the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration (DCRA), proposes to revoke the Certificate of Occupancy, No. CO53679, issued to the Bannum Corporation. Said permit was issued on or about May 2, 2003, and authorized the company to operate a "temporary correctional institutional[sic]" at the premises located at 2210 Adams Place, N.E, in Washington, D.C. This notice is issued pursuant to D.C. Official Code § 1-1509 (a)(2003) which states: "In any contested case, all parties thereof shall be given reasonable notice of the afforded hearing by the Mayor or the agency as the case may be . . ."

The charges and specifications in support of this action are as follows:

CHARGE I. You are in violation of D.C. Mun. Reg. tit. 11 § 3203.11 which reads, in pertinent part:". . . [T]he issuance of a certificate of occupancy for the use of a structure, or part thereof, if the establishment of the use is dependent upon the erection, construction, conversion, or alteration of the structure, or part thereof; provided: (b) A building permit shall be issued in compliance with § 3202."

* Mr. Whittaker has agreed to accept service for his client, Bannum Corporation, although he is not the registered agent for service.

BZA
CASE No. 17356
EXHIBIT No. 8

Board of Zoning Adjustment
District of Columbia
CASE NO. 17356
EXHIBIT NO. 8

SPECIFICATION A. On or about September 9, 2003, the Board of Zoning Adjustment (BZA or Board) issued an oral decision in Appeal No. 16988 of the Advisory Neighborhood Commission 5B, taken from the administrative decision of David Clark, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B425438 (for the renovation of a warehouse for use as a community corrections center), and revised Building Permit No. B448325. A written decision was issued by the BZA on March 31, 2003. The order became final ten days after receipt of the written decision pursuant to 11 DCMR § 3125.9 (2003).

The BZA concluded, among other things, that both the building permit issued to the Bannum Corporation on December 12, 2002 for a 'community corrections center' to "[c]hange tenant warehouse space to 150-bed Community Corrections Center," and the subsequent revised building permit, issued on January 17, 2003 (restricting the use for three year period), were issued in error by DCRA.

The 'use' designated in the building permit - - a community corrections center - - was not a permitted use in a C-M-2 District. Specifically, the Board rules that the facility does not meet the requirements of § 801.7(k), (i.e., the alterative optional 'use' which DCRA had contemplated). The BZA determination regarding the permitted use of the subject property is similarly applicable to the Certificate of Occupancy No. CO53679, issued to Bannum, on or about May 2, 2003. The certificate, which authorized the company to operate a "temporary correctional institutional[sic]" at the premises located at 2210 Adams Place, N.E., in Washington, D.C., was also issued in error since the building was never approved for that use. Given, the BZA decision prohibiting the 'use' requested by Bannum in its application for a building permit and certificate of occupancy, and the 'use' authorized by DCRA when it granted the building permit and the certificate, Bannum cannot continue to occupy the premises under Certificate of Occupancy, No. CO53679. Moreover, the revoked certificate cannot serve as a basis for any other certificate of occupancy.

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CHARGE 2. You are in violation of D.C. Mun. Reg. tit. 12 § 110.1.1, which requires "... a building or structure hereafter erected shall not be used or occupied in whole or in part until the certificate of occupancy has been issued by the code official, in accordance with this Section and Title 11 DCMR, the District of Columbia Zoning Regulations." *Id.*, D.C. Mun. Reg. tit. 12 § 110.1.1 (January 9, 2004). Section 110.5 reads in pertinent part: "[T]he Director is authorized to revoke a certificate of occupancy pursuant to ... Sections 110.5.1 through 110.5.5." Section 110.5.1 provides: "[A]ny certificate of occupancy previously issued or issued pursuant to Section 110 shall be revoked by the Director, after notice, if the actual occupancy does not conform to that permitted."

SPECIFICATION A. On or about May 2, 2003, Bannum Corporation applied for, and obtained a Certificate of Occupancy, No. CO53679, which authorized the company to

operate a "temporary correctional institutional[sic]" at the premises located at 2210 Adams Place, N.E,. in Washington, D.C. Following an appeal, the BZA found the building permit for the subject property had been issued in error. The proposed use of the facility as a "temporary correctional facility" was not permitted at that location. DCRA, therefore, has notice that the actual occupancy of the premises at 2210 North Adams Place, N.W., in Washington, D.C., cannot be used for the purpose requested by Bannum Corporation or approved in the certificate of occupancy. Since the certificate was issued for a 'use' which the BZA determined was not permitted in a C-M-2 District, the continued occupancy of the facility directly contravenes the Order and Decision of the Board of Zoning Adjustment. BZA Order 16998 (Sept. 9, 2003). Pursuant to the BZA decision, the Director is exercising his authority to revoke the certificate.

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You have the right to challenge this proposed action to revoke your certificate of occupancy. In order to exercise this right you must request a hearing in writing within fifteen (15) days of your receipt of notice. Your request should be mailed first class U.S. mail postage pre-paid and addressed to E. Savannah Little, Esq., Chief Administrative Law Judge, Department of Consumer and Regulatory Affairs, Office of Adjudication, 941 North Capitol Street, N.E., Suite 9100, Washington, D.C. 20002. Alternatively, you may hand-deliver your written request for a hearing to the same address within fifteen (15) calendar days of your receipt of this notice.

Additionally, if you decide to challenge this proposed action, please send a copy of your request for a hearing, pleading or other written communication in this case to Lisa A. Bell, Esquire, Office of the General Counsel, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Suite 9100, Washington, D.C. 20002. Please note that if you do not request a hearing within the time specified in this notice, or if you fail to appear to a scheduled hearing, you shall be deemed to have conceded the validity of the charges and specifications stated in the notice and a final notice of revocation will be entered against you.

Should you request a hearing, you will be notified by the Office of Adjudication of the hearing date and time.

You may appear personally at such hearing and you may be represented by legal counsel. You have the right to produce witnesses and evidence in your behalf and to cross examine witnesses against you, to examine evidence produced, and to have subpoenas issued on your behalf to require the production of witnesses and evidence.

If you or any witnesses you intend to call are deaf or, because of a hearing impediment or language barrier, cannot readily understand or communicate the spoken English language.

you or your witness may apply to the Office of Adjudication for the appointment of a qualified interpreter.

If you have any questions, you may contact, Julie S. Lee, Esq., Acting General Counsel, on (202) 442-8475.

Sincerely,

Denzil Noble
Administrator
Building and Land Regulation
Administration

cc: David Clark, Director, DCRA
Theresa Lewis, Deputy Director,
Operations
Leila Franklin, Deputy Director
for Compliance and Investigations
Savannah Little, Esquire, Chief
Administrative Law Judge, OAD
Julie S. Lee, Esq., Acting General Counsel
Winnie Huston, Compliance Officer, OIWM

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