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The Permit Processing Division of the
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E.
Room 2300
Washington, D.C. 20002

To Whom It May Concern:

On behalf of the Republic of Moldova, we respectfully submit this application for a permit to complete the replacement of windows in the Embassy building, located at 2101 S Street N.W., Washington, D.C., as is necessary to continue operating the Embassy's consular activities in the building. The required permit application form is enclosed at **Tab A**.

The building that houses the Embassy for the Republic of Moldova was built in 1952 and is located in the Sheridan-Kalorama Historic District. The Republic of Moldova takes pride in its location and Embassy facilities, and makes every effort to maintain the highest standards of care with regard to maintenance and appearance of the Embassy structure and grounds.

During the past several years, the Embassy has become increasingly concerned with problems involving inadequate heating and cooling of the building. Insufficient insulation has often made the working conditions in the Embassy difficult as the winter temperatures in the building become extremely cold and the summer temperatures are exceptionally hot. This situation has also hindered the Ambassador's ability to hold necessary meetings with dignitaries and government officials, as is essential in carrying out Embassy objectives.

To resolve the problem, the Embassy engaged three local, licensed contractors and requested advice regarding the best solution for heating, air

BZA
Case No. 17384
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17384
EXHIBIT NO. 5

conditioning and energy conservation. The Embassy was informed by each of the three contractors that the problem was caused primarily due to the old and deteriorating windows, several of which have cracked glass and dilapidated wood frames. After several years of requests for funding with the Moldovan government, in September 2004, the Embassy was granted the funds to hire a contractor to perform the necessary replacement of the windows. The Embassy paid the contractor in full and the contractor began construction and replacement of the windows.

Based on the contractor's assessment, the original windows could not be repaired because the wood was so old and dry that it was not possible to preserve the wood, nor was it possible to remove the windows without breaking them, due to the condition of the entire sash. The contractor began work on the top floors and worked downward, because the upper floors were the most seriously deteriorated.[1]

On November 17, 2004, the Department of Consumer and Regulatory Affairs posted a "stop work" order for "window replacement in a historic district using vinyl windows without obtaining an approved wood window permit." A copy of this stop work order is attached at **Tab B**. The Republic of Moldova was not previously aware that such a permit was required, and immediately ceased the window renovation and sought assistance with resolving the situation. At that time, the window replacement was nearly completed for the third through fifth floors of the Embassy building, and the component parts were custom manufactured for the first and second floors, but had not yet been installed.

To comply with the stop work order, the Embassy contacted the Office of Planning, and with the assistance of Mr. Steve Callcott, obtained estimates from contractors for replacement of the windows using wood frames, rather than vinyl frames. The Embassy received estimates ranging from $61,500 to $85,456. Copies of these estimates are provided at **Tab C**. As shown in the attached estimates, the lower-cost estimate is for installation of "Lexan MR10" (also referred to as Plexiglas) in lieu of actual glass, while the higher-cost estimate is for installation of actual glass. Thus, the Embassy would need to incur costs of more than $60,000 to

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[1] We note that it appears that all of the windows on the first floor were previously replaced at some point. This is apparent because the glass in those windows is currently "flat," while the original molding appears to be "radial." The original windows on the second floor are also currently radial. In addition, while it appears that the glass windows on the upper floors were originally radial, at the time the Republic of Moldova purchased the property, many of those windows had been replaced with flat glass. As a result, the glass that was removed from several of the upper floor windows was flat glass (that in some cases was broken, or had to be broken in order to replace the window frame) and was replaced with newer flat glass.

replace the current, custom-made glass windows with Plexiglas. In addition, these estimates cover only the replacement of the newly installed vinyl windows on the third through fifth floors, but do not include the work that will be required to replace the windows on the first and second floors.

The Republic of Moldova respectfully requests a permit to complete the window renovation that was previously started. The newly installed windows are a reasonable and appropriate replacement for the prior windows – they are compatible with the appearance of the building and the streetscape and they do not detract from the character of the building or the Sheridan-Kalorama district. As shown in the photos included at **Tab D**, the new windows (on the upper three floors) do not change the historic character of the building nor do they materially change the appearance. Consistent with the instructions of the Office of Planning, **Tab D** also includes photographs of the streetscape and neighboring buildings showing "the property within the context of adjacent structures or the immediate neighborhood."[2] As shown in these photographs, the newly renovated windows on the upper floors are similar – indeed more historically compatible – than the window units in each of the neighboring properties, which include vinyl, plastic and other materials as window components.

Further, full replacement of the windows, as noted in the estimates mentioned above, is not economically feasible for the Embassy. This cost, between $61,500 to $85,456, is approximately 25 percent of the Embassy's entire annual budget (salaries, overhead and all expenses).[3] Importantly, the Embassy has already paid in full for the window replacement, the custom-made windows cannot be returned, and the Embassy does not have (and cannot get) the funds to re-do the work. If this application is denied, the Embassy will be forced to discontinue the renovation, leaving the windows to further deteriorate until they completely fall apart. This result would not only force the Embassy staff to continue working in an unhealthy environment (due to lack of adequate heating and cooling), but would seriously detract from the appearance of the building and the streetscape as the façade continues to rot over time.

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[2] Please refer to the Office of Planning website, "How to Apply for Building Permits Involving Historic Property" ("In historic districts, photographs must show the property within the context of adjacent structures or the immediate neighborhood.").

[3] Moldova is one of the smallest and poorest nations in Europe. Note that, after finding that it would be unable to afford replacement of the windows as requested by the Office of Planning, the Embassy determined that it needed guidance in this matter, but was unable to hire counsel due to lack of funds. Hogan and Hartson has therefore agreed to provide assistance on a pro bono (unpaid) basis.

The work that is yet to be completed includes capping of the wood molding on the upper floors (all windows and frames have been replaced, but the original wood molding remains) and full replacement of the windows on the first and second floors. Currently unfinished, the upper floor windows must be capped before the wood molding (which is old, broken and rotting further each day) deteriorates completely. The windows on the first and second floors are in better condition, but given that they are more than fifty years old, will need to be replaced in the near future.

It is also important to note that the replacement windows on the upper floors are double-glazed and thus provide sound proofing and the energy conservation that was desperately needed by the Embassy. The difference in the heating and cooling functionality in the upper floors (with the newer windows) relative to the lower floors (with the original windows) is remarkable. As long as the original windows are in place, the Embassy will be unable to adequately heat and cool its building.

The Republic of Moldova recognizes that vinyl is not the preferred material for replacement of window frames. However, the regulations state that "[i]n the event that replacement is necessary, the new feature should match the historic design, color, texture, and other visual qualities, and, *where possible*, materials."[4] The regulations also state that exceptions to the normal rules may be granted in order to take into account the "nature of the proposed project, and other practical considerations."[5] Specifically, the regulations explain:

> The Board's design and construction standards are intended to promote the clear understanding and use of responsible historic preservation methods and practices. They are not intended as rigid and unyielding rules for all situations, but rather as a general means of promoting equity or treatment among applicants and consistency to the directions given by the Board and staff.[6]

The Republic of Moldova would prefer to be able to completely replace all of the windows with wood components now that it is aware of the permit requirement and preference under the regulations. However, that option is not

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[4] District of Columbia Municipal Regulations ("DCMR") § 2300.2.

[5] DCMR §§ 2001.2 and 2001.3.

[6] DCMR § 2001.1.

financially possible for a country that is struggling to maintain the well-being of its citizens. The Embassy does not have the budget and cannot get such funds.

Moreover, further replacement of the windows is not necessary given that the renovated windows are aesthetically compatible with the historic character of the building and the neighborhood. The Republic of Moldova appreciates the historic value of its building, and has made every effort to employ the highest standards in maintaining the structure in a manner that is aesthetically pleasing and which fits the character of the historic district. The Embassy should not, however, be required to inhabit a building with little or no energy conservation, and cannot be required to expend funds that it does not have in order to make alterations that do not improve the historical and cosmetic value, but instead only decrease the functionality of the building. The regulations recognize that historic preservation rules should not be applied in a manner that creates an unreasonable economic hardship for the community members.

We therefore urge the Board to approve this application, so that the Embassy may complete the necessary renovation. The Embassy would also be pleased to work with the Office of Planning to develop any reasonable, economically feasible solution that is available.

Thank you kindly for your consideration. Please do not hesitate to contact us should you need further information.

Respectfully submitted,

Melanie A. Frank

Lewis E. Leibowitz
Melanie A. Frank

Enclosure

cc: Steve Callcott
Keith Lambert