DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPELLEE:	}	
	}	
Bernard E. Gibson, Jr. of	}	BZA APPEAL NO. 17439
Gibson Investments, Inc.	}	Certificate of Occupancy Permit No. CO-102037
	}	

MOTION TO DENY MOTION TO EXTEND TIME
TO FILE DOCUMENTS REQUESTED FROM DCRA

1. Appellee respectfully requests the Denial of Appellant's Motion to Extend Time to File Documents Requested from DCRA as Appellant received at the April 4, 2006 hearing the public record of the accurate floor plans for the subject restaurant.
2. Appellant states in its Motion that "the determination of the plan on which DCRA relied is material to the determination of this case, because it affects the conclusion of whether DCRA properly granted the Appellee's certificate of occupancy [and that] ANC's 6A's inability to obtain the correct documents from DCRA and otherwise make use of them will prejudice its ability to fairly present its case at the hearing before BZA scheduled on April 25, 2006."
3. As the total publicly accessible floor space on Appellant's most recent and edited renderings submitted with their Motion and on Appellee's architecturally-issued, DCRA official document are the same, 940 square feet, the use of Appellee's submission of the accurate floor plan, admittedly even by the Appellant at the April 4, 2006 hearing evidenced by the placement of the front doors, is immaterial to the question of the percentage of that publicly accessible floor space used for queing.
4. Furthermore, DCRA will be resubmitting the exact same floor plans issued by the architect of record, already submitted as evidence at the April 4, 2006 hearing by Appellee, under official seal and under the hand of the keeper of the record, as the accurate and trustworthy document that represents not only the actual floor plan of the restaurant but also the floor plan that was relied upon and subjected to personal inspection and re-verification by the Zoning Administrator and Inspector. An exemplification of a record under the hand of the keeper of the record, and the seal of the court or office where the record is made, is good and

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sufficient evidence to prove a record made or entered in any State, territory, commonwealth or possession of the United States. The certificate of the person purporting to be the keeper of the record, accompanied by the seal, is prima facie evidence of that fact. DC ST §14-501.

5. Additionally, any other document fabricated by Appellant using estimated measurements, certainly, without permission of the owner of the property, shall be rejected as not only lacking trustworthiness and accuracy, but also as an unofficial document.
6. Finally, Appellee submits that great prejudice has been and will continued to be suffered by him due to an additional postponement of this matter, again, not due to any act or omission by him. Mr. Gibson is doing all he can to survive as a new business, only six months in operation, in the midst of continued and questioned allegations by half of ANC6A against his well-respected restaurant, as attested by the more than one thousand two hundred signatures of his patrons supporting his operation as a restaurant, submitted into evidence at the April 4, 2006 hearing.
7. Mr. Gibson respectfully requests the BZA affirm the official document already presented at the April 4, 2006 hearing and proceed with this matter as scheduled on April 25, 2006.

Attorney for Appellee,

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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2006, the foregoing MOTION TO DENY the MOTION TO EXTEND TIME was hand-delivered to:

Ms. Jerrily R. Kress, FAIA, Director
Office of Zoning
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

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

Mr. Richard Nero, Jr.
Chief of Support Services & Quality Control
Office of Zoning
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Matthew Green, Esq., Assistant Attorney General
D.C. Department of Consumer and Regulatory Affairs
941 N. Capitol Street
Suite 9400
Washington, D.C. 20002

Mr. Richard Luna, Authorized Agent
Advisory Neighborhood Commission 6A
P.O. Box 75115
Washington, D.C. 200013

RESPECTFULLY SUBMITTED,

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